PROTECTING AND SUPPORTING CHILDREN AND YOUNG PEOPLE

GUIDE FOR COMMUNITY-BASED ORGANISATIONS FUNDED THROUGH THE DEPARTMENT OF EDUCATION AND TRAINING

PARTICIPANT’S GUIDE
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FOREWORD

This Guide / Resource package is designed to inform community-based organisations, and their employees, of their responsibilities under the Children and Young Persons (Care and Protection) Act 1998 and related legislation.

Community-based organisations funded by the Department of Education and Training (DET) which provide services to children and young people (or whose employees come into contact with children and young people in the course of their work) have clear responsibilities under this legislation. Management and management committees of community-based organisations have a responsibility to ensure that their organisation meets its legal obligations – under all relevant laws.

The Guide, which has been developed with the assistance of the Training and Development Directorate of the Department of Education and Training, is designed to assist community-based organisations by:

• introducing the legislation for protecting and supporting children and young people
• exploring the implications of this legislation for management and employees of community-based organisations
• providing guidelines for community-based organisations to develop internal policies and procedures which will ensure that they comply with the legislation and Interagency Guidelines
• providing a framework for the discussion of a range of case studies relevant to community-based organisations funded by DET.

We hope the Guide is valuable as a source of information for organisations and their employees, and a working tool to be used when developing internal policies and procedures. We believe that this Guide will assist community-based organisations to provide a safer environment to protect and support children and young people.

Ms Sam Thomas
Director
Adult and Community Education and Education Access
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SECTION 1 THE LEGISLATION

THE PLACE OF COMMUNITY-BASED ORGANISATIONS

Child protection is a responsibility of the whole community, shared by government and non-government agencies which provide care or services for children or young people, or come into contact with them in the course of their work. No single organisation or department has all the knowledge, skills or authority to safeguard a child or young person from abuse or neglect and to prosecute an alleged offender. Community-based organisations are part of a wider, cooperative and coordinated strategy, designed to support and protect children and young people, and to respond to cases of abuse or neglect.

Under the child protection legislation, management and employees of community-based organisations funded through DET are required to protect and support children and young people in their care. It is expected that community-based and non-government organisations will support and work in accordance with the principles established in the NSW Interagency Guidelines for Child Protection Intervention. It is the task of community-based organisations to coordinate their efforts with other appropriate local and State authorities, agencies or departments. Child protection requires the best expertise and resources available and this is only achieved by coordination across organisations and departments.

Interagency cooperation requires an understanding of:

- the need for prompt and purposeful information exchange between agencies in the interests of the immediate and ongoing safety of children or young people
- the need to deal constructively and promptly with difficulties and differences which could otherwise result in conflict between agencies
- differing experiences of child abuse and neglect which may require individually planned responses.
SUMMARY OF THE LEGISLATION

The focus of this information session is the *Children and Young Persons (Care and Protection) Act 1998*.

This Act:

- identifies the protection of children and young people from harm as an important role for the whole community and emphasises interagency collaboration
- requires mandatory reporting by certain employees
- places an emphasis on protection and support for children and young people (mandatory reporting to DoCS is one strategy for achieving this).

**Related legislation**

In addition to the *Children and Young Persons (Care and Protection) Act 1998*, the legislation relevant for community-based organisations is the child protection employment legislation. This legislation prohibits convicted sex offenders from working with children or young people, and requires an employment check of those who seek employment which involves direct contact with children or young people. It includes:

*Commission for Children and Young People Act 1998*

This Act:

- requires screening for people seeking child-related employment (involving direct contact with children or young people) to determine their suitability. This includes national criminal checks, court-ordered AVOs for actions against a child or young person, and a review of any relevant, completed disciplinary proceedings.

*Child Protection (Prohibited Employment) Act 1998*

This Act:

- aims to prevent people deemed to be prohibited persons from applying for, or remaining in, child-related employment. Prohibited persons are those convicted of a serious sex offence.
- requires employers to seek from employees (including volunteers and contractors) in child-related employment confirmation that they are not prohibited persons.
SECTION 2 RESPONSIBILITIES UNDER THE LEGISLATION

RESPONSIBILITIES OF ORGANISATIONS AND INDIVIDUALS

The legislation relating to protecting and supporting children and young people sets out obligations and responsibilities for both employers and employees, for organisations and for individuals.

Responsibilities under the Child Protection legislation relate to the following areas:

1. employment screening and the identification of prohibited persons
2. informing employees of their responsibilities (and being informed)
3. protecting and supporting children and young people (identifying, assessing and minimising risk of harm)
4. recognising and assessing indicators of abuse or neglect
5. reporting to DoCS.

DEVELOPING INTERNAL PROCEDURES AND POLICIES

Legislation alone is not sufficient to protect children and young people. The child protection employment legislation must be supported with effective workplace policies and practices that ensure legal responsibilities are met.

The Department of Education and Training has determined its own internal policies and procedures to ensure that it complies with the legislation and follows the NSW Interagency Guidelines on Child Protection Intervention. These DET procedures are set out in the Department’s document Protecting and Supporting Children and Young People, Revised Procedures December 2000 and they provide the Department’s comprehensive response to the legislation.

Community-based organisations must also determine their response to the legislation and implement internal policies and procedures to comply with it. Because situations and circumstances in community-based organisations can vary significantly from each other, and from those in government departments, the internal policies and procedures of community-based organisations may, in some areas, differ from the procedures which have been developed especially for DET situations and circumstances.

Where appropriate, DET’s ‘Revised Procedures’ should serve as a model for community-based organisations funded through DET to develop their own internal procedures.

Key areas for internal policies and procedures

Internal policies and procedures must state clearly how the community-based organisation will meet its responsibilities under the legislation and should determine work practice.

To cover its own particular situations and circumstances, a community-based organisation should develop internal policies and procedures in the key areas of responsibility. These include:
• methods for informing employees of their responsibilities
• procedures for carrying out the required employment checks
• procedures to be followed while an employee is being investigated by the employment screening agency
• action when an employee is identified as a prohibited person
• strategies for recognising and assessing indicators of abuse and neglect
• ways to assess the levels of risk of harm of specific activities
• strategies to minimise risk e.g. identifying work situations where abuse might occur or where allegations of abuse could be made
• procedures for reporting suspected risk of harm to DoCS.

The extent of discretion in implementing internal policies and procedures, may, in some cases, be limited by the requirements of a particular funding agreement. If it is specified in the funding contract, the community-based organisation must comply with specific DET requirements e.g. community-based organisations which are DET-funded must register with the Department of Education and Training Employment Screening Unit (contact 02 9836 9200). However, organisations which receive funding from more than one funding source have the option of choosing their authorised screening agency.

Section 3 looks in detail at the process of developing internal policies and procedures, and includes some practical tasks.

The following table lists some DET policies and procedures in relation to child protection legislation and possible variations appropriate for community-based organisations funded through DET.
### DET policies and procedures

<table>
<thead>
<tr>
<th>DET staff are required to report to DoCS concerns about suspected risk of harm to children (under 16) and young people (16 and 17).</th>
<th>Under the legislation it is not mandatory to report risk of harm to a young person (16 and 17).</th>
</tr>
</thead>
<tbody>
<tr>
<td>All DET employees are mandatory reporters.</td>
<td>A community-based organisation may choose to adhere strictly to the definition of mandatory reporter set out in the Act. (see page 16)</td>
</tr>
<tr>
<td>The policy of the Department of Education and Training is not to employ individuals who are assessed as a ‘medium risk’ or higher.</td>
<td>No organisation can employ a prohibited person, however, when it concerns an individual with a Risk Assessment Rating, the ultimate decision regarding employment rests with the employer.</td>
</tr>
<tr>
<td>DET staff are required to complete a variety of reports as part of the process of reporting suspected risk of harm to children and/or young people.</td>
<td>Community-based organisations make a phone report to the DoCS Helpline. They are not required to make written reports to DoCS.</td>
</tr>
<tr>
<td>Where concerns about suspected risk of harm relate specifically to the actions of a staff member, DET employees are required to ensure that a report is made to the Child Protection Investigation Unit of DET (CPIU).</td>
<td>Community-based organisations are not involved with the CPIU. In such cases the organisation must develop its own procedures to deal with this situation e.g. What employment procedures will be followed while an employee is being investigated?</td>
</tr>
<tr>
<td>DET has a commitment to ongoing training and staff development for all employees.</td>
<td>Community-based organisations receive only one initial information session - one person from each organisation attends. It is then the responsibility of the organisation to decide procedures for informing remaining staff of their responsibilities. DET can provide advice to its funded organisations and link them with relevant sources of support, and will also refer community organisations to other agencies that might assist in training.</td>
</tr>
</tbody>
</table>
AREAS OF RESPONSIBILITY

We will now look in detail at each of the key areas of responsibility, working through group activities and discussing of a range of case studies.

EMPLOYMENT SCREENING AND IDENTIFYING PROHIBITED PERSONS

Any person convicted of a serious sex offence is not permitted to work, or seek work, in employment which primarily involves direct contact with children (either paid or unpaid work). These people are considered ‘prohibited persons’.

Prohibited persons cannot work, or seek work, as:

- paid employees
- sub-contractors
- volunteers
- trainees in an educational or vocational course.

Under the child protection legislation, a serious sex offence is an offence involving sexual activity or acts of indecency, child abuse and child pornography (punishable by imprisonment for 12 months or more). More detailed information is available on the Prohibited Employment Declaration form or from the authorised Employment Screening Agency.

In the Act ‘child-related employment’ applies to employees who are primarily involved in direct and unsupervised contact with children or young people or are employed in any of the child-related employment categories within the Act. A community-based organisation may, however, choose to interpret ‘primarily involved’ to mean any scope or potential for direct, unsupervised contact with a child or young person. This is the interpretation taken by DET in relation to its employees.

‘PROHIBITED PERSON’ CHECK

A prohibited person check involves the completion of a Prohibited Employment Declaration (PED) by:

- all employees who are primarily involved in direct and unsupervised contact with children or young people or are employed in any of the child-related employment categories within the Act
- casual workers, contractors and specialist staff
- applicants for positions in child-related work (all applicants must also be informed that they will be screened prior to employment)
- volunteers for unpaid child-related work.

It is the responsibility of community-based organisations to ask all existing employees to disclose their prohibited person status, by completing the PED, and staff must declare if they are a prohibited person or not.
EMPLOYMENT SCREENING

Known as the Working With Children Check, employment screening involves a national criminal record check (through an Approved Screening Agency). It includes checks for relevant Apprehended Violence Orders taken out by the police; and any previous, relevant disciplinary proceedings. This includes actions taken by an employer in relation to an employee regarding allegations of child abuse, sexual misconduct or acts of violence directed at children, or that occurred when children were present. It does not include false, vexatious or misconceived allegations.

Who must be screened?

Employment screening must be carried out on:

- all ‘new’ employees (hired after July 2000) who are primarily involved in direct and unsupervised contact with children or young people or are employed in any of the child-related employment categories within the Act (these are listed on the Prohibited Employment Declaration form)
- job applicants recommended for paid child-related employment.

It is not mandatory to screen existing paid employees (i.e. hired prior to July 3, 2000) or volunteers, but they must sign a Prohibited Employment Declaration form or remove themselves from child-related employment. It is likely that the current scope of employment screening will be extended in the future to those for whom it is not currently a mandatory requirement.

For information regarding the screening of those workers who have renewable contracts, organisations should contact the DET Employment Screening Unit. (Tel: 02 9836 9200)

How to carry out employment screening

To carry out employment screening, community-based organisations funded through DET must register with the Department of Education and Training Employment Screening Unit (contact 02 9836 9200). Community-based organisations which receive funding from more than one funding source have the option of choosing their authorised screening agency.

Follow up procedures

If an issue arises in the checking process, the screening agency will conduct a risk assessment to help determine if the person is suitable to work with children or young people. The Risk Assessment Report is provided by the screening unit to the employer, and rates the individual as no-greater-than-average, low, medium, or high risk. A person who is the subject of a risk assessment report is not a prohibited person.

The screening unit discusses the report with the employer, and the person who is the subject of a Risk Assessment Report is advised by telephone of their risk assessment rating. The screening unit will provide a hard copy if a request is made in writing.

For an individual with a Risk Assessment Rating, the ultimate decision regarding employment rests with the employer. The policy of the Department of Education and Training is not to employ individuals who are assessed as a ‘medium risk’ or higher. No organisation can employ a prohibited person.
INFORMING AND BEING INFORMED

Community-based organisations must inform all workers of their roles and responsibilities under the *Children and Young Persons (Care and Protection) Act 1998*, and related legislation the *Commission for Children and Young People Act 1998* and the *Child Protection (Prohibited Employment) Act 1998*.

Effective and comprehensive procedures for dissemination must be put in place by the organisation to ensure that all employees:

- are aware that they have responsibilities under the legislation
- receive the appropriate information in an accessible form which can be referred to when necessary.

This information should be provided to all new and existing staff, and to job applicants. It should also be available on request.

In the spirit of the legislation, individuals who work for community-based organisations should also make sure they are informed about their roles and responsibilities.

PROTECTING AND SUPPORTING CHILDREN AND YOUNG PEOPLE

Under the child protection legislation, management and employees of community-based organisations funded through DET have a duty of care to support and protect children and young people in their care. Support and protection means:

- creating a safe environment in all relevant activities (taking into account gender, age, maturity and cultural factors)
- taking all reasonable care to protect children and young people from risk of harm.

Important strategies in providing a safe environment for children and young people are employment screening and prohibited person checks (see pages 11 and 12). These procedures reduce risk of harm by preventing individuals who are unsuitable from having direct, unsupervised contact with children or young people.

When a relationship of trust has developed between an employee and a child or young person, this must be respected and as far as possible protected. If the employee has concerns about risk of harm, it is particularly important for the employee to continue to play a supportive role. This should involve reassuring the child or young person but without making promises that cannot be kept e.g. promises that no-one else will be told. The child or young person should also be encouraged to link with other available support.

An organisation can ensure it meets its duty of care and provides maximum support and protection by:

- carrying out the required employment checks
- informing employees of their responsibilities
- recognising indicators of abuse and neglect
- assessing the levels of risk of harm of specific activities
• developing and implementing strategies to minimise risk e.g. identifying and minimising work situations where abuse might occur or where allegations of abuse could be made
• supporting children and young people in ways that are responsive to their needs and appropriate to staff roles
• reporting concerns about risk of harm to DoCS
• restricting the sharing of information to circumstances when it is absolutely necessary for professional reasons (to respect the child or young person’s right to privacy)
• cooperating with other local organisations and/or State Departments on matters relating to the protection and support of children and young people.

RECOGNISING AND ASSESSING INDICATORS OF ABUSE AND NEGLECT

Abuse or neglect can occur within the family, in social or community situations, in workplaces or situations of employment, or in education and training situations. The Children and Young Persons (Care and Protection) Act 1998 refers to four kinds of abuse — physical, psychological, sexual, and the abuse or harm caused by neglect.

Risk of harm, or abuse or neglect, may be disclosed to you. Regular contact with children or young people, or working in a specific support or monitoring role, places employees in a position of trust and authority where children or young people may talk to them about personal matters, including risk of harm or actual abuse or neglect.

Direct disclosure and physical injury are clear indicators, however, in addition, management and employees must also be aware of general indicators of risk of harm. You may observe behaviour or other signs that raise concerns about the safety or well-being of a child or young person.

One general indicator in isolation may not imply risk of harm or actual abuse or neglect. Each indicator needs to be considered in the context of other indicators and in relation to what you know of the child or young person, their previous behaviour and their personal circumstances. These, and issues of culture, gender, age, disability, are all part of the overall context in which individual behaviour must be viewed and indicators of possible abuse or neglect assessed.

Responses to general indicators of risk of harm (by organisations and by individuals) should be planned and take into account specific situations and circumstances.

See page 35 for a list of general indicators.
DETERMINING REASONABLE GROUNDS

Reasonable grounds exist when there is concern for the safety, welfare and well-being of a child because of the presence of one or more of the following circumstances:

- a. basic physical or psychological needs are not being met (or are at risk of not being met)
- b. necessary medical care is not provided/arranged by parents or caregiver
- c. there is risk of physical or sexual abuse or ill-treatment
- d. there is risk of serious physical or psychological trauma in the domestic environment (e.g. there are/have been incidents of domestic violence in the past)
- e. there is risk of serious psychological harm to the child or young person from the behaviour of a parent or caregiver.

In addition to these five areas there are also provisions in the Children and Young Persons (Care and Protection) Act 1998 for making reports about homelessness. In the case of a child (under 16) a report about homelessness will form part of the risk of harm considerations. For a young person (16 or 17) a report relating to homelessness must have the agreement of the young person.

Determining reasonable grounds requires discretion and judgement by community-based organisations and/or by individual employees/workers.

Where employees have concerns that do not meet the five ‘grounds for reporting’ criteria (see above) they should discuss other appropriate courses of action with the principal, executive officer or coordinator e.g. requesting an interview with the parents of the child or young person.

ASSESSING LEVELS OF RISK OF HARM

DET Revised Procedures advise that, if an employee is concerned about a child or young person but is unsure about whether to report, he/she should consult with the principal, executive officer or coordinator, or with the DoCS Helpline. In the case of a young person (16 and 17) the employee should, where possible, discuss his/her concerns with the young person. Are these procedures relevant or appropriate in your organisation? What does your organisation advise in such circumstances?

Where risk factors are balanced by protective factors (such as a stable place to live, support from parents or other adults, strong peer networks or participation in a counselling program) risks are usually reduced. Risk of harm may increase if the protective factors change.

Current concerns may exist for a child or young person who has been abused in the past but the abuse is still having an impact on the child or young person.

Current concerns can also arise from a situation where an adult discloses child sexual abuse by a perpetrator who still works with children or young people. In this case the report would refer to current concerns for a ‘class’ of children or young people who may be at risk from the alleged perpetrator. Any available information on the alleged perpetrator’s identity or location will assist DoCS to assess the risk of harm.
REPORTING TO DOCS

Under The Children and Young Persons (Care and Protection) Act 1998 a person must report to DoCS if he/she has reasonable grounds to suspect that a child (under 16) is at risk of harm, and those grounds arise during the course of, or from, the person’s work.

MANDATORY REPORTING

Mandatory reporting is a serious responsibility. Under the legislation mandatory reporters are those who:

- in the course of their professional work, or any paid employment, deliver health care, welfare, education, children’s services, residential services, or law enforcement, wholly or partly, to children
- hold a management position in an organisation which involves direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children’s services, or law enforcement, wholly or partly to children.

Under the Children and Young Persons (Care and Protection) Act 1998 it is mandatory to report suspected risk of harm to a child (under 16 years), but not mandatory to report suspected risk of harm to a young person (16 and 17). However, the Department of Education and Training does require all staff to make such a report.

PROCEDURES FOR REPORTING

Community-based organisations are not required to make a report to DoCs in writing. They report by phone to the DoCS Helpline 13 36 27. The person must report the name or a description of the child or young person, and the grounds for suspecting that he/she is at risk of harm. It is necessary to provide some identifying details when a report is made to the DoCS Helpline.

Employees

When employees have concerns about the safety, welfare and well-being of a child or young person, and a decision is made to report, they should:

- inform the principal, executive officer or coordinator
- gather relevant information to make a report to the DoCS hot-line
- provide any information required by the DoCS Helpline officer and inform the principal of any recommendations DoCS makes.

When a report is made to DoCS the principal and the employee should work together, however, in some circumstances, there may be reasons why an employee chooses not to inform the principal, coordinator or executive officer.

The Principal, Executive Officer or Coordinator

When an employee discloses that he/she has reasonable grounds to suspect risk of harm to a child or young person, the principal, executive officer or coordinator should:

- ensure that relevant/available information is collected
• ensure that the report is made to the DoCS Helpline
• discuss with the employee what actions are to be taken and the recommendations of the DoCS Helpline officer
• oversee any appropriate follow-up (including providing information to DoCS or responding to requests for information from DoCS).

**Where risk arises from the actions of an employee**

Where concerns about suspected risk of harm relate to the actions of an employee, normal procedures for reporting to DoCS are followed. However, it is important for community-based organisations to draw up internal policies and protocols to deal with specific aspects of this situation i.e. What work/employment procedures will be followed while the employee is being investigated?

Where concerns about suspected risk of harm relate to the actions of a principal, executive officer, or coordinator, the employee/s should report these directly to DoCS. Again it is important that the organisation has internal policies in place for such a contingency i.e. What management procedures will be followed while the principal/coordinator is being investigated?

**Where the subject of a report is a school student**

When there is a formal agreement between a community-based organisation and a school for a community-based organisation to conduct courses for school students e.g. Links to Learning programs, the responsibility for reporting lies with the school principal. However, this should be done in consultation with the principal, executive office or coordinator of the community-based organisation.

Where the child or young person is enrolled in a community-based organisation completely independent from school, it is the responsibility of the community-based organisation to make the report of risk of harm.

**DISCUSSING REPORTS**

Management and employees of community-based organisations have a responsibility to restrict the sharing of information about reports to circumstances when it is absolutely necessary for professional reasons. This respects the child or young person’s right to privacy.

It is appropriate to treat reports about young people (16 and 17) differently from reports related to children (under 16). A young person should be involved in the decision to report and the process of reporting. The young person should be given the opportunity to express his/her views, unless there would be serious risks in doing so e.g. a possible escalation of self-harming behaviour or creating further risks of harm.

Should you decide to report suspected risk of harm to a young person (16 and 17), any views expressed by the young person should be indicated to DoCS in the telephone report made to the DoCS Helpline. If the young person does not wish a report to be made, this information must also be conveyed to DoCS.

DoCS staff will consider the young person’s wishes in undertaking any assessments and investigations.
Before discussing a report with a child (under 16), careful consideration should be given to factors such as:

- risk of harm
- suspected type of abuse
- age, and capacity of the child to understand
- additional stress that may be placed on the child within a family or other context
- immediate needs of the child.

**SAFEGUARDS FOR PEOPLE MAKING A REPORT**

The identity of any individual who makes a report is confidential, although it is necessary to provide some identifying details when a report is made to the DoCS Helpline.

Any person who makes a report in good faith to DoCS (or to a person who has the power or responsibility to protect the child or young person) has the following protection by law:

- the making of the report does not constitute a breach of professional ethics or a departure from accepted standards of professional conduct
- no liability for defamation can be incurred because of the report
- the report is not admissible in any proceedings as evidence against the person who made the report
- a person cannot be compelled in any proceedings to provide the report or give evidence of any of its contents.

No person may disclose to anyone (including the parent) the identity of the person who makes the report unless with the person’s permission, or in accordance with a court order. In some cases, for example in a small community, parents may form suspicions about the identity of the reporter. No staff member should respond to an enquiry or complaint about a report or confirm or deny that any report has been made. Enquiries should be directed to DoCS on 132 111.

**PROVIDING CHILD PROTECTION INFORMATION TO DOCS**

Under the *Children and Young Persons (Care and Protection) Act 1998*, DoCS has the authority to direct prescribed agencies (including community-based organisations) to provide information relating to the safety, welfare and well-being of a child or young person, or ‘a class’ of children or young people. DoCS can also provide information to these organisations. Such exchanges of information may occur at any stage in a child protection investigation. DoCS must be a party to any information exchange i.e. the staff of the organisation should only pass on information to DoCS, not to any other agency or organisation.

The protection of children and young people from risk of harm is deemed to be more important in some situations than an individual’s right to privacy.

Information provided to DoCS should be objective, with any analysis of issues based on fact and professional judgement. It should be supplied promptly.
DoCS may, if appropriate, provide feedback to those who make reports. Such feedback would usually involve advice in writing on what initial action DoCS will take, or the reasons that no further action is considered appropriate.

**Responding to ‘best endeavours’ requests**

A community-based organisation may be requested to use its ‘best endeavours’ to comply with a request from DoCS for a service. ‘Best endeavours’ means a genuine and considered effort to respond to a request for services to promote the safety, welfare and well-being of the child or young person.

DoCS will make a request for a service only if it considers that the community-based organisation is best placed to provide the assistance needed by the child or young person. Agencies or funded organisations are not expected to provide services that are not within their expertise or responsibility.

DoCS could, for example, request educational support for a child or young person, or monitoring of their attendance and/or welfare.

Responding to a request for a service from DoCS would involve:

- notifying DoCS promptly to indicate whether or not the request can be met
- where the request can be met, responding in writing, outlining what will be provided
- where the request cannot be met, responding in writing, outlining the reasons for being unable to do so. If the request may be able to be met in the future, appropriate contact details should be provided.
SECTION 3 DEVELOPING INTERNAL POLICIES AND PROCEDURES

POLICY AND PROCEDURES STATEMENTS

Legislation alone is not sufficient to protect children and young people. The child protection employment legislation must be complemented with effective workplace policies and practices which help the community-based organisation to provide a safe, risk-free environment for children and young people in their care and to protect them from risk of harm.

The NSW Government recognises that there are common features that enable consistent procedures to be developed and implemented within a framework of good practice. The following principles should guide decisions on child protection and provide a framework for internal policies, practices and procedures:

• The safety, welfare and well-being of the child or young person are paramount.
• Government agencies will work in partnership with each other, with non-government organisations and with the child or young person and their family to secure and sustain their safety, welfare and well-being.
• Staff are qualified, trained and supervised, and the Working With Children Check is conducted.

To cover particular situations and circumstances (which can vary significantly) a community-based organisation should develop its own internal policies and procedures in key areas such as:

• employment checks (and any follow up procedures)
• informing and being informed
• support and protection — (identifying, assessing and minimising risk of harm)
• recognising and assessing indicators of abuse and neglect
• reporting (and any possible follow up procedures).

Use these categories as a framework for developing a policy and procedures statement for your organisation. This could involve

• identifying specific workplace tasks or practices through which the organisation will meet its obligations under the child protection employment legislation
• determining how each task will be carried out successfully and who will be responsible for action and follow up.

Use the categories and questions above as a guideline for identifying workplace tasks or practices. Make sure that these practices cover the responsibilities of both management and employees.
KEY QUESTIONS FOR DETERMINING INTERNAL POLICIES AND PROCEDURES

What advice or instruction should be given to staff and management regarding:

- employment screening and the identification of prohibited persons
- action to be taken when an issue arises in the checking process
- information needed to understand their obligations/responsibilities
- recognising and assessing indicators of abuse or neglect
- concerns they have about risk of harm to children (under 16)
- concerns they have about risk of harm to young people (16 and 17)
- who to talk to about these concerns
- action to be taken when concerns do not meet the ‘grounds for reporting’ criteria
- how to handle contact with parents where this is appropriate
- concerns about the actions of an employee, a principal or a coordinator
- who to talk to about these concerns
- action to be taken when abuse or neglect is disclosed
- procedures for reporting risk of harm
- safeguards for people who make a report?
SECTION 4 ACTIVITIES AND CASE STUDIES

EMPLOYMENT CHECKS

QUICK QUIZ - WHO IS COVERED BY THE LEGISLATION?

What responsibilities does the employer have to undertake employment checks in these cases?

1. Stuart is a bus driver for the community college holiday programs. He drives students on excursions or to classes/activities which take place in locations off-campus.
   - Employment screening
   - Prohibited Employment Declaration
   - Neither

2. Mark has applied for the position of gardener’s assistant at his local Adult Education Centre.
   - Employment screening
   - Prohibited Employment Declaration
   - Neither — not considered an employee

3. Adele is a volunteer remedial reading tutor at a training organisation. She assists teachers in Adult Literacy classes.
   - Employment screening
   - Prohibited Employment Declaration
   - Neither — not considered an employee

4. Herb is a tutor in massage working three days a week. He was hired in October 2000.
   - Employment screening
   - Prohibited Employment Declaration
   - Neither — not a new employee

5. Each term Alison conducts a one-day Career Awareness seminar for school students enrolled at a training organisation.
   - Employment screening
   - Prohibited Employment Declaration
   - Neither — not considered an employee

6. Jim has been teaching in the community college for 10 years.
   - Employment screening
   - Prohibited Employment Declaration
   - Neither – not a new employee
7. Paul is the IT manager in an organisation which hosts a New Career for Aboriginal People (NCAP) project. He has no direct dealing with students.

  - Employment screening
  - Prohibited Employment Declaration
  - Neither — does not work directly with children or young people

8. Josh and Maree are business management trainees doing their practicum at an ACE organisation.

  - Employment screening
  - Prohibited Employment Declaration
  - Neither — not considered an employee

9. Helen is a part-time clerical assistant on a New Career for Aboriginal People (NCAP) project.

  - Employment screening
  - Prohibited Employment Declaration
  - Neither — not considered an employee

10. Inge has applied for the position of a Links to Learning Project Coordinator, 25 hours a week working with early school leavers aged 15 to 19 years old at the local neighbourhood centre.

  - Employment screening
  - Prohibited Employment Declaration
  - Neither — not considered an employee

11. For two 10 week blocks a year, Ali is a video tutor with the *students at risk* Links to Learning project at a community youth service. He works two days a week.

  - Employment screening
  - Prohibited Employment Declaration
  - Neither — not considered an employee

12. Reggie is a youth worker who volunteers to assist on a three day camp with a *students at risk* Links to Learning Project.

  - Employment screening
  - Prohibited Employment Declaration
  - Neither — not considered an employee

13. Sam is placed at the local youth centre to do 300 hours under a Community Service Order. He is helping to move and set up equipment for the video course.

  - Employment screening
  - Prohibited Employment Declaration
  - Neither — not considered an employee

Discuss answers with the whole group.
ANSWERS TO QUICK QUIZ - WHO IS COVERED BY THE LEGISLATION?

1. Stuart is a bus driver for the community college holiday programs. He drives students on excursions or to classes/activities which take place in locations off-campus.
   - ✔ Employment screening
   - ✔ Prohibited Employment Declaration
   - □ Neither

2. Mark has applied for the position of gardener’s assistant at his local Adult Education Centre.
   - ✔ Employment screening
   - ✔ Prohibited Employment Declaration
   - □ Neither — not considered an employee

3. Adele is a volunteer remedial reading tutor at a training organisation. She assists teachers in Adult Literacy classes.
   - □ Employment screening
   - ✔ Prohibited Employment Declaration
   - □ Neither — not considered an employee

4. Herb is a tutor in massage working three days a week. He was hired in October 2000.
   - ✔ Employment screening
   - ✔ Prohibited Employment Declaration
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- Employment screening
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- ✔ Neither — not considered an employee
ACTIVITY 1 - EMPLOYMENT SCREENING AND THE IDENTIFICATION OF PROHIBITED PERSONS

In small groups consider each case study situation and, in discussion, determine the obligations and responsibilities of the employer in each case.

1. Colin is a tutor in martial arts at the community college. In a bitter divorce case, some years ago, his wife took out an AVO against him. Is Colin a prohibited person under the Act?

2. A tutor in the Adult Education Centre discloses that he is a prohibited person, but would like to remain in the job for two-three months while he organises other employment. What are the employer’s options under the legislation?

3. The principal of a small training organisation recognises one of the newly-enrolled students as a convicted paedophile. This person is enrolled in a course where there are students under the age of 18. What is the principal’s responsibility under the legislation?

4. In the past an employee of a neighbourhood centre was charged with a sex crime against a child but the charge was withdrawn. Is this person a prohibited person under the legislation?

5. An applicant for a job in an ACE organisation committed a sex crime 15 years ago, in another country. Is this person required to declare this on the Prohibited Employment Declaration form? Is the organisation required to follow up if it is declared? Does the organisation have any discretion in employing this person?

6. Elaine has been hired as a part-time tutor in a community-based organisation. She has already been screened by her primary employer, the Department of Education and Training. Does the college need to run an employment screening check on Elaine?

7. An employee of a community-based organisation refuses to sign the Prohibited Employment Declaration form. What is the employer’s responsibility under the legislation?

8. Frank works with disadvantaged people on a community project. He is fifty-five and a law-abiding citizen, but when he was twenty-two he was jailed for an assault on his wife that put her in hospital. Is he a prohibited person under the legislation?

9. As part of a Links to Learning project, a holiday program is organised for students under the age of 18. The students attend a group coaching class at the local netball courts. The classes are run by an independent coaching organisation. Is the college obliged to check the ‘prohibited person’ status of these coaches?

10. Construction workers are working on site at a community college for a period of several months. Under the legislation, does the college have any responsibility to check the status of these workers?

11. Bob, 35, is a tutor on a skills project for unemployed people. When he was 22, he received a suspended sentence for having sex with a girl who was then 15. They now live together with their two children. Is Bob a prohibited person under the legislation?
ANSWERS TO ACTIVITY 1– EMPLOYMENT SCREENING AND THE IDENTIFICATION OF PROHIBITED PERSONS

1. No. The AVO must be taken out by the police for actions against a child or young person.

2. The tutor must be removed from his position immediately. Retaining this person for some months (while he is being investigated) could in fact constitute grounds for unfair dismissal at a later time.

3. The organisation cannot discriminate against the student, or refuse him enrolment, on the basis that he is a known ‘prohibited person’. The organisation may however decide to take precautions to ensure that, in class times and on college premises, this student is not left alone with children or young people.

4. No.

5. This person is a prohibited person and the employer has no discretion in employment.

6. Yes.

7. Under the legislation the employee can be given one month to declare his/her status. If, at the end of that period, an employee still refuses to sign the declaration, then he/she should be removed immediately from employment.

8. No. It must be a serious sex-crime. Assault or common assault, while serious crimes, are not sex crimes.

9. Yes, if the college pays the coach or if the coaches are volunteers for the college. If they are employees of the independent organisation the duty of care requires the college to ensure that the prohibited person status of the coaches has been determined by their employer.

10. Since the community organisation is not the employer in this situation, no action is required. However, the community organisation may decide to take precautions to ensure that, in class times and on college premises, construction workers are not alone with children or young people.

11. Yes. Bob has a conviction for a sex crime, even though he received a suspended sentence.
INFORMING AND BEING INFORMED

ACTIVITY 2.1 – OBLIGATIONS TO INFORM EMPLOYEES OF THEIR ROLES AND RESPONSIBILITIES UNDER THE LEGISLATION. RESPONSIBILITIES OF INDIVIDUALS TO BE INFORMED

Informing

How well are these organisations fulfilling their responsibility to inform employees of their responsibilities and obligations under the legislation for protecting and supporting children and young people? Rank the communication strategies on a scale of 1-5 from most to least effective.

☐ Resource material on protecting and supporting children and young people is kept in the staff room where employees can access it easily and work through it in their own time.

☐ The organisation has sent a letter, and a copy of this package of materials, to all employees stating the implications for them of the legislation for protecting and supporting children and young people, and their duty to familiarise themselves with their responsibilities. The letter includes a Web site address and the name of the organisation’s nominated contact person for further information.

☐ There is a poster on the notice board and employees are informed at staff meetings and in the staff newsletters that they have responsibilities under the legislation. A summary of the relevant legislation is available from the Principal or management committee.

☐ All new employees receive, as part of their employment information package, a copy of the Centre’s internal policies and procedures and a form to sign, stating that they have read and understand their obligations and responsibilities under the legislation.

☐ The organisation has clear policies and procedures which are talked through at staff meetings and passed on orally to new staff members. There is no written documentation of the procedures but they are reviewed regularly at staff meetings and if necessary updated or

Discuss

In discussion, determine the appropriateness of the actions in each case. What communication strategies are/could be used in your organisation to effectively inform employees of their responsibilities under the legislation?
ANSWERS TO ACTIVITY 2.1 – OBLIGATIONS TO INFORM EMPLOYEES OF THEIR ROLES AND RESPONSIBILITIES UNDER THE LEGISLATION. RESPONSIBILITIES OF INDIVIDUALS TO BE INFORMED

Informing

3 Resource material on protecting and supporting children and young people is kept in the staff room where employees can access it easily and work through it in their own time.

1 The organisation has sent a letter, and a copy of this package of materials, to all employees stating the implications for them of the legislation for protecting and supporting children and young people, and their duty to familiarise themselves with their responsibilities. The letter includes a Web site address and the name of the organisation’s nominated contact person for further information.

2 There is a poster on the notice board and employees are informed at staff meetings and in the staff newsletters that they have responsibilities under the legislation. A summary of the relevant legislation is available from the Principal or management committee.

4 All new employees receive, as part of their employment information package, a copy of the Centre’s internal policies and procedures and a form to sign, stating that they have read and understand their obligations and responsibilities under the legislation.

5 The organisation has clear policies and procedures which are talked through at staff meetings and passed on orally to new staff members. There is no written documentation of the procedures but they are reviewed regularly at staff meetings and if necessary updated or modified.
ACTIVITY 2.2 – RESPONSIBILITIES OF INDIVIDUALS TO BE INFORMED

Being informed
How well have these workers fulfilled their responsibilities to be informed about protecting and supporting children and young people legislation? Rank them in order 1-3.

- As part of an employee information package from the community organisation, Arthur received the organisation’s internal policies and procedures on the protecting and supporting children and young people legislation, and a form to sign, stating that he has read and understood his obligations and responsibilities. Arthur signs the form and will read the information as soon as he gets a chance.

- Phillipa read in the staff notices that tutors have responsibilities under the Children and Young Persons (Care and Protection) Act 1998. Phillipa did not investigate further. She is only a volunteer tutor and did not think it would apply to her.

- John heard from a colleague that all employees have responsibilities under the Children and Young Persons (Care and Protection) Act 1998. He asks the Centre manager for more information on his obligations and what protocols or procedures the Centre recommends.

Discuss
What advice does/should your organisation give to employees to ensure that they are informed of their responsibilities?

How can the organisation check whether/how well employees are informed?
ANSWERS TO ACTIVITY 2.2 – RESPONSIBILITIES OF INDIVIDUALS TO BE INFORMED

**Being informed**

How well have these workers fulfilled their responsibilities to be informed about protecting and supporting children and young people legislation? Rank them in order 1-3.

1. **John heard from a colleague that all employees have responsibilities under the Children and Young Persons (Care and Protection) Act 1998. He asks the Centre manager for more information on his obligations and what protocols or procedures the Centre recommends.**

2. **Arthur received as part of an employee information package from the community organisation, Arthur received the organisation’s internal policies and procedures on the protecting and supporting children and young people legislation, and a form to sign, stating that he has read and understood his obligations and responsibilities, Arthur signs the form and will read the information as soon as he gets a chance.**

3. **Phillipa read in the staff notices that tutors have responsibilities under the Children and Young Persons (Care and Protection) Act 1998. Phillipa did not investigate further. She is only a volunteer tutor and didn’t think it would apply to her.**
**PROTECTING AND SUPPORTING CHILDREN AND YOUNG PEOPLE**

**ACTIVITY 3 – CREATING AND MAINTAINING A SAFE ENVIRONMENT FOR CHILDREN AND YOUNG PEOPLE**

In small groups consider each situation. Was the action taken in each case appropriate? Could the organisation have made contingency plans to deal with the situation, or even avoid it? If so how? Compare and discuss answers.

<table>
<thead>
<tr>
<th>Activity</th>
<th>Scenario</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>The Links to Learning computer class is held at the local high school after school hours. There are a number of students under the age of 18. Usually students are picked up by parents or carers after class. One evening no one arrives to collect 17 year old Nicole. The tutor Bill has no access to the school phones and they do not have a mobile phone. After waiting for half an hour Bill drives Nicole home.</td>
</tr>
<tr>
<td>2.</td>
<td>A student in Brian’s computer class discloses that he is being abused by his high school teacher. Brian phones the teacher to discuss the matter.</td>
</tr>
<tr>
<td>3.</td>
<td>Caroline and Meg, 17 are the only female participants enrolled in a DJ-ing course at the Youth Service. Activities finish after 6 pm. During the first group activity the girls are verbally harassed by Geoff, another participant. After the activity the two girls are chatting with other participants and tell the tutor they are walking home. The tutor, Robyn, notices Geoff is waiting by his car for the group to finish talking, but she does not want to interfere with participants outside group activity time. Robyn locks up and leaves.</td>
</tr>
<tr>
<td>4.</td>
<td>A student in Narelle’s Tai Chi class confides to her that she is being physically abused by her older brother and is afraid that things will get worse if she stays at home. When the brother arrives to collect her after class Narelle suggest that the three of them have a cup of coffee to ‘talk about things’.</td>
</tr>
<tr>
<td>5.</td>
<td>The coordinator of a community project discovers that one of his female participants, who is 17, is living alone with her half-brother, who is 26. The coordinator has a private meeting with her and tells her that this arrangement is unsuitable and she should look for somewhere else to live.</td>
</tr>
</tbody>
</table>

**Discuss**

What policies, if any, could be implemented by an organisation to assist staff to:

- deal with these and similar situations
- maintain a safe environment for children and young people
- avoid damage to the reputation of individuals or the organisation?

Where appropriate contribute examples from your own experiences.
ANSWERS TO ACTIVITY 3 – CREATING AND MAINTAINING A SAFE ENVIRONMENT FOR CHILDREN AND YOUNG PEOPLE

1. Community-based organisations need to be aware of the physical situation in which their courses are delivered. In cases like this the organisation should explore all possible strategies for maintaining communication links with employees who work in isolated locations without access to phones. In some circumstances an organisation might even be in a position to provide a mobile phone for the employee.

2. Where a school student is enrolled in a community-based organisation completely independent from school, it is the responsibility of the community-based organisation, not the school, to make the report to DoCS of risk of harm. There is no requirement for the community-based organisation to inform the school, though DoCS may do so.

   Internal policies should ensure that employees do not take matters into their own hands. Child protection issues should be dealt with in discussion with the principal, centre manager or coordinator.

3. Employees should discuss child protection issues with the principal, centre manager or coordinator rather than taking matters into their own hands. However, the organisation should implement contingency plans to help employees deal with problem situations that may arise.

4. Internal policies should discourage employees from taking matters into their own hands. Child protection issues should be dealt with in discussion with the principal, centre manager or coordinator.

5. No single agency has all the knowledge, skills or authority to safeguard children or young people from abuse or neglect. Support and protection requires the best expertise and resources available and this is only achieved by coordination. The college should consider how it can be involved in a cooperative and coordinated strategy with other agencies to support and protect the children or young people and their families.

   It is particularly important for individual employees and the community organisation to play a supportive rather than a judgemental role.
RECOGNISING AND ASSESSING INDICATORS OF ABUSE AND NEGLECT

ACTIVITY 4 – ISSUES RAISED WHEN CONSIDERING GENERAL INDICATORS OF ABUSE AND NEGLECT

In small groups consider the indicators of abuse and neglect. What issues are raised by using these indicators in isolation? How can such a list be best utilised in assessing risk of harm?

Risk of harm within the Children and Young Persons (Care and Protection) Act 1998 relates to the impact of abuse and neglect on a child or young person. The following indicators have been developed from research and clinical experience over recent decades. 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 or young person’s circumstances. The lists are not in hierarchical order.

SETTING THE CONTEXT

THE FOLLOWING FACTORS IN THE LIFE CIRCUMSTANCES OF THE CHILD OR YOUNG PERSON ARE RELEVANT WHEN CONSIDERING INDICATORS OF ABUSE AND NEGLECT:

- history of previous harm to the child or young person
- social or geographic isolation of the child, young person or family, including lack of access to extended family or support
- abuse or neglect of a sibling
- family history of violence including injury to children and young people
- domestic or dating violence.

PHYSICAL OR MENTAL HEALTH ISSUES FOR THE PARENT OR CAREGIVER AFFECTING THEIR ABILITY TO CARE FOR THE CHILD OR YOUNG PERSON:

- the parent or carer’s abuse of alcohol or other drugs affecting their ability to care for the child or young person
- a deficiency in functional parenting skills required to provide for the safety, welfare and well-being of children and young people
- the 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 or young person
- the parent is experiencing significant problems in relating to the young person.
GENERAL INDICATORS OF ABUSE OR NEGLECT IN CHILDREN AND YOUNG PEOPLE:

- where the child or young person gives some indication that the injury or event did not occur as stated
- where the child or young person tells you she/he has been abused
- when the child or young person tells you she /he knows someone who has been abused, it may be a reference to herself/himself
- someone else tells you that the child or young person may have been abused e.g. a relative, friend, sibling or acquaintance
- poor concentration
- sleeping problems e.g. nightmares, bed wetting
- marked changes in behaviour or mood, escalation in risk-taking behaviours, tantrums, aggressiveness, withdrawal
- child or young person complains of stomach aches and headaches with no physical findings
- unrealistic expectations of a young person, including failure to allow the young person to participate in decisions that affect them or expecting adult behaviours.
- self harming behaviour such as cutting or burning self
- high level of risk taking behaviours such as climbing up cliff faces while intoxicated
- substance abuse
- involvement in criminal activities such as stealing and fighting
- social isolation
- difficulty in maintaining long term peer relationships
- persistently negative themes in art work and creative writing
- homelessness.
INDICATORS OF NEGLECT

**INDICATORS IN CHILDREN AND YOUNG PEOPLE:**

- poor standards of hygiene leading to social isolation
- scavenging or stealing food
- extended stays at school, public places, other homes
- being focused on basic survival
- extreme longing for adult affection
- flat and superficial way of relating, lacking a sense of genuine interaction
- anxiety about being dropped or abandoned
- self comforting behaviour e.g. rocking, sucking
- non-organic failure to thrive
- delay in developmental milestones
- loss of “skin bloom”
- poor hair texture
- untreated physical problems.
- staying at the homes of friends and acquaintances for prolonged periods, rather than at home
- resources are not provided which would allow the young person to care adequately for himself or herself e.g. food or access to washing.

**INDICATORS IN PARENTS OR CARERS:**

- failure to provide adequate food, shelter, clothing, medical attention, hygienic home conditions, or leaving the child or young person inappropriately without supervision
- inability to respond emotionally to a child or young person
- child or young person left alone for long periods
- depriving of, or withholding, physical contact or stimulation for prolonged periods
- failure to provide psychological nurturing
- one child or young person treated differently e.g. scapegoated
- absence of social support from relatives, other adults or social networks.
INDICATORS OF PHYSICAL ABUSE OR ILL TREATMENT

INDICATORS IN CHILDREN AND YOUNG PEOPLE:

- facial head and neck bruising
- lacerations and welts from excessive discipline or physical restraint
- explanation offered by the child or young person is not consistent with the injury
- other bruising and marks which may show the shape of the object that caused it e.g. a handprint, 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, drugs, or major trauma
- dislocations, sprains, twisting
- fractures of bones, especially in children under 3 years
- burns and scalds
- head injuries where the child or young person 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 (FGM) THAT COULD INCLUDE:

- having a special operation associated with celebrations
- reluctance to be involved in sport or other physical activities when previously interested
- being constantly on guard around adults and cowering at sudden movements.

INDICATORS IN PARENTS OR CARERS:

- direct admissions by parents or carers that they fear they may injure the child or young person
- family history of violence, including previous harm to children and young people
- history of their own maltreatment as a child or young person
- repeated presentations of the child or young person to health or other services with injuries, ingestions or with minor complaints
- 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.
INDICATORS OF PSYCHOLOGICAL HARM

Children and young people sustain psychological harm from all types of abuse.

INDICATORS IN CHILDREN AND YOUNG PEOPLE:

- feelings of worthlessness about life and themselves
- inability to value others
- lack of trust in people and expectations
- lack of interpersonal skills necessary for adequate functioning
- extreme attention seeking or risk taking behaviour
- other behavioural disorders e.g. disruptiveness, aggressiveness, bullying
- avoiding all adults
- being obsessively obsequious to adults
- difficulty in maintaining long term significant relationships
- being highly self critical.

INDICATORS IN PARENTS OR CARERS:

- constant criticism, belittling, teasing of a child or young person, 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 or young person is bad or evil
- using inappropriate physical or social isolation as punishment
- situations where an adult’s behaviour harms a child’s or young person’s safety, welfare and well-being
- exposure to domestic violence.
INDICATORS OF SEXUAL ABUSE OR ILL TREATMENT

INDICATORS IN CHILDREN AND YOUNG PEOPLE:

- direct or indirect disclosures
- age-inappropriate behaviour and/or persistent sexual behaviour
- self-destructive behaviour, drug dependence, suicide attempts, self-mutilation
- persistent running away from home
- eating disorders
- going to bed fully clothed
- regression in developmental achievements in younger children
- child or young person 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 breast, buttocks, lower abdomen or thighs
- difficulties with toileting or menstruation
- anxiety about forthcoming school holidays or a trip to a country which practises FGM
- older siblings worried about their sisters visiting their country of origin
- long periods of sickness.
- aggressive or violent behaviour towards others, particularly younger children
- explosive temper that is out of proportion to precipitating event
- particularly negative reactions to adults of only one sex
- sexually provocative behaviour
- desexualisation e.g. wearing baggy clothes in order to disguise gender-eating disorders
- art work or creative writing with obsessively sexual themes
- preoccupation with causing harm to men they suspect are homosexual
- engaging in violent sexual acts which they talk about
- knowledge about practices and locations which are usually associated with prostitution.
GENERAL INDICATORS OF STRESS

INDICATORS IN CHILDREN AND YOUNG PEOPLE:

- poor concentration at school
- sleeping/bedtime problems e.g. 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, CARERS, SIBLINGS, RELATIVES, ACQUAINTANCES OR STRANGERS:

- exposing a child or young person to prostitution or child pornography or using a child or young person for pornographic purposes
- intentional exposure of child or young person to sexual behaviour in others
- has committed, or been suspected of committing, child sexual abuse
- inappropriate curtailing, or jealousy regarding age-appropriate development of independence from the family
- coercing a child or young person to engage in sexual behaviour with other children and young people
- verbal threats of sexual abuse
- denial of adolescent’s pregnancy
- spouse abuse or physical child abuse.

ANSWERS TO ACTIVITY 4 – ISSUES RAISED WHEN CONSIDERING GENERAL INDICATORS OF ABUSE AND NEGLECT

One general indicator in isolation may not imply risk of harm or actual abuse or neglect. Each indicator needs to be considered in the context of other indicators and in relation to what you know of the child or young person, their previous behaviour and their personal circumstances. These, and issues of culture, gender, age, disability, are all part of the overall context in which individual behaviour must be viewed and indicators of possible abuse or neglect assessed.
ACTIVITY 5 – DETERMINING REASONABLE GROUNDS FOR REPORTING SUSPECTED RISK OF HARM

In small groups consider the following situations and determine which would give grounds for reasonable concern about risk of harm or possible abuse or neglect. What other factors might influence your decision to report suspected risk of harm?

What factors should be considered before reporting risk of harm? Which could be indicators of other things?

What action if any could/should be taken in each case?

What factors may cause you to consider NOT reporting risk of harm?

Example — Factors to consider when deciding to report risk of harm

Use the Example below as a guide for completing the Activity.

<table>
<thead>
<tr>
<th>Situation and any grounds for concern</th>
<th>Additional factors to consider</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Situation:</strong></td>
<td></td>
</tr>
<tr>
<td>You are teaching a Student Transition Education Program course. Students attend for 2 hours a week for 8 weeks. In week 6 a sixteen year old student arrives with a bandaged wrist and two black eyes. The student seems distressed but explains that she fell down the stairs at home and doesn’t want you to interfere.</td>
<td></td>
</tr>
<tr>
<td><strong>Grounds for concern:</strong></td>
<td></td>
</tr>
<tr>
<td>Some signs of physical injury</td>
<td>Does the explanation reasonably explain the injury?</td>
</tr>
<tr>
<td>Some indication of psychological distress.</td>
<td>Indicators (other than physical injury or direct disclosure) such as emotional or psychological effects of abuse, or risk of harm, can be difficult to assess accurately, especially if employees have no ongoing relationship with the child or young person. Dramatic or significant change is less likely to be accurately observed.</td>
</tr>
<tr>
<td>The young person does not want any intervention.</td>
<td>What do you know of the young person’s home situation?</td>
</tr>
<tr>
<td></td>
<td>Risks are usually reduced where risk factors in young people’s lives are balanced by protective factors (such as a stable place to live, support from parents or other adults, strong peer networks, or participation in a counselling program).</td>
</tr>
<tr>
<td></td>
<td>Risks may increase if the protective factors change.</td>
</tr>
</tbody>
</table>
### Situation and any grounds for concern

<table>
<thead>
<tr>
<th>Situation 1:</th>
</tr>
</thead>
<tbody>
<tr>
<td>A young person in your class confirms she is homeless, staying for a few weeks with one friend then moving on to another. She prefers this to being at home and does not want you to interfere.</td>
</tr>
<tr>
<td><strong>Grounds for concern:</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Situation 2:</th>
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</thead>
<tbody>
<tr>
<td>A young person discloses abusive behaviour by another employee of the organisation and by another student. You have evidence of this student lying about things in the past.</td>
</tr>
<tr>
<td><strong>Grounds for concern:</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Situation 3:</th>
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</thead>
<tbody>
<tr>
<td>In an interview with you, a parent alludes to domestic circumstances which leads you to believe there may be risk of harm to a child or young person.</td>
</tr>
<tr>
<td><strong>Grounds for concern:</strong></td>
</tr>
<tr>
<td>Situation and any grounds for concern</td>
</tr>
<tr>
<td>--------------------------------------</td>
</tr>
<tr>
<td><strong>Situation 4:</strong></td>
</tr>
<tr>
<td>A young person in the Dance Course is very thin. Her teacher is concerned that this student might have an eating disorder.</td>
</tr>
<tr>
<td>Grounds for concern:</td>
</tr>
<tr>
<td><strong>Situation 5:</strong></td>
</tr>
<tr>
<td>A Year 7 student in the After-School Tutorial Program tells you “I like coming to your class because you don’t touch me all the time, like the teacher in the other class.”</td>
</tr>
<tr>
<td>Grounds for concern:</td>
</tr>
<tr>
<td><strong>Situation 6:</strong></td>
</tr>
<tr>
<td>The coordinator of a community training project has a 16 year old participant whose father has been arrested twice for assaulting members of his family. One day the participant comes in with bruises on her arm.</td>
</tr>
<tr>
<td>Grounds for concern:</td>
</tr>
</tbody>
</table>
ANSWERS TO ACTIVITY 5 – DETERMINING REASONABLE GROUNDS FOR REPORTING SUSPECTED RISK OF HARM

Factors to consider when deciding to report risk of harm

**Situation 1:**

*It is appropriate to treat reports about young people (16 and 17 years old) differently from reports related to children (under 16). In the case of a child a report about homelessness will form part of the risk of harm considerations.*

*For a young person a report relating to homelessness must have the agreement of the young person. The young person should be involved in the decision to report and the process of reporting, and should be given the opportunity to express his/her views, unless there would be serious risks in doing so.*

*Any views expressed by the young person should be indicated to DoCS in the telephone report made to the DoCS Helpline. If the young person does not wish a report to be made, this information must also be conveyed to DoCS.*

**Situation 2:**

*Where concerns about suspected risk of harm relate to the actions of an employee, normal procedures for reporting to DoCS should be followed. It is important for community-based organisations to draw up internal policies and protocols to deal with such a contingency i.e. What procedures will be followed while the person is being investigated?*

*If your knowledge of the student throws doubt on the validity of the disclosure or on the existence of reasonable grounds, appropriate action should be discussed with the principal, centre manager, or executive officer.*

**Situation 3:**

*If concerns about a child or young person are raised in discussion, some appropriate follow-up action should be taken. This may involve reporting the situation to DoCS. If it is not considered to be a reportable situation, it may involve a cooperative and coordinated strategy with other agencies to support and protect the children or young people and the family. No single agency has all the knowledge, skills or authority to safeguard children or young people from abuse or neglect and to prosecute an alleged offender. Child protection requires the best expertise and resources available and this is only achieved by coordination.*

*It is particularly important for individual employees and the organisation to play a supportive rather than a judgemental role.*

**Situation 4:**

*What do you know of the young person’s domestic circumstances? Risks are usually reduced where risk factors in young people’s lives are balanced by protective factors (such as a stable place to live, support from parents or other adults, strong peer networks, or participation in a counselling program).*
**Situation 5:**

*Is this a valid disclosure? What do you know of the child’s situation? Personality?*

**Situation 6:**

*There is risk of physical or psychological trauma in the domestic environment e.g. there are/have been incidents of domestic violence in the past, but you need to consider whether the explanation given by the young person reasonably explains the physical injury? Can risk factors be reduced with minimum intervention e.g. increasing protective factors such as support from significant adults, peer networks, or participation in a counselling program?*

Where employees have concerns that do not meet the ‘grounds for reporting’ criteria (see page 14) they should discuss other appropriate courses of action with the principal, executive officer or coordinator e.g. requesting an interview with the parents of the child or young person.
REPORTING TO DOCS

ACTIVITY 6 – PROCEDURES FOR REPORTING

In small groups, consider the situations and determine what action in relation to reporting is appropriate under the Act.

Has appropriate reporting procedure been followed?

1. A teacher in a community-based organisation fears possible physical assault against himself from a young person in his car maintenance course. Without discussing things with the student the teacher reports the student to the centre manager and notifies the police.

2. A child/young person discloses abusive behaviour by a member of the family. The college lodged a report for child abuse once before, resulting in serious trauma and stress for college staff members and significant loss of business for the college. The family of the young person concerned went to the media, and the local MP, to denounce the college. No case was proven. This student is enrolled for only eight weeks in a vocational course and the college decides not to act on the disclosure.

3. The subject of a report is a school student attending a Links to Learning Student-at-Risk Project. The community organisation contacts the principal of their partner school to determine who will take responsibility for the report.

4. A teacher in a training organisation has a 16 year old student who is living in a family with a history of frequent domestic violence. The principal does not think a report is justified, but the teacher knows the family history and feels there are reasonable grounds for concern, and reports the matter to the DoCS Helpline.

5. A young person is participating in a photography program at a Youth Centre, independent of school activities. The centre youth worker directly contacts the young person’s school teacher to give him/her the information about the report that has been made.

6. Angela has concerns about the safety of a young person in her Links to Learning project group. She does not have a good relationship with the coordinator at the community organisation so she calls the DoCS Helpline directly to make the report.
Has appropriate reporting procedure been followed?

1. This is not a case which comes under the legislation for protecting and supporting children and young people. It is not a DoCS Helpline matter. The teacher should discuss it with the principal, centre manager or coordinator.

2. Under the legislation the organisation is required to report the disclosure.

3. Where there is a formal agreement between a community-based organisation and a school, the responsibility for reporting lies with the school principal. This should be done in consultation with the principal, executive office or coordinator of the community-based organisation.

4. When a report is made to DoCS, the principal and the employee should work together. However, in circumstances such as these, the employee, who feels there are reasonable grounds for concern, should report directly to DoCS.

5. Where a school student is enrolled in a community-based organisation completely independent from school, it is the responsibility of the community-based organisation, not the school, to make the report to DoCS of risk of harm.
   
   If the school is not involved, the Youth Centre is not obliged to inform the school that a report has been made. DoCs may inform the school.

6. When a report is made to DoCS, the principal and the employee should work together. However, in this situation, Angela is right to report her concerns directly to DoCS.
**ACTIVITY 7 – SAFEGUARDS FOR PEOPLE MAKING A REPORT**

*In small groups, consider the situations and determine what action is appropriate under the Act.*

---

**Safeguards for people making reports**

1. The father of a young person who is the subject of a report is anxious to know who made the report so he can discuss it further and get a better understanding of what prompted it. What is the project coordinator’s responsibility?

2. The mother of a young person who is the subject of a report asks several of her daughter’s tutors who made the report. The parent wishes to discuss the report to find out why it was made. The tutors are aware of the report but tell the parent they know nothing about it. Have the tutors followed correct procedure?

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**Discuss**

Examples from your own experience.
ANSWERS TO ACTIVITY 7 – SAFEGUARDS FOR PEOPLE MAKING A REPORT

Safeguards for people making reports

1. *No one, including the project coordinator, may disclose to anyone* (including the parent) *the identity of the person who makes the report* unless with the person’s permission, or in accordance with a court order.

2. *Yes. No staff member should respond to an enquiry or complaint about a report or confirm or deny that any report has been made.*
DEVELOPING INTERNAL POLICIES AND PROCEDURES

**ACTIVITY 8 - GUIDELINES FOR COMMUNITY-BASED ORGANISATIONS**

The checklists below list areas where internal policies and procedures are needed to ensure effective workplace practices.

*Consider the examples on the left. For each requirement discuss what procedures would be appropriate in your organisation, and who would be responsible for carrying out the tasks. Complete the column on the right.*

*In discussion, identify other areas in your work situation where internal policies and procedures should be formulated to determine workplace practice.*

Participants should keep the completed checklists and use them as a working tool to help develop internal procedures and policies in their own organisations.

**EMPLOYMENT CHECKING**

<table>
<thead>
<tr>
<th>Workplace practice</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>(What are the procedures? Who is responsible for establishing and carrying them out?)</td>
<td></td>
</tr>
<tr>
<td>Register with the relevant approved screening agency to enable the WWCC to be carried out on behalf of the organisation.</td>
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</tr>
<tr>
<td>Identify child-related positions in the organisation. (Note that this covers situations where there is any scope or potential for direct, unsupervised contact with children or young people. Contact may not be with students, it could be with the children of students.)</td>
<td></td>
</tr>
<tr>
<td>Inform all current employees of responsibilities under the legislation including the obligation to declare if they are prohibited persons.</td>
<td></td>
</tr>
<tr>
<td>Inform all prospective employees of responsibilities under the legislation including the obligation to declare if they are a prohibited person.</td>
<td></td>
</tr>
<tr>
<td>Request all current employees (in direct unsupervised contact with children), paid and unpaid, to declare if they are a prohibited person.</td>
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</tr>
<tr>
<td>Undertake a national criminal record check for all preferred applicants through an Approved Screening Agency.</td>
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</tbody>
</table>
List additional strategies that can be used to assess a person’s suitability to work with children or young people.

Ensure the privacy and confidentiality of any information obtained through the checking process.

Ensure that only genuine requests for checks are made.

Keep complete, accurate records about disciplinary proceedings involving employees.

Make decisions regarding the employment of individuals who have been assessed by the screening unit as low-risk.

Inform an employee or prospective employee that following his/her risk assessment it has been determined that he/she is ineligible for employment.

Procedures when there is concern or an allegation made about the actions of:
- an employee
- a principal or executive officer
- a coordinator

Deal with a disclosure that a police check confirms.
**PROTECTING AND SUPPORTING CHILDREN AND YOUNG PEOPLE**

<table>
<thead>
<tr>
<th>Workplace practice</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inform employees of their responsibilities under the protecting and supporting children and young people legislation.</td>
<td></td>
</tr>
<tr>
<td>Check that employees know and understand their responsibilities under the legislation.</td>
<td></td>
</tr>
<tr>
<td>Identify work situations where abuse might occur or where allegations of abuse could be made.</td>
<td></td>
</tr>
<tr>
<td>Develop strategies to minimise work situations where abuse might occur or where allegations of abuse could be made.</td>
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</tr>
<tr>
<td>Develop contingency plans for problems that could arise in off-campus teaching locations.</td>
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<tr>
<td>Effectively supervise employees.</td>
<td></td>
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<tr>
<td>Develop a code of conduct to specify professional behaviour standards.</td>
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</tr>
<tr>
<td>Avoid and/or deal with situations where the reputation of the organisation or the reputation of individual employees could be at risk.</td>
<td></td>
</tr>
<tr>
<td>Assess reasonable concern from general indicators of abuse and neglect.</td>
<td></td>
</tr>
<tr>
<td>Inform students about the legislation and the organisation’s responsibilities.</td>
<td></td>
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</tbody>
</table>
### REPORTING

<table>
<thead>
<tr>
<th>Workplace practice</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Determine reasonable grounds i.e. determine whether reporting to DoCS is appropriate/necessary.</td>
<td>(What are the procedures? Who is responsible for establishing and carrying them out?)</td>
</tr>
<tr>
<td>Respond to disclosure or discovery of abuse or neglect, including procedures for fair investigation of complaints or allegations.</td>
<td></td>
</tr>
<tr>
<td>Determine reporting protocols within the organisation e.g. Who is required to report? To whom? How?</td>
<td></td>
</tr>
<tr>
<td>Procedures to follow if there is a difficulty getting through to the DoCS Helpline or if there is a prolonged delay in response from the DoCS Helpline.</td>
<td></td>
</tr>
<tr>
<td>Procedures when a report is made concerning the actions of</td>
<td></td>
</tr>
<tr>
<td>- an employee</td>
<td></td>
</tr>
<tr>
<td>- a principal or executive officer</td>
<td></td>
</tr>
<tr>
<td>- a coordinator.</td>
<td></td>
</tr>
<tr>
<td>Procedures for discussing a report with those involved.</td>
<td></td>
</tr>
<tr>
<td>Procedures after a report has been made.</td>
<td></td>
</tr>
<tr>
<td>Procedures to safeguard people who have made a report.</td>
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</tr>
</tbody>
</table>
OVERHEADS

OHT 1

PROTECTING AND SUPPORTING CHILDREN AND YOUNG PEOPLE

OHTs

OHT 2

Protecting and Supporting Children and Young People

- Children and Young Persons (Care and Protection) Act 1998
- Commission for Children and Young People Act 1998

OHT 3

The Children and Young Persons (Care and Protection) Act 1998

- Identifies the protection of children and young people from harm as an important role for the whole community and emphasises interagency collaboration
- Requires mandatory reporting to DoCS where there are reasonable grounds for suspecting risk of harm.

OHT 4

To comply with the legislation a community-based organisation must:

- Carry out employment checks
- Inform employees of their responsibilities
- Create a safe environment, taking all reasonable care to protect children and young people from risks of harm
- Report concerns about risk of harm to DoCS

OHT 5

Prohibited persons cannot work or seek work as:

- Paid employees
- Sub-contractors
- Volunteers
- Trainees in educational or vocational courses.

OHT 6

A Prohibited Employment Declaration form (PED) must be completed by:

- Paid employees who are primarily involved in direct and unsupervised contact with children or young people
- Those employed in any of the child-related employment categories within the Act
- Casual workers, contractors and specialist staff.
A Prohibited Employment Declaration form (PED) must be completed by:

- applicants for positions in child-related work
- volunteers for unpaid child-related work

Grounds for reporting risk of harm

- basic physical or psychological needs are not being met (or are at risk of not being met)
- necessary medical care is not provided/arranged
- there is a risk of physical or sexual abuse or ill-treatment

Grounds for reporting risk of harm

- the child or young person (16 or 17) is living in an environment where there is the risk of serious physical or psychological trauma because there have been incidents of domestic violence
- there is the risk of serious psychological harm to the child or young person from the behaviour of a parent or caregiver