

# Case plans

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Health workers, including those who work with adults, may be asked to participate in case planning with Department of Community Services staff.

Case planning is the term that refers to all planning relating to the safety, welfare and well-being of a child, young person or their family. Case plans are designed to ensure there are no misunderstandings for a child, young person, family and practitioners about goals or responsibilities. If Health workers are asked by the Department of Community Services to attend a case planning meeting they should do so. Case plans that Health workers may be involved in include protection plans and support and management plans.

## 13.1 Protection plan

A protection plan is developed at a protection planning meeting and recommends intervention in child protection cases based on the conclusions drawn from assessments and investigations. The plan is prepared by practitioners with responsibilities for the care and protection of the child or young person after negotiating with the child, young person and their family. It specifically addresses the safety and care and support of the child or young person and may include criminal prosecutions and care proceedings.

## 13.2 Support and management plan

A support and management plan documents the proposed action to be taken to provide for a child or young person's care or protection. It defines:

- the action to be taken to provide the care, support and education necessary to sustain the safety, welfare and well-being of the child, young person and family
- the sequence of such action
- the agencies or practitioners responsible and the processes for review.

The plans are part of case planning and the concepts apply to different parts of the process. All planning should follow sound planning principles.

There may be less formal meetings convened to discuss aspects of a case, such as preliminary outcomes from assessments and investigations. These informal meetings do not replace the protection planning meeting or support planning meeting.

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## Treatment and Assessment ordered by the Children's Court

### 14.1 Health Service responses to Children's Court orders

Under the Children and Young Persons (Care and Protection) Act 1998, the Children's Court can now make a range of orders to support children and young people and increase the likelihood that families will accept and participate in referrals to services. Health services have an important role in providing support services to children, young people and their families.

Requests from the Children's Court to Health services may be made under several sections of the Act. Orders for services will not be made without first consulting the Health service involved and agreement being reached that the service is both appropriate and available.

If a Health service is approached to provide services that may become part of a court order, the service should negotiate the terms of the order and period for which the order is to be made with the Department of Community Services. You will also need to negotiate the appropriate steps to take if an order has been made and either the child or family discontinue contact with the service or you are not able to continue providing the service.

The following sections 14.2 – 14.6 outline some of the Children's Court orders that require a response from Health services.

### 14.2 Section 123-132 Compulsory Assistance Order

Compulsory Assistance orders are made by the Children's Court under sections 123-132 as a form of intensive care and support for the child or young person which protects them from suicide or other life threatening or serious self destructive behaviour. Due to the serious nature of such an order, Compulsory Assistance can only be applied for by the Director-General of the Department of Community Services. Compulsory Assistance orders

can only be for a three month period, with no more than a three month extension. Interim Compulsory Assistance orders can only be granted for up to 21 days.

When considering this order, the Children's Court must be satisfied that:

- the child or young person will receive services that will help them to deal with the problems that have led them to present a danger to themselves
- the agency that will be required to provide intensive supervision of the child or young person has indicated to the court that it is able to allocate the necessary resources.

The Children's Guardian must monitor the circumstances of the child or young person subject to the order.

Health services that may be requested could include drug and alcohol treatment, mental health or other counselling services.

This provision of the Children and Young Person's (Care and Protection) Act 1998 is proposed to commence in mid 2001.

### 14.3 Section 60-91 Court Endorsed Care Plan

Care plans are covered by sections 60-91 of the Children and Young Persons (Care and Protection) Act 1998. A care plan is a document that sets out the services required by a family and the parenting arrangements for a child or young person that are required to reduce risk of harm where a child has been removed. Care plans should be made as far as possible with the agreement of the child or young person and their family. This may occur through direct negotiation by the Department of Community Services or by using alternative dispute resolution processes. A care plan may be registered in the Children's Court. This may also involve a care application for re-allocation of parental responsibility.

Health workers may be asked to assist in this process by attending case conferences or protection planning meetings. It is important that Health workers attend these meetings if asked, especially if a Health service is proposed to be a component of the care plan.

## 14.4 Section 85 Restoration Orders

If a child is removed from the care of their parents, Health services may be asked to assist with support services to facilitate the restoration of a child or young person to their family. If a child is removed from the care of their parents and restoration is likely, the Department of Community Services must develop a restoration plan outlining what steps the parents must take before the child can safely be returned. Drug and alcohol or mental health programs are examples of elements of a restoration plan that health services may be asked to provide.

Section 85 of the Act requires government departments or funded agencies to use their best endeavours to provide services that are an element of a restoration order. A high priority should be given to these requests and they should be responded to using the same procedures for section 17 requests. These are outlined in chapter 11 of this manual.

## 14.5 Section 75 Therapeutic or Treatment Program Orders (Sexually Abusive Behaviour)

The Children's Court may make an order under section 75 requiring a child aged less than 14 years to attend a therapeutic program relating to sexually abusive behaviours, and require the parents of a child to take whatever steps are necessary to enable the child to participate in a treatment program.

If the child is over ten years old, a referral may be made to designated Health programs for adolescents who sexually offend, such as New Street at Parramatta and Trek at the Central Coast.

If the child is under ten years old and is a victim of sexual assault, Area Health Services are responsible for making sure that these services are available through Sexual Assault Services. If the child is not a victim, services are provided by trained counsellors in Child and Family and Child and Adolescent Mental Health Services.

## 14.6 Section 53 Examination and Assessment Orders

Under section 53 the Children's Court may make an order for the physical, psychological, psychiatric or other medical examination or assessment of a child or young person. The Department of Community Services will apply to the court for the order. A range of Health services may be approached to provide these assessments.

Assessment orders will only be made where the information is necessary to plan and provide for the safety, welfare and well-being of the child or young person. When making assessment orders, the court must consider:

- whether the proposed assessment is likely to provide relevant information that is unlikely to be obtained elsewhere
- whether any distress the assessment is likely to cause the child or young person is outweighed by the value of the information that might be obtained
- any distress already caused to the child or young person by any previous assessment undertaken for the same purpose
- any other matter the court considers relevant.

The Children's Court may also order an assessment of a person's capacity to parent a child or young person, but only if that person consents to the making of the order. It is appropriate for a Health worker who is already providing a service to a parent to produce an assessment report on an aspect of the parent's capacity to parent related to their field of expertise.

## 14.7 Section 58 Children's Court Clinic

The role of the Children's Court Clinic in child protection is to provide independent assessments to help the Children's Court discharge its roles and responsibilities. If the Children's Court makes an assessment order, the Children's Court Clinic may prepare and submit an assessment report about the child or young person. These assessments are independent, in the sense that the expert preparing the report is not on the side of any of the parties to the proceedings.

Section 58 also permits the Children's Court Clinic to inform the Children's Court that it is unable or unwilling to prepare the assessment report, or that it is of the opinion that it is more appropriate for the report to be prepared by another person. A Health service, for example, may be asked to provide an assessment of a child or young person if it is considered that this is more appropriate.

Health workers have considerable expertise and a nominated Health worker may be the most appropriate person to make an assessment for the Children's Court and provide a report. Prior contact with a child, young person or family may facilitate a Court assessment and minimise repeat assessments but it may also compromise independence. This balance should be discussed with the Children's Court if Health workers are approached to provide a court assessment.

The requirements of forensic assessments and court reports are usually different from those of most clinical reports. If a Health service or worker is approached to provide an assessment and the service has the capacity and expertise to provide the assessment and prepare the report, this should be provided. When considering capacity to accept referrals, the core service delivery functions of the health service should not be compromised.

# Child protection issues in relation to medical assessment and treatment

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The Children and Young Persons (Care and Protection) Act 1998 contains a number of provisions relating to the provision of medical treatment and the medical examination of children. This section explains these provisions and provides general guidance on conducting a medical examination of the genital, anal or breast regions of a child.

Generally, treatment should not be provided unless it is lawfully authorised under the terms of the Act or consented to by the parent or caregiver of the child. Please refer to the NSW Health Circular 99/16 Patient Information and Consent to Medical Treatment.

## 15.1 Medical examination of children in need of care and protection

Under section 173 of the Children and Young Persons (Care and Protection) Act 1998, the Department of Community Services or Police may serve a notice on a person who has the care of a child or young person deemed to be in need of care for a medical examination. This notice requires the person to present the child or young person to a specified medical practitioner within 72 hours, or sooner if deemed necessary by the Department of Community Services, for a medical examination.

If the person fails to comply with this notice, the child may be presented by the Department of Community Services or by the Police. From the time the child or young person is presented for examination until it has been completed, or until 72 hours has expired, the Director-General of the Department of Community Services is deemed to be the parent of the child or young person for the purpose of consenting to the medical examination.

Before the Department of Community Services refer a family for a medical examination for a child deemed in need of care, they will contact the medical practitioners, hospital, or in the case of sexual assault, a Sexual Assault Service and arrange the time and place for the medical examination.

A medical practitioner conducting a section 173 examination must provide the Department of Community Services or the Police with a written report of the examination. Reports made under section 173 should be provided without charge by Health workers. A medical practitioner who transmits a report prepared under these circumstances is protected under the Act from legal action in relation to allegations of professional misconduct and defamation.

## 15.2 Emergency medical treatment

Under section 174 of the Children and Young Persons (Care and Protection) Act 1998, a medical practitioner or dentist may carry out medical or dental treatment on a child or young person, without the consent of the child, young person or their parent, if they are of the opinion that it is necessary as a matter of urgency to carry out the treatment on the child or young person to save their life or to prevent serious damage to their health.

## 15.3 Examinations in situations of sexual assault

Medical examinations to assess for sexual assault must only be provided by the medical service associated with a Sexual Assault Service or level 6 hospital Child Protection Unit. You must consult with the Department of Community Services Helpline before carrying out a forensic medical examination, in accordance with NSW Health Sexual Assault Policy and Procedures. Relevant consents and authorisation must be obtained before carrying out a forensic medical examination and the process documented in accordance with the Child Sexual Assault Medical Protocol.

## 15.4 Medical examination of the genital, anal and breast areas

Medical examinations of all children and young people should occur in a supportive and protective environment. This is particularly important when conducting medical examinations and treatments of the genital, anal or breast areas. These examinations should only be done if it is clinically necessary for the health care of the child or young person.

If medical practitioners assess that examination or treatment of the genital, anal or breast areas is necessary, the following procedures should be followed:

- a support person of the child's choosing must be present at all times
- young people must be given the option of having a support person present
- the child or young person and support person must be given information about the need for, and any effects of, the examination or treatment before it starts so that informed consent is obtained
- the examination should be made with a minimum number of medical staff in attendance and done in the least intrusive manner possible.

# Systems and procedures to be established by Area Health Services

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This chapter provides Health Services with guidance on the systems, policies and procedures they need to put in place to ensure they are able to respond effectively to their child protection responsibilities and the responsibilities of their workers.

## 16.1 Health services intake procedures and prioritisation of child protection referrals

When determining the priority to be given to any referrals received by a Health Service, consideration must be given to the existence of possible child protection issues. Intake procedures for services providing intervention primarily for adult clients should take into account presenting issues that may impact on the care of any children that the client may have. Area Health Services are responsible for making sure that Health Services have documented intake procedures that include the prioritisation of the most vulnerable and consider possible child protection issues.

If the provision of the service may play a role in preventing or mitigating the abuse of a child or young person, reasonable efforts to meet these referrals must be made by all Health services.

## 16.2 Central register for section 17 and 85 best endeavours requests

The Department of Community Services (DoCS) will make referrals for clients where there is a risk of harm to the child or young person within the family, and may request that Health services use their best endeavours to meet these requests. Area Health Services must ensure that service providers use their best endeavours to respond to requests from DoCS when these requests meet agreed criteria, and that demand and responses for these services are monitored by the Area Health Service. Area Health Services will establish a central register for monitoring and reporting on responses to these requests, as well as systems to ensure prompt resolution of disagreement in relation to requests.

## 16.3 Centralised system for receipt and response to section 248 requests

Each Area Health Service is responsible for establishing a centralised system for responding to section 248 Requests for Information by the Department of Community Services. This system must ensure that accurate and timely information is provided to the Department of Community Services about children and young people where there is a concern for their safety, welfare and well-being. For more information on the centralisation of these requests, please see Chapter 9.

## 16.4 Provision of child protection training for Health workers

Area Health Services are responsible for providing child protection training for Health workers. Each Area Health Service must have an ongoing training strategy to ensure that Health workers receive information about child protection that is relevant to their position.

Specialist training for Health workers with key child protection roles is available through the Education Centre Against Violence.

## 16.5 Flagging of child protection health records

Area Health Services are committed to implementing a system for the flagging of client files of families where a report of suspected risk of harm has been made. This was outlined in the previous *NSW Health Child Protection Policy and Procedures Manual 1997*.

This system will alert Health workers to concerns about children who are at risk of harm. The implementation of this system will meet recommendations made by the *1997/1998 Child Death Review Team Report*.

## **16.6 Provision of primary, secondary and tertiary services in the area of prevention of abuse**

Area Health Services are responsible for providing services in the area of primary, secondary and tertiary prevention of child abuse. They are required to provide a specialist response through a range of generic, community and hospital based services as well as specialist in-patient paediatric units.

These services will include:

- counselling - crisis and follow up services
- access to 24 hour 7 day a week medical diagnosis, assessment and management
- child and family assessments which assess the strengths and weaknesses of the family and its supporting environment and its capacity to protect the child or young person from further abuse or neglect.

## **16.7 Provision of appropriate services for children and young people at risk of harm.**

Area Health Services are responsible for providing physical, emotional and sexual abuse and neglect services for children and young people.

Each Area Health Service will have at least one designated paediatric unit that meets the Level 4 role delineation requirements. Tertiary child protection services (Level 6 delineation) which include comprehensive paediatric medical, surgical and intensive care are located at John Hunter hospital, the Children's Hospital at Westmead and Sydney Children's Hospital. Medical officers and paediatric sub-specialists are available for medical consultation and second opinions to staff across NSW under the following arrangements:

- John Hunter Hospital Northern NSW
- The Children's Hospital at Westmead Western NSW
- Sydney Children's Hospital Southern NSW

Area Health Services are responsible for ensuring that the level of service provided meets the role delineation criteria set out by the NSW Health Department (please see Appendix 3), and that local protocols clearly define the role and procedures for referring to another level of the Health service.

## **16.8 Provision of services for 24 hour medical care**

Area Health Services are responsible for providing 24 hour, 7 day a week medical care for children and young people who present with clinical conditions that may have been a result of physical or emotional abuse or neglect, or give rise to suspicions that they may have been physically or emotionally abused or neglected. If children or young people present to a Health service and there is suspicion that they may have been abused, the child or young person should be treated as an urgent case.

## **16.9 Provision of services for children who exhibit sexually offending behaviour**

Providing services for children under ten who exhibit sexually offending behaviour is a specialist response. It is the responsibility of each Area Health Service to ensure that this service response is available through both Sexual Assault and trained Child and Family and Child and Adolescent Mental Health Services in a range of locations in the Area Health Service.

Area Health Services must have a designated coordinator who is responsible for coordinating service provision to children under ten years who exhibit sexually offending behaviour. The Area Coordinator has to provide quarterly data to the Department of Health and coordinate the provision of training to staff. The Education Centre Against Violence provides training and resources for this area of work.