

Glossary

Aboriginal and Torres Strait Islander/Indigenous The term 'Aboriginal' is mostly used throughout the *Guidelines*, and refers to an Aboriginal and/or Torres Strait Islander person, defined in Section 5 of the *Children and Young Persons (Care and Protection) Act 1998* as:

Aboriginal means a person who is a member of the Aboriginal race of Australia, identifies as an Aboriginal and is accepted by the Aboriginal community as an Aboriginal.

Torres Strait Islander means a person who is descended from a Torres Strait Islander and identifies as a Torres Strait Islander and is accepted by the Torres Strait Islander community.

Act, the this refers to the *Children & Young Persons (Care & Protection) Act 1998*. All other Acts will be referred to in full.

Adoption A legal order whereby the parental rights and responsibilities are transferred from the birth parents to the adoptive parents. Under such an order, the adoptee becomes the child of the adoptive parents as if born to them.

Affidavit A statement for the court written in a standard format approved by the court. It is sworn or affirmed to be true by the person making the statement (deponent).

Agency refers to an organisation, and includes both government and non-government bodies.

AIATSIS Australian Institute of Aboriginal and Torres Strait Islander Studies. <http://www.aiatsis.gov.au>

Alleged perpetrator A person who is alleged to have harmed a child or young person, either physically, psychologically, sexually or through neglect.

Authorised carer A person who is authorised as a foster or relative carer by a designated agency, the principal officer of a designated agency, or any person authorised according to the regulations (Section 137 of the Act).

Apprehended Violence Order (AVO) A court Order prohibiting a person from behaviour such as assaulting, harassing or intimidating another person. The purpose for an AVO is to protect a person against acts of violence such as physical assault and damage to their property. The Order itself does not give a criminal record. However, the breach of an AVO is a criminal offence, and the police may arrest and charge a person who breaches an Order.

CALD (Culturally and Linguistically Diverse) Refers to people from culturally diverse backgrounds, particularly people who are immigrants or the descendants of immigrants and who define their own cultural, linguistic and religious identity partly or wholly on this basis. For correct terminology to describe particular target groups for the provision of services, such as people who need interpreters, or have skills in languages other than English, refer to the EAPS (Ethnic Affairs Priorities Statement) section on the Community Relations Commission website at: <http://www.crc.nsw.gov.au>.

Care application An application lodged at the Children's Court under the Act with the intention of commencing proceedings to obtain a care Order or to vary or rescind a pre-existing Order.

Care and protection, in need of This term is used by the Act under two separate circumstances and according to two different standards of proof:

- i) when, following a Secondary Assessment, the Department of Community Services forms an opinion on reasonable grounds that the level of future risk to a child or young person is sufficient to warrant protective action by the Department of Community Services under Section 34 of the Act to safeguard the child or young person's safety, welfare and wellbeing. Action by the Department of Community Services includes the provision of support services, protective intervention or court action; or
- ii) when a matter is placed before the Children's Court for a care order, and the Court must be satisfied on the balance of probabilities that the child is in need of care and protection under Section 72 of the Act.

Care plans The *Children and Young Persons (Care and Protection) Act 1998* refers to care plans. Care plans are a tool that may be used within the context of casework to formalise agreements made with the family to meet the care and protection needs of a child or young person, or within a legal context to enable the Children's Court to allocate parental responsibility.

Care proceedings Proceedings before the Children's Court and District Courts under Chapter 5 of the Act concerning children and young persons who are considered to be in need of care and protection.

Case management Case management is the process of assessment, planning, implementation, monitoring and review that aims to strengthen families and decrease risks to children and young persons in order to optimise their outcomes through integrated and coordinated service delivery. Case management may be the responsibility of the Department of Community Services or another agency, depending on the specific circumstances.

Case meetings Meetings held to facilitate information sharing, case review, decision making and interagency coordination. The specific purpose of a meeting will depend on the particular type of plan or action required. The case meeting is the primary vehicle for case planning and may be convened with in-person attendance or via teleconference.

Case plan The central tool in case management. It is a document that sets out what action will be taken to enhance the child or young person's safety, welfare and wellbeing. The case plan identifies goals, objectives and tasks with clearly identified responsibilities and time frames that are realistic and achievable within available resources.

Case planning Case planning is an interactive process, involving the participation of the child or young person, their parent/carer, and service providers that are critical to the case-planning process. The focus is on developing the goal/s of intervention and identifying strategies to meet the care and protection needs of the child or young person.

Child Under the Act, a child is a person who is under the age of 16 years. Under the *Family Law 1975*, the *Crimes Act 1900*, the *Commission for Children and Young People Act 1998*, the *Child Protection (Prohibited Employment) Act 1998* and the *Ombudsman Act 1994*, a child is a person under the age of 18 years.

Child abuse/child maltreatment These terms are used interchangeably. Child abuse is the term commonly used to describe different types of maltreatment inflicted on a child or young person. It includes assault (including sexual assault), ill treatment, neglect and exposing the child or young person to behaviour than might cause psychological harm.

Children's Court and Children's Court Orders The Children's Court is responsible for care and criminal proceedings relating to children and young persons. It operates more like a court of inquiry than an adversarial court when hearing care proceedings, where its role is to find out what has happened in the child or young person's life, and then decide the best way to provide care and protection. When the Court is satisfied, on the balance of probabilities, that a child or young person is in need of care and protection, it may make any of the following final Orders:

- ▶ Order accepting undertakings – this may relate to the person with parental responsibility, the child or young person, or both
- ▶ Order for supervision – this can be up to a maximum period of 12 months and extended a further 12 months
- ▶ Order allocating parental responsibility – all or part of parental responsibility can be allocated to either or both parents and/or another person (which can include the Minister for Community Services)
- ▶ Contact Orders – may stipulate the frequency and duration of contact between a child or young person and his or her parents, including that contact be supervised or denied
- ▶ Order to attend a therapeutic treatment or program – restricted to children and young persons over 14 years-of-age to attend a therapeutic program relating to sexually abusive behaviours
- ▶ Order for the provision of support services – this directs a person or an organisation to provide support services for up to 12 months.

Class of children or young persons Refers to more than one child or young person who may be at risk of harm because of association with a person or a situation causing risk of harm from abuse and neglect. An example could be the children in a school or recreational group where a person in charge is suspected of abuse or known to have abused a child.

Client consent For consent from a client to be valid it must be voluntary, informed, specific and current:

- ▶ *Voluntary* – a person must be free to exercise genuine choice about whether to give or withhold consent
- ▶ *Informed* – generally, a person must have reasonable knowledge of all relevant facts before they give or refuse consent
- ▶ *Specific* – consent must be reasonably specific to meet the circumstances of each case. Generally, the more privacy-intrusive the proposed use or disclosure, the more specific the notification and consent will need to be
- ▶ *Current* – consent given in particular circumstances cannot be assumed to endure indefinitely with the passage of time and changes of circumstances. It is good practice to inform the person of a specified period for which the consent will be relied upon.

CPSOG The Child Protection Senior Officers Group comprises representatives from all key government human service and justice agencies – NSW Health, NSW Police, Ministry of Police, Department of Education and Training, Department of Community Services, Department of Juvenile Justice, Department of Housing, Attorney General's Department, Office of the Director of Public Prosecutions, Department of Ageing Disability and Home Care, Department of Corrective Services, Department of Art, Sport and Recreation, and the Department of Aboriginal Affairs, as well as a representative from The Cabinet Office, and the Human Services Chief Executive's Officers Forum. The CPSOG was established in October 2003 by the Minister for Community Services.

Designated agency Is an agency accredited in accordance with the regulations to provide out-of-home care services, and includes the Department of Community Services, and the Department of Ageing, Disability and Home Care.

Disability According to Section 5 of the *Disability Services Act 1993*, a disability (however arising and whether or not of a chronic or episodic nature):

- ▶ Is attributable to an intellectual, psychiatric, sensory, physical or like impairment or to a combination of such impairments, and
- ▶ Is permanent or is likely to be permanent, and results in:
 - i) a significantly reduced capacity in one or more major life activities, such as communication, learning, mobility, decision-making or self-care, and
 - ii) the need for support, whether or not of an ongoing nature.

Family Law Act Orders The *Family Law Act 1975* governs family law jurisdiction in Family Courts responsible for dealing with a range of family matters, including divorce, property settlement and the ongoing care of children. Family Courts have the power to make orders where parents seek legally enforceable arrangements for the care of a child. Parenting orders may deal with:

- ▶ who a child lives with (residence Order)
- ▶ who a child spends time with and communicates with (contact Order)
- ▶ financial support of a child (child support/maintenance Order)
- ▶ other components of parenting (specific issues Order).

Family Courts also have the power to make welfare orders. Welfare Orders enable the court to deal with any aspect of a child's welfare that falls outside of the scope of a parent's powers and responsibilities, e.g. surrender of passports to prevent a child being removed from Australia.

Foster care General foster care is defined as 24-hour care for children and young people aged 0 to 17 years which is provided on a short- or long-term basis by authorised carers in their own homes, or in a home owned or rented by an agency, who are reimbursed for expenses. The range of placement types available for children and young people include: emergency or crisis placements, short-term (temporary) placements, bridging (medium) placements, permanent care placements, respite care placements, and adolescent community placements.

Harm Physical and/or psychological damage or injury experienced by a child or young person as a consequence of one or more of physical, psychological or sexual abuse, ill-treatment or neglect. The current and future impact of the harm needs to be considered in making the decision about substantiation of harm.

Indigenous See Aboriginal and Torres Strait Islander/Indigenous.

JIRT Joint Investigation Response Team

Kinship care Care with a person who is not a relative of the child, but who shares cultural, tribal and community connection that is recognised by that child's community.

Mandatory reporting Is the act of a person mandated under Section 27 of the Act, reporting to the Department of Community Services that they suspect a child is at risk of harm.

Memorandum of understanding A document between particular parties, setting out how each proposes to interact with the other. It will often contain procedures each will follow when dealing with a particular subject matter. This document will usually relate to 'intentions' reached at the highest level of the organisation such as from one Director General to another.

NAATI National Accreditation Authority for Translators and Interpreters

Out-of-home care The care of the child or young person who is in the parental responsibility of the Minister, or a non-related person, residing at a place other than their usual home, and by a person other than their parent, as a result of a Children's Court Order that lasts for more than 14 days, or because they are a protected person.

Parent or carer 'Parent' is defined in Section 3 of the Act as a person having the parental responsibility for the child or young person. This may therefore apply to persons other than the biological parent – such as persons exercising parental responsibility within the kinship group of the child or young person.

Practitioner A general term used to describe a person who works with or without fee or reward in any government or non-government setting for the benefit of children and young people, and includes police officers, teachers, psychologists, welfare workers, health workers and counsellors.

Protected person has a particular meaning as defined in the Act under Section 135(4) Out-of-home care.

Protocol A document between particular parties or a number of parties, often about operational issues and procedures each proposes to follow when dealing with a particular subject matter. Protocols may be agreed at the highest level of the organisation or at a lower operational level, such as regionally or locally based protocols. Protocols may also be developed as a result of an agreed MoU.

Registrable offence The *Child Protection (Offenders Registration) Act 2000* provides the full definition.

Registrable person Refers to a person who has been convicted of murdering, kidnapping or committing a sexual offence against a child. Refer to the *Child Protection (Offenders Registration) Act 2000* for the full definition.

Reportable allegation Under Part 3A of the *Ombudsman Act 1974*, reportable allegation or conviction means a reportable allegation against a person or an allegation of misconduct that may involve reportable conduct.

For an allegation to be reportable to the Ombudsman, the following components are necessary:

- ▶ the subject of the allegation must be a current employee of a designated agency or public authority, or have been an employee at the time the allegation was made, and must be identifiable

- ▶ the allegation must contain a description of behaviour that may constitute reportable conduct
- ▶ the child or young person who was alleged to have been involved in reportable conduct by an employee must have been under 18 years at the time of the alleged incident or behaviour.

Reportable conduct Under Part 3A of the *Ombudsman Act 1974*, reportable conduct means:

- (a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence), or
- (b) any assault, ill-treatment or neglect of a child, or
- (c) any behaviour that causes psychological harm to a child, whether or not, in any case, with the consent of the child

Reportable conduct does not extend to:

- (a) conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children, and to any relevant codes of conduct or professional standards,
- (b) the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures, or
- (c) conduct of a class or kind exempted from being reportable conduct by the Ombudsman under Section 25CA

Reportable conviction Under Part 3A of the *Ombudsman Act 1974*, reportable conviction means a conviction (including a finding of guilt without the court proceeding to a conviction), in this State or elsewhere, of an offence involving reportable conduct.

Report, risk of harm A report made to the Department of Community Services, usually via the Helpline, to convey a concern about a child or young person who may be at risk of harm due to the circumstances outlined in Sections 23, 24, 25 and 27 of the Act. The homelessness provisions in Sections 120, 121 and 122 of the Act also provide for specific reporting responsibilities.

Restoration When a child returns to live in the care of a parent or parents for the long term.

Risk of harm assessment In undertaking risk of harm assessments, Department of Community Services staff use a professionally guided practice model with domains for gathering information, information organisation and analysis. The Risk Assessment Framework commences with an Initial Assessment, which is usually conducted at the Helpline. The process may continue, to include Secondary Assessment, which is conducted by the Community Services Centre or JIRT. The Framework supports the exercise of professional judgment in determining a child or young person's need for care and protection.

Subpoena An Order by a court:

- ▶ to deliver documents to the court, or
- ▶ for someone to give evidence to the court,

so that the court can consider the material specified in the subpoena that may be relevant to a particular proceedings. The recipient is required to comply with the subpoena, and is given money to meet the reasonable cost of complying with the subpoena.

Young person Under the Act, a young person is defined as a person aged 16 years or above, but under the age of 18 years. Under the *Crimes Act 1900*, the *Commission for Children and Young People Act 1998*, the *Child Protection (Prohibited Employment) Act 1998*, and the *Ombudsman Act 1974*, any person under the age of 18 years is defined as a child.

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