

CHAPTER 2

Making a child protection report

2.1 WHO SHOULD REPORT?

New South Wales establishes shared responsibility for the protection of its children by legislating for mandatory reporting under the *Children and Young Persons (Care and Protection) Act 1998*. Any person can make a report of harm or risk of harm to a child or young person, but some have a legal obligation to do so – these are known as mandatory reporters.

A mandatory reporter is an individual required by law to report to the Department of Community Services **when they have reasonable grounds to suspect that a child, or a class of children, is at risk of harm from abuse or neglect and those grounds arise during the course of or from the person's work.**

Mandatory reporters include those who deliver the following services wholly or partly to children as part of their paid or professional work:

- ▶ health care (e.g. doctors, nurses, dentists and other health workers)
- ▶ welfare (e.g. psychologists, social workers and youth workers)
- ▶ education (e.g. teachers)
- ▶ children's services (e.g. child care workers, family day carers and home-based carers)
- ▶ residential services (e.g. refuge workers)
- ▶ law enforcement (e.g. police).

The legislation also mandates any person managing an employee from the above mentioned services to report risk of harm.*

Agencies will generally have internal policies setting out the requirements for employees and their managers who are mandated reporters to report concerns about children. Some agency policies require non-mandated reporters to report to the Department of Community Services. One example of this is NSW Health. Practitioners should therefore be familiar with the legislation as well as their agency's policy on reporting.

NOTE A Memorandum of Understanding (MoU) is in place between the Department of Community Services, the Department of Education and Training, the Catholic Education Commission and the Association of Independent Schools to facilitate centralised reporting from schools.

Mandated reporting takes precedence over the *Privacy and Personal Information Protection Act 1998* and *Commonwealth Privacy Act 1998*. Further, Section 29 of the *Children and Young Persons (Care and Protection) Act 1998* states that a report is not a breach of professional etiquette, ethics or professional standards, and protects those who make a report in good faith.

REFER Chapter 2.11 'Safeguards for reporters'

A penalty of up to \$22,000 can be imposed if a mandated reporter fails to report to the Department of Community Services concerns about risk of harm. The following information provides guidance to mandatory reporters to fulfil their legal obligations.

REFER Section 27 of the Act for details about mandatory reporting requirements.

NOTE Except where specifically excluded by legislation, obligations of mandatory reporting extend to officers of the Commonwealth to whom Section 27 applies.

*PRACTICE POINT

FAMILY COURT PERSONNEL AND
COUNSELLORS ARE REQUIRED TO
REPORT CONCERNS ABOUT CHILDREN
UNDER SECTION 67ZA OF THE FAMILY
LAW ACT 1975.

2.2 WHEN SHOULD A REPORT ABOUT A CHILD OR YOUNG PERSON BE MADE?

The Act establishes a broad framework for receiving and responding to:

- ▶ reports suspecting that children or young people are at risk of harm
- ▶ reports suspecting that an unborn child may be at risk after birth
- ▶ reports about homeless children and young people.

Table 2.1 identifies the way in which mandatory and non-mandatory reporting applies in certain types of cases, noting that there are no mandatory provisions for young persons aged 16 to 18 years or for unborn children.

Table 2.1: Reporting matrix

Case type	Mandatory report	Not mandatory
A child or a group of children under 16 years	✓	
A young person or a group of young people aged 16 years or above but under 18 years		✓
An unborn child		✓
A child under 16 years living away from home without parental permission	✓ for persons who provide residential accommodation	✓ for other reporters
A child under 16 years living away from home without parental permission		✓ and any such report requires the consent of the young person

2.2.1 MANDATORY REPORTING AND RISK OF HARM

The Act requires that a reporter has:

- ▶ reasonable grounds to make a report
- ▶ a suspicion of risk of harm
- ▶ current concerns about safety, welfare or wellbeing.

What does 'reasonable grounds' mean?

Reasonable grounds is the standard that reporters must use in deciding whether or not to report to the Department of Community Services. It refers to the need to have an objective basis to deduce that a child may be at risk of harm. This could be derived from such things as:

- ▶ first-hand observations about the child or family
- ▶ what a practitioner has been told by a child, their parent or another person, or
- ▶ what a practitioner can reasonably infer based on professional training and/or experience.

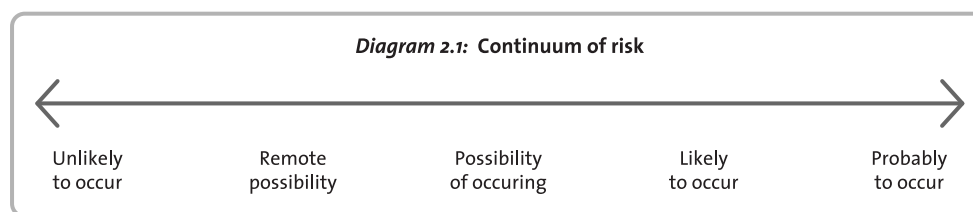
It does not mean that reporters are required to confirm their suspicions or provide incontrovertible proof before making a report to the Department of Community Services. A useful rule of thumb is to consider whether another person, when faced with similar information, would also draw the same conclusion.

What does 'risk of harm' mean?

The term '**risk of harm**' is pivotal to the Act. It is important to have an understanding of its two components:

- ▶ what constitutes risk
- ▶ what constitutes harm.

Put simply, **risk** refers to the relative likelihood of something occurring in the future. The continuum of risk in Diagram 1 indicates that reports of risk of harm should not be focused on concerns falling to the left side of the continuum (those with an unlikely or remote possibility of occurring), but concerned with those that are possible, likely or probably will occur.



Harm to a child or young person may be the impact of one or more of physical, psychological or sexual harm or neglect. The current and future impact of the harm needs to be considered.

Risk of harm is present if there are current concerns that a child or young person may suffer physical, sexual, psychological and/or emotional harm as a result of what is being done or not done by another person, often an adult responsible for their care.

Agencies and practitioners are required to make a judgment about whether the known facts or observations may constitute a risk of harm to a child or young person from abuse or neglect. In general, it is clear that a sound judgment will require consideration of the likely degree of harm taking into account the following factors:

- ▶ the age, development, functioning and vulnerability of the child or young person
- ▶ the behaviour of a child or young person that suggests they may have been or are being harmed by another person
- ▶ history of previous harm
- ▶ behaviour by another person, that has had, or is having, a demonstrated negative impact on the healthy development, safety, welfare and wellbeing of the child or young person (e.g. drug and alcohol abuse, domestic violence or mental health issues)
- ▶ contextual risk factors (For example, recent abuse or neglect of a sibling, or a parent recently experiencing significant problems in managing a child or young person's behaviour)
- ▶ indications that a child or a young person's emotional, physical or psychological wellbeing is significantly affected as a result of abuse and neglect.

REFER Detailed guidance on indicators of harm and abuse that might inform a decision to report is provided in the chapter 2.3 'Recognising child abuse and neglect'.

In making judgments about risk of harm, reporters may give further consideration to other factors that can heighten the risk of harm such as poverty, social isolation or the presence of disability. These factors do not of themselves constitute risk of harm under Section 23 of the Act, but may influence a judgment on both the level of risk and the degree of harm that may occur.

What does 'current concerns' mean?

Current concerns may exist for a child or young person where maltreatment has not yet happened but there is a reasonable suspicion that, should the circumstances continue unchanged, then it is likely in the foreseeable future that the child or young person will experience abuse or neglect. Similarly, current concerns may arise from circumstances involving a child or young person's contact with someone who is known or suspected to be a person responsible for causing harm to a child in the past and there is a concern that a child is at risk of being harmed.

Current concerns also refer to situations where the abuse or neglect of the child occurred some time in the past, but continues to have an impact on the child or young person's safety, welfare or wellbeing.*

For a concern to have currency, there has to be a 'present time' element to the risk of harm or to the risk becoming apparent to the reporter. It is not appropriate for a reporter to delay reporting their concerns about a child.

2.2.2 SPECIAL PROVISIONS FOR NON-MANDATORY REPORTING

In addition to the different categories of child abuse and neglect, the Act identifies the following areas for special consideration in the reporting context:

- ▶ unborn children
- ▶ homeless children and young people aged 16 to 17 years.

Unborn children

Section 25 of the Act states:

... a person who has reasonable grounds to suspect, before the birth of a child, that the child may be at risk of harm after his or her birth may make a report to the Director-General.

This is known as a prenatal report and provides for the making of reports to the Department of Community Services about a child **before their birth**. Whilst such reporting is not mandatory, it is recognised that such action may be helpful so that assistance can be provided early to prevent the likelihood of a child being at risk of harm when they are born.

Prenatal reporting may be particularly helpful to the unborn child in domestic violence situations, or where there are mental health concerns or hazardous drug and/or alcohol misuse during pregnancy. It is also appropriate to consider prenatal reporting where a parent has previously demonstrated an inability to safely parent.

NSW Health is the key provider of antenatal services to women during pregnancy. They are uniquely positioned to identify vulnerabilities in pregnant women that may result in a risk of harm to a child when they are born.

Homelessness of children and young people

The Act recognises homelessness of children and young people as an important issue. Aside from the possibility that homelessness is likely to be a manifestation of more entrenched problems such as abuse or neglect, it also increases a child or young person's vulnerabilities and poses additional risks associated with transience.

Under Section 120 of the Act, the reporting of homeless children is mandatory for any person who in the course of providing residential accommodation encounters a child (that is, a person aged under 16 years) who is suspected to be living away from home without parental permission. This applies to a child living in anyone's private household or in a facility that provides an accommodation service to children, such as a refuge.

*PRACTICE POINT

RESEARCH SHOWS THAT CHILDREN DO NOT ALWAYS MANIFEST OBVIOUS CURRENT EFFECTS FOLLOWING SERIOUS ABUSE, AND THAT DISCLOSURE IS COMMONLY DELAYED. REPORTING SUCH ABUSE ENABLES INVESTIGATION OF OFFENCES AND REFERRAL TO APPROPRIATE SUPPORTS. IT ALSO ENABLES FOLLOW UP BY EMPLOYERS IF THE ALLEGED PERSON RESPONSIBLE STILL WORKS WITH OR CARES FOR CHILDREN AND YOUNG PEOPLE.

Under the Act, a young person is defined as someone who is age 16 years or above, but under 18 years of age. The Act recognises the unique vulnerabilities of young people, as well as their growing right to self-determination and participation in decisions that affect them. This is reflected in the requirement under Section 121 that a reporter needs to have the consent of a young person who is homeless prior to making a report about their homelessness. However, consent is not required for the making of other reports about harm or risk of harm.

The Act does not define homelessness, however the Human Rights and Equal Opportunity Commission 1989 *Report of the National Inquiry into Homeless Children*, does provide a useful definition:

Homelessness is where a child or young person is living without any family support in any of the following circumstances:

- ▶ no accommodation at all, that is 'roofless'
- ▶ only temporary or transient accommodation
- ▶ emergency, refuge or crisis accommodation
- ▶ other long-term supported accommodation for homeless people, such as hostels or transitional accommodation.

A child or young person who is living in accommodation where they do not have access to basic utilities (such as power and running water) may also be regarded as homeless.

2.3 RECOGNISING CHILD ABUSE AND NEGLECT

Everyone whose work brings them into contact with children, young people and families has a crucial role in the protection of children and young people. By virtue of this contact such workers are in a position to:

- ▶ receive information that a child or young person has been harmed or may be at risk of harm
- ▶ make observations about a child or young person's appearance, behaviour or family circumstances that may give rise to concerns about their safety or risk of harm.

2.3.1 GENERAL INDICATORS OF CHILD ABUSE AND NEGLECT

As a first step in keeping children safe, it is important that all community members be alert to signs of abuse or neglect in children and discern situations where additional supports might be needed to prevent harm to a child, a young person or to an unborn child.

Indicators of child abuse and neglect provide guidance on possible concerns and potential causal relationships. They act as a trigger, encouraging practitioners and others to consider whether an injury, behaviour or disclosure raises the possibility that a child or young person may be at risk of harm from abuse or neglect. Some indicators are sufficient as single signs to give reasonable grounds to suspect risk of harm. Others are meaningful when they co-exist with other indicators.

It should be stressed that the absence of indicators does not necessarily mean that a child or young person is safe as some maltreated children or young people will not display any noticeable symptoms.

Indicators need to be considered in the context of a child or young person's circumstances and their age or other vulnerabilities, for example disability or chronic illness.* Interpretation of indicators always involves adopting a child or young person's perspective and having the child at the centre of consideration. The focus is on the consequences of the actions or inactions by parents or other authority figures for the child.

Children who have experienced abuse or neglect will often experience more than one type of maltreatment. For example, sexual abuse will most probably co-exist with psychological or emotional harm.

***PRACTICE POINT**

SOME CHILDREN WITH A DISABILITY MAY BE MORE VULNERABLE TO RISK DUE TO MOBILITY CONSTRAINTS, DEPENDENCE ON OTHERS OR LIMITS ON THEIR ABILITY TO COMMUNICATE.

General indicators of abuse or neglect include:

- ▶ a child or young person tells you of their abuse or neglect
- ▶ someone else tells you of the abuse or neglect of a child or young person
- ▶ a history of previous abuse or neglect to the child, young person or a sibling
- ▶ unexplained and marked changes in a child or young person's behaviour or mood
- ▶ the parents' or caregivers' misuse of alcohol or drugs is affecting their ability to care for the child or young person
- ▶ ongoing or sporadic violence between the parents
- ▶ the parents or caregivers are experiencing significant problems in managing their child, which is incongruent with the child's or young person's behaviour or special needs
- ▶ a deficiency in functional parenting skills required to provide for the safety, welfare and wellbeing of the child or young person.

Learning to identify indicators and to use them effectively in recognising child abuse and neglect is complex because of the unique nature of children and families. For this reason, it is important to access the guidance of your agency supervisor or manager.

REFER Entry level training courses in learning how to identify and respond to risk of harm are available across NSW. A calendar of one-day, two-day or half-day courses is available online: http://www.community.nsw.gov.au/html/comm_partners/training_calendar.htm.

2.3.2 INDICATORS OF NEGLECT

Neglect is the failure to provide the basic necessities of life. It is typically regarded as an act of omission or commission, and as such may or may not be intentional. Neglect is potentially serious and can have long-term developmental consequences for children.

REFER Appendix 3 'Legislative grounds to report'

Both the Act and the *Crimes Act 1900* provide significant penalties against a person who neglects to provide adequate and proper food, nursing, or lodging for a child or young person, or intentionally abandons or exposes a child under seven years of age to risk if it causes danger of death or serious injury to the child.

REFER Section 71(2) of the Act specifies that the Children's Court cannot conclude that the basic needs of a child or young person are likely not to be met only because of a parent's disability or poverty.

Neglect can take one or more of the following forms:

- (i) **Neglect of basic physical needs** occurs where there is a risk of harm or actual harm caused by the parent or caregiver's failure to provide for a child's basic physical needs, such as:
- ▶ food
 - ▶ clothing and hygiene
 - ▶ physical shelter
 - ▶ safety from harm – including issues of appropriate supervision.

Neglect of basic physical needs is the most well known and recognised form of child neglect. Depending on the age and circumstances of the child, the focus is not simply and solely on the absence of safe physical care, adequate nutrition or appropriate clothing. Rather, the issue is whether the omission of such basic care needs has impaired or could risk impairing the child's welfare, health and development.

- (ii) **Neglect of basic psychological needs** occurs when a child or young person is not receiving sufficient or appropriate interaction, encouragement, nurturing or stimulation from their parents or caregivers. This form of neglect also refers to the persistent ignoring of a child's signals of distress, pleas for help, attention, comfort, reassurance, encouragement and acceptance.

Without this care a child or young person may not develop appropriate attachments with primary carers and others, significantly impairing their ongoing emotional, cognitive and physical development. These are important for participation in school, forming friendships, playing sport or participating in other recreational activities, and later, in employment and for raising their own children.

- (iii) **The neglect of necessary medical care** presumes that risk of harm is likely to arise from a failure to provide for the required medical service or treatment. This can include the withholding or failure to provide essential medication for a child. For very young children the risk of harm in not receiving appropriate medical attention may be quite high.

Physical and behavioural indicators of neglect are often readily observable by people in close contact with the child – most particularly doctors, teachers, child care workers, relatives and neighbours.

Table 2.2: Indicators of neglect

In children*	In young people*	In parents or caregivers
<p>Physical</p> <ul style="list-style-type: none"> ▶ low weight for age and/or failure to thrive and develop ▶ poor primary health care (e.g. untreated sores, serious nappy rash, significant dental decay) ▶ poor standards of hygiene (i.e. child consistently unwashed, bad odour) ▶ poor complexion and hair texture 	<p>Physical</p> <ul style="list-style-type: none"> ▶ poor standards of hygiene and self-care 	<p>Physical</p> <ul style="list-style-type: none"> ▶ may have poor standards of hygiene and self-care
<p>Social/psychological</p> <ul style="list-style-type: none"> ▶ child not adequately supervised for their age ▶ scavenges or steals food; focus is on basic survival ▶ longs for or indiscriminately seeks adult affection ▶ displays rocking, sucking, head-banging behaviour ▶ poor school attendance 	<p>Social/psychological</p> <ul style="list-style-type: none"> ▶ stays at the homes of friends and acquaintances for prolonged periods, rather than at home ▶ cannot access adequate self-care resources such as washing facilities and food ▶ poor school attendance 	<p>Social/psychological</p> <ul style="list-style-type: none"> ▶ unable/unwilling to provide adequate food, shelter, clothing, medical attention, safe home conditions ▶ leaves the child without appropriate supervision ▶ abandons the child ▶ withholds physical contact or stimulation for prolonged periods ▶ unable or unwilling to provide psychological nurturing – low-warmth parenting ▶ has limited understanding of the child's needs ▶ has unrealistic expectations of the child

*Indicators listed for children may also be evident in young people

2.3.3 INDICATORS OF PHYSICAL ABUSE

Physical abuse is harm to a child or young person that is caused by the non-accidental actions of a parent or other person responsible for their care. Physical abuse is often a particularly visible form of child maltreatment. Acts such as beating, shaking, biting, deliberate burning with an object, attempted strangulation and female genital mutilation are a range of examples of physical abuse or ill treatment.

Caution has to be exercised in interpreting the cause of injuries as bruising, bone and other injuries can also occur accidentally. Suspicions may be raised where:

- ▶ the injuries relate to an infant or a child under two years of age
- ▶ there is inconsistency between the presentation of the injury and the explanation provided
- ▶ there are multiple injuries that appear to be of different ages
- ▶ there is a pattern and/or an unexplained frequency to injuries.

REFER Appendix 3 'Legislative grounds to report'

The boundary between physical discipline of children and abusive behaviour is a particularly vexed one. In some instances, excessive discipline can constitute physical abuse and lead to criminal charges. The *Crimes Act 1900* has been amended to limit the use of physical force to discipline, manage or control a child. Section 61 AA of the *Crimes Act* precludes force (other than in a manner that could reasonably be considered trivial or negligible in the circumstances):

- ▶ to any part of the head or neck of a child, or
- ▶ to any part of the body of a child in such a way as to be likely to cause harm to the child that lasts for more than a short period.

Table 2.3: Indicators of physical abuse (1/2)

In children*	In young people*	In parents or caregivers
<p>Physical</p> <ul style="list-style-type: none"> ▶ bruises on face, head or neck ▶ other bruises or marks which may show the shape of the object that caused it ▶ lacerations and welts ▶ head injuries where the infant may be drowsy or vomiting, or have glassy eyes, fixed pupils or pooling of blood in the eyes suggesting the possibility of having been shaken ▶ adult bite marks and scratches ▶ bone fractures, especially in children under three years old ▶ dislocations, sprains, swelling ▶ burn marks and scalds ▶ multiple injuries or bruises ▶ child's explanation inconsistent with injury ▶ abdominal pain (may be caused by ruptured internal organs) ▶ ingestion of poisonous substances, alcohol or drugs ▶ general indicators of female genital mutilation (e.g. having a 'special operation') 	<p>Physical</p> <ul style="list-style-type: none"> ▶ lacerations, welts, bruising, burn marks ▶ unspecified internal pains 	<p>Physical</p> <ul style="list-style-type: none"> ▶ frequent visits with child to health or other services with unexplained or suspicious injuries, swallowing of non-food substances or internal complaints ▶ explanation of injury is not consistent with the visible injury

*Indicators listed for children may also be evident in young people

Table 2.3: Indicators of physical abuse (2/2)

In children*	In young people*	In parents or caregivers
<p>Social/psychological</p> <ul style="list-style-type: none"> ▶ wears clothing that is inappropriate to the weather conditions, to conceal injuries ▶ fears adults, is aggressive, lacks empathy 	<p>Social/psychological</p> <ul style="list-style-type: none"> ▶ aggressive and violent behaviours toward others, particularly younger children ▶ explosive temper that is out of proportion to precipitating event ▶ constantly on guard around adults, cowers at sudden movements, unusual deference to adults 	<p>Social/psychological</p> <ul style="list-style-type: none"> ▶ family history of violence ▶ history of their own maltreatment as a child ▶ fears injuring their child ▶ uses excessive discipline

*Indicators listed for children may also be evident in young people

Risk of harm issues involving infants require extra vigilance and attention. A Welsh study² provides powerful illustrative data, finding that severe physical abuse in babies under one year was:

- ▶ six times more common than for children from one to four years, and 120 times more common than in five to 13-year-olds
- ▶ brain injury and fractures are more common than for older children, and are at their most frequent in the first six months
- ▶ the non-accidental death rate is ten times higher than for children one to five years of age.

2.3.4 INDICATORS OF SEXUAL ABUSE

Sexual abuse is any sexual act or threat to a child or young person that causes them harm, or to be frightened or fearful.* It covers a continuum from:

- ▶ non-contact forms of harm, such as flashing, having a child or young person pose or perform in a sexual manner, exposure to sexually explicit material or acts (including pornographic material), communication of graphic sexual matters (including by email and SMS)
- ▶ a range of contact behaviours, such as kissing, touching or fondling the child or young person in a sexual manner, penetration of the vagina or anus either by digital, penile or any other object or coercing the child to perform any such act on themselves or anyone else.

REFER Appendix 3 'Legislative grounds to report'

Table 2.4: Indicators of sexual abuse (1/2)

In children*	In young people*	In non-offender parents, caregivers or others	In perpetrator
<p>Physical</p> <ul style="list-style-type: none"> ▶ bleeding from the vagina, external genitalia or anus ▶ tears or bruising to the genitalia, anus or perineal regions ▶ trauma to the breasts, buttocks, lower abdomen or thighs including bite/burn marks ▶ sexually transmitted disease 	<p>Physical</p> <ul style="list-style-type: none"> ▶ adolescent pregnancy and/or reluctance to identify father of child 	<p>Physical</p> <p>nil</p>	<p>Physical</p> <p>nil</p>

*Indicators listed for children may also be evident in young people

*PRACTICE POINT

IT IS REPORTED THAT CHILD SEXUAL ABUSE IN ABORIGINAL COMMUNITIES NEEDS TO BE UNDERSTOOD IN THE CONTEXT OF THE BROADER SETTING OF TRAUMA, DEPRIVATION AND RACISM. THE SOLUTION NEEDS TO BE HOLISTIC IN ITS APPROACH, ADDRESSING ISSUES OF VIOLENCE, LOSS OF CULTURAL IDENTITY, SUBSTANCE ABUSE AND THE NEEDS OF WOMEN AND CHILDREN.

² Dale, P., Green, R. & Fellows, R., 2002, *What Really Happened: Child Protection Case Management of Infants with Serious Injuries and Discrepant Parental Explanations*, NSPCC.

Table 2.4: Indicators of sexual abuse (2/2)

In children*	In young people*	In non-offender parents, caregivers or others	In perpetrator
<p>Social/Psychological</p> <ul style="list-style-type: none"> ▶ direct or indirect disclosures ▶ describes sexual acts with age-inappropriate knowledge ▶ age-inappropriate behaviour and/or persistent sexual behaviour ▶ self-destructive behaviour, drug misuse, suicide attempts, self-mutilation ▶ runs away from home persistently ▶ eating disorders ▶ goes to bed fully clothed ▶ regression in developmental achievements in younger children ▶ has contact with a known or suspected paedophile ▶ unexplained money and gifts 	<p>Social/psychological</p> <ul style="list-style-type: none"> ▶ poor self esteem ▶ runs away from home, homelessness ▶ particularly negative reaction to adults of only one sex ▶ desexualisation (e.g. wearing baggy clothes in order to disguise gender) ▶ artwork or creative writing with obsessively sexual themes ▶ sexually provocative behaviour ▶ engaging in/talking about violent sexual acts ▶ knowledge about practice and locations usually associated with prostitution ▶ risk-taking behaviours – self-harm, suicide attempts ▶ contact with a known or suspected paedophile 	<p>Social/psychological</p> <ul style="list-style-type: none"> ▶ defers to partner ▶ may minimise disclosure 	<p>Social/psychological</p> <ul style="list-style-type: none"> ▶ controlling attitude and behaviour to children and/or partner ▶ inappropriately curtails child's age-appropriate development of independence from the family ▶ overly critical of adult partner ▶ defends against accusations by claiming the child or young person is lying ▶ Encourages/tolerates sexualised behaviour between family members ▶ exposes child or young person to prostitution or pornography; or uses a child or young person for pornographic purposes ▶ intentionally exposes child or young person to the sexual behaviour of others ▶ committed/been suspected of child sexual abuse or child pornography ▶ coerces child or young person to engage in sexual behaviour with other children and young people ▶ verbal threats of sexual abuse ▶ family denies adolescent pregnancy

*Indicators listed for children may also be evident in young people

Sexual abuse may result in physical, emotional or psychological harm. It can occur to children of any age, from infants to teenagers. It may occur once, a few times or be a repeated occurrence, and can be perpetrated by either males or females. In most cases the offender is known to the child and can include household members such as parents, step-parents, de facto partners of parents, siblings of the child or young person, or non-household relatives and acquaintances of the family.*

Physical and psychological coercion of children is intrinsic to child sexual assault and differentiates such assault from consensual peer sexual activity. Adults, young people and children who perpetrate child sexual abuse exploit the dependency and immaturity of children by misusing their power and encouraging children to be secretive. Although the child victims of sexual assault often feel guilty, it is never their fault.

Recognising sexual abuse can be difficult because there is often an absence of clear physical evidence or indicators.° There also may be a number of explanations that could account for some behavioural presentations listed in the Table 2.4, such as general stress reactions or even other abuse types.

° Sullivan, P.M. & Knutson, J.F. (2000). Maltreatment and disabilities: A population-based epidemiological study. *Child Abuse & Neglect*, 24(10), 1257-1273.

***PRACTICE POINT**

A large epidemiological study (SULLIVAN AND KNUTSON, 2000)³ FOUND THAT THE RATE OF SEXUAL ABUSE OF CHILDREN WITH A DISABILITY IS HIGHER THAN THAT OF CHILDREN WITH NO DISABILITY. IT IDENTIFIED THAT THIS ABUSE WAS MORE LIKELY TO BE BY AN EXTRA-FAMILIAL PERPETRATOR.

°PRACTICE POINT

CHILDREN AND YOUNG PEOPLE WHO EXHIBIT SEXUALLY ABUSIVE BEHAVIOURS OR WHO SEXUALLY OFFEND MAY BE AT RISK OF HARM, AND PRACTITIONERS SHOULD CONSIDER WHETHER A REPORT IS REQUIRED.

2.3.5 INDICATORS OF PSYCHOLOGICAL HARM

The focus is the **serious harm** caused by the psychologically abusive behaviour of a parent or other caregiver. **Serious psychological harm** can occur where the behaviour of their parent or caregiver damages the confidence and self-esteem of a child or young person, resulting in serious emotional deprivation or trauma.

REFER Appendix 3 'Legislative grounds to report'

Serious psychological harm can lead to significant impairment of a child's or young person's social, emotional, cognitive, intellectual development and/or disturbance of a child's or young person's behaviour.

Although it is possible for 'one-off' incidents to cause serious harm, in general it is the **frequency, persistence and duration** of the parental or carer behaviour that is instrumental in defining the consequences for the child. Additionally, individual child factors can mediate the impact of psychological harm – such as age, intelligence, resilience – as can the nature of support the child receives from others.

Table 2.5: Indicators of serious psychological harm

In children*	In young people*	In parents or caregivers
<p>Social/psychological</p> <ul style="list-style-type: none"> ▶ feels worthless about life and themselves ▶ unable to value others or show empathy ▶ lacks trust in people ▶ lacks interpersonal skills necessary for age-appropriate functioning ▶ extreme attention-seeking ▶ takes extreme risks, is markedly disruptive, bullying or aggressive 	<p>Social/psychological</p> <ul style="list-style-type: none"> ▶ avoids all adults ▶ is obsessively obsequious to adults ▶ has difficulty maintaining long-term significant relationships ▶ is highly self-critical ▶ is depressed, anxious, other mental ill-health indicators ▶ is self-harming, attempts suicide 	<p>Social/psychological</p> <ul style="list-style-type: none"> ▶ constantly criticises, belittles, teases a child or young person ▶ ignores or withholds praise and affection ▶ excessively criticises a child in comparison to child's peers ▶ is persistently hostile and verbally abusive, rejects and scapegoats ▶ makes excessive or unreasonable demands ▶ believes that a particular child or young person is bad or evil ▶ uses inappropriate physical or social isolation as punishment ▶ domestic violence involvement such as where weapons are used, significant threats made

*Indicators listed for children may also be evident in young people

2.3.6 INDICATORS OF DOMESTIC VIOLENCE

Domestic violence is any abusive behaviour used by a person in a relationship to gain and maintain control over their intimate partner. It can include a broad range of abusive and intimidatory behaviour causing fear and physical and/or psychological harm. Domestic violence can be physical assault, sexual assault or psychological abuse. It may also include behaviour such as restricting a partner's or child's social contact and financial deprivation.°

REFER *Interagency Guidelines on Domestic Violence*. Available online at: http://www.community.nsw.gov.au/html/comm_partners/policies.htm#cp.

REFER DoCS' Domestic Violence Line can be contacted on 1800 656 463 (TTY 1800 671 442).

°PRACTICE POINT

VIOLENCE TO ABORIGINAL WOMEN IS REPORTED TO BE 45 TIMES HIGHER THAN TO NON-ABORIGINAL WOMEN, WITH 23 PER CENT OF THESE WOMEN NEEDING HOSPITAL TREATMENT COMPARED TO 6.6 PER CENT OF NON-ABORIGINAL VICTIMS.

Table 2.6: Indicators of domestic violence*

In children**	In young people**	In parents & caregivers	
		In adult victims	In perpetrators
Physical <ul style="list-style-type: none"> ▶ preterm and low birth weight baby ▶ slow weight gain in infants ▶ difficulties with sleeping/eating ▶ unexplained physical injuries. 	Physical <ul style="list-style-type: none"> ▶ unexplained physical injuries ▶ eating disorders, such as anorexia and bulimia ▶ uses alcohol and drugs ▶ psychosomatic complaints ▶ higher rates of genital tract infection.⁴ 	Physical <ul style="list-style-type: none"> ▶ injuries do not fit the cause/history given ▶ bite marks ▶ unwanted pregnancy or sexually transmitted infection through coerced sex/refusal to use contraceptives⁵ ▶ bruising/other injuries, especially if pregnant ▶ unexplained miscarriage or stillbirth ▶ nutritional/sleep deprivation or disorders ▶ alcohol and drug abuse ▶ psychosomatic complaints 	Physical <ul style="list-style-type: none"> ▶ physical signs of the victim fighting back, such as facial scratches and injuries to hands
Social/Psychological <ul style="list-style-type: none"> ▶ defiant at school, particularly with female teachers ▶ aggressive or violent behaviour ▶ over-protects mother or fears leaving mother at home ▶ concentrates poorly ▶ constantly fights with peers ▶ frequently absent from school ▶ clingy, dependent, sad and secretive ▶ regressive behaviour ▶ delayed or problematic language development ▶ stealing 	Social/Psychological <ul style="list-style-type: none"> ▶ depressed ▶ suicide attempts ▶ takes extreme risks ▶ physically and verbally abusive ▶ abuses siblings, parents, peers ▶ sexually abusive ▶ frequently absent from school, and poor academic achievement ▶ disruptive ▶ homeless or stays away from home for prolonged time ▶ socially isolated 	Social/Psychological <ul style="list-style-type: none"> ▶ anxious, depressed ▶ suicidal thoughts and attempts ▶ low self-esteem ▶ socially isolated ▶ submissive and withdrawn ▶ repeat/after hours presentations at emergency departments ▶ seldom/never makes decisions without referring to partner ▶ fears reprisal ▶ frequent absences from work/studies 	Social/Psychological <ul style="list-style-type: none"> ▶ presents as the victim of abuse, discrimination or allegation of abuse ▶ admits to some violence but minimises its frequency and severity ▶ visible rough handling of victim/children/pets ▶ impresses as overly concerned about suspected victim ▶ threatens to commit acts of violence ▶ is unable to control angry outbursts ▶ always speaks for partner/children ▶ believes he 'owns' partner/children ▶ describes partner as incompetent or stupid ▶ holds rigidly to stereotypical gender roles ▶ jealous of partner, lacks trust in her or anyone else ▶ does not allow partner or child to access service providers alone

* One indicator in isolation may not imply that domestic violence is occurring. Each indicator needs to be considered in the context of the individual situation and the presence of other indicators.

** Indicators for children may also apply to young people, and vice versa

⁴ Quinlivan, J.A. & Evans, S.F., 2001, 'A prospective cohort study of the impact of domestic violence on young teenage pregnancy outcomes', *Journal of Paediatric and Adolescent Gynaecology*, 14, pp. 17–23

⁵ Krug, E., Dahlberg, L., Mercy, J.A., Zwi, A.B., & Lozano, E. (eds), 2002 *world report on violence and health*, World Health Organization, Geneva.

Living with domestic violence can cause physical and emotional harm to children and young people. Studies⁶ show that children who live with domestic violence are more likely to:

- ▶ show aggressive behaviour
- ▶ develop phobias and insomnia
- ▶ experience anxiety
- ▶ show symptoms of depression
- ▶ have diminished self-esteem
- ▶ demonstrate poor academic performance and problem-solving skills
- ▶ have reduced social competence skills, including low levels of empathy
- ▶ show emotional distress
- ▶ have physical complaints.

Children and young people can be physically injured or threatened within an environment of family violence. Children and young people do not need to see violence to be affected by it. Recent research on infant brain development highlights the potential for serious harm occurring to the development of neural pathways in an infant's brain when exposed to trauma such as domestic violence.* Research has also drawn links between household violence and insecure or disorganised attachment in children⁷.

Psychological harm caused by domestic violence may vary depending on the age of the child, the length of exposure to incidents of domestic violence, the nature of incidents of domestic violence, and the nature of any protective factors or influences available to the child or young person and their family.

REFER Appendix 3 'Legislative grounds to report'

The following situations should act as a trigger to consider whether the child or young person is at risk of serious psychological harm:

- ▶ there has been a repetition or escalation in frequency/severity of household violence
- ▶ the violence resulted in the need for medical intervention for any party
- ▶ weapons have been used
- ▶ police officers have intervened and an Apprehended Violence Order (AVO) has been issued/breached, or the offender has been removed from the house.

It is also critical to consider whether the caregiver's level of victimisation is such that they are unable to act protectively towards the child or young person and to note whether domestic violence coexists with one or more factors such as the hazardous use of alcohol or other drugs and/or untreated mental health concerns.

2.4 SEEKING ADVICE PRIOR TO REPORTING

Developing a **reasonable suspicion** that a child or young person is at risk of harm from abuse or neglect is not always clear-cut and involves a process of reflection and evaluation. Sometimes the decision will be obvious, especially in situations of a direct disclosure by a child or where there is unambiguous physical evidence. At other times, a professional judgment will be required about whether and when to make a report of harm.

*PRACTICE POINT

THE DEVELOPING BABY'S BRAIN IS MOST VULNERABLE TO THE IMPACT OF TRAUMATIC EXPERIENCES BETWEEN THE SEVENTH PRENATAL MONTH AND THE INFANT'S FIRST BIRTHDAY. IT IS BELIEVED THAT RAISED LEVELS OF CORTISOL, SECRETED DURING STRESS, MAY AFFECT THE DEVELOPMENT OF A MAJOR STRESS-REGULATING SYSTEM IN THE BRAIN.

⁶'Domestic Violence and its Impacts on Children's Development', an edited version of a presentation delivered at the Department of Community Services' Fourth Domestic Violence Forum, Sydney 2002. Available online: http://www.community.nsw.gov.au/html/child_protect/DV.htm

⁷ Ibid.

The interpretation of information is not a simple and straightforward process. Perceptual bias and thinking ‘shortcuts’ can lead people to:

- ▶ rely too heavily on intuitive and subjective information
- ▶ attend to the wrong data and ignore other data
- ▶ underestimate or overestimate the significance of certain information
- ▶ selectively interpret information that supports a particular view, and similarly to selectively disregard information that does not confirm the preferred hypothesis.

The following prompts may assist a practitioner in deciding whether to make a report:

- ▶ is there someone else in the agency who also has contact with the child, young person or their family and what information can they offer?
- ▶ can the indicators be linked to risk of harm, or are there other explanations that would more appropriately explain their presence?
- ▶ in evaluating the information, to what extent is the focus on the safety, welfare and wellbeing of the child or young person or are there other influences – for example on the needs of a parent, or the practitioner’s personal views about the needs of children or families?
- ▶ on the basis of all the available information, is the practitioner more inclined or less inclined to believe that the child is at risk of harm?
- ▶ if the concern is about the homelessness of a young person aged 16 to 17 years, do they consent to a report being made to the Department of Community Services?

Some agencies have specific policies and/or tools to guide staff in the early identification of children and young people at risk of harm. For example, NSW Health requires mental health clinicians in their assessment of adults who care for or who have regular contact with children (including if the person is pregnant) to consider Risk of Harm Assessment guidelines.

Where a practitioner is uncertain about how to interpret information they have about a child, young person or family, it will be necessary to follow their employing agency’s policy or procedures about reporting risk of harm. This may involve consulting with a supervisor or a senior staff member in the agency.

Practitioners need to be aware that consultation with an agency supervisor is not a substitute for making a report to the Department of Community Services.

Depending on the circumstances of the matter, specialist advice might be required. This could be sought from a specialised service such as a disability or early childhood/children’s service, sexual assault service, NSW Health Physical Assault and Neglect of Children (PANOC) Service, Child and Adolescent Mental Health Service or a paediatrician. In consulting externally it is inadvisable, for privacy reasons, to identify the child concerned.

Where a practitioner determines that there are not *‘reasonable grounds to suspect that a child is at risk of harm’*, then there is no statutory basis to make a report to the Department of Community Services. Nonetheless, it is advisable to document the information, describing what triggered the initial concern or ‘gut feeling’, the date and why it was decided not to report the matter. Such a record will be useful if another incident arises that leads the practitioner (or another agency colleague in contact with the child or family) to again be concerned about the child’s safety, welfare or wellbeing.

2.5 HOW TO MAKE A REPORT

The Department of Community Services **Helpline** is the initial point of contact for mandatory and non-mandatory reporters who have concerns about a child's safety, welfare and wellbeing. It is the 'front door' of the Department of Community Services and receives and screens all reports of harm and requests for assistance from the community. The Helpline operates as an inbound call centre, 24 hours a day, 7 days a week, and is staffed by professionally qualified Department of Community Services caseworkers.

The Helpline also provides an after-hours crisis team to respond to call-outs in metropolitan Sydney, and coordinates responses in rural areas. As appropriate, the Helpline will notify the NSW Police of urgent matters that may require their involvement.

The Helpline has a system for managing calls during busy periods. Priority is given to answering calls as quickly as possible and identifying those that may be urgent so that they are responded to first. In busy times, basic information details may be taken from non-urgent calls and a call back to the mandated reporter may occur if further information is required.

The Helpline has a range of strategies to assist mandatory reporters and has increased options for how they can lodge a report of harm:

Table 2.7

Reporting methods available	
1. PHONE	13 3627 (or for ease of reference 13 DoCS) for mandatory reporters 132 111 for non-mandatory reporters
2. FAX	9633 7666 for designated mandatory reporters, using the designated Helpline fax form
3. E-REPORT	commencing 2007, and will be progressively rolled out to schools, NSW Police and NSW Health
4. TTY	9633 7698
5. PAGER	available for use by NSW Police and NSW Health for urgent matters only

Where there are urgent concerns for the child's health or life, then it is important to contact the police using the emergency line '000'.

Direct phone contact with the Helpline is advisable when concerns about the child are of an immediate nature. Person-to-person dialogue between the Helpline and the reporter allows for discussion and 'teasing' out of information, particularly where there may be complexity in the child's or family's circumstances.

Phone reporting is preferred where:

- ▶ the child may require an immediate response due to the currency of evidence that would establish abuse or harm
- ▶ the child or young person has a critical need for immediate intervention – for example, a child is currently alone, without supervision or is homeless
- ▶ the alleged person causing harm has access to the child *and* there is concern that the child may experience harm in the foreseeable future
- ▶ there is a complexity to the information (for example, substantial history of abuse or detailed information about the child or family) which is more easily communicated verbally than in writing
- ▶ the reporter is unsure about how to interpret the indicators of abuse and/or neglect, and may need to 'talk through' the information with a Helpline caseworker.

Helpline caseworkers are sensitive to the difficulties that reporters can experience when making a report. It is not uncommon to feel stressed, confused and generally uncomfortable with the reporting task, particularly where a person has developed close relationships with the child, young person or parents. It is important for the reporter to understand that reporting is not an accusation that parents are causing harm, but a statement that the child may be at risk of harm.

Aboriginal people face unique challenges with reporting to the Helpline, partly due to the historical distrust of child welfare authorities arising from the history of the 'stolen generation'. In addition, Aboriginal workers carry strong obligations towards their community and may have to deal with negative reactions from a range of people with whom they have direct personal, family or local connections. Recognising this, Aboriginal reporters can request to speak with an Aboriginal caseworker at the Helpline.

In addition, where a reporter is not fluent in English or requests an interpreter, the Helpline caseworker will make the necessary arrangements.

The Helpline also has an Education Team, which operates to improve accessibility for and responsiveness to the education sector. This group of Helpline caseworkers deals exclusively with information from school personnel and child care workers, who are mandated reporters. More streamlined processes, coupled with the team's specialisation and knowledge, contribute to improved services for children and young people at risk.

2.6 WHAT INFORMATION IS REQUIRED IN A REPORT?

The detail and quality of the information provided by the reporter is critical to the quality of the decision-making that follows.

The Helpline is reliant on the reporter's information, as it does not usually make outbound calls to other agencies or services involved with the child or family in order to clarify or corroborate the information provided. Additional inquiries are only initiated by the Helpline to clarify the child's identity or their current location, or to a school or hospital to determine essential information, such as whether the child is currently on their premises.

Reporters need to be prepared to provide as much information as possible and to answer the exploratory questions from the Helpline caseworker. Reporters can assist the reporting process by having all required information close at hand – this might be the demographic information from agency records, as well as any contemporaneous notes of observations or disclosures.

Reporters are not expected to have answers to all the information prompts detailed in the Template for Reporting (Table 2.8), but to provide such information about the child and family as is available to them/their agency. The template can be used to assist a practitioner in preparing to report a risk of harm. If known, information should be provided about any disability, unmanaged mental illness or drug or alcohol dependency experienced by the child/young person or their family.

To ensure that clients from backgrounds of cultural, linguistic and religious diversity are provided with effective services, it is important for the reporter to provide information (where this is known) about the language, religious and cultural background of the family. Such information can assist in arranging suitable professional interpreters or other services.

Although Table 2.8 provides prompts for comprehensive information to be conveyed, a report can still be made where only a little information is known to the reporter.

There is also a legislative requirement for the Department of Community Services to identify if the child is Aboriginal, and this information will routinely be sought from reporters. It is important that reporters do not make a hasty judgment based only on the physical presentation of the child, young person or their family.

Once a report is made to the Helpline, it is not necessary to make a further report unless there is new information that was not included in the original report. If a report has been made by phone, it is not necessary to also send a fax or vice versa.

REFER A report checklist is available online at:
http://www.community.nsw.gov.au/html/child_protect/mandatory.htm.

Table 2.8: Template for reporting

DEMOGRAPHIC INFORMATION	
Child's Information	Family information
<ul style="list-style-type: none"> ▶ Name of child or young person (or alias) or other means of identifying them ▶ Age and date of birth (or approximation) ▶ If child is Indigenous – Aboriginal, Torres Strait Islander or both ▶ Language, religion and other cultural factors ▶ Name, age of other household children or young people ▶ Address of child and family ▶ School or child care details (if known) ▶ If child has a disability – nature/type, severity, impact on functioning 	<ul style="list-style-type: none"> ▶ Name, age of parents and household adults ▶ Home and/or mobile phone number ▶ Language, religion and other cultural factors ▶ Information about parental risk factors and how they link to child's risk of harm <ul style="list-style-type: none"> – domestic violence – alcohol or other drug misuse – unmanaged mental illness – intellectual or other disability ▶ Protective factors and family strengths ▶ Non-offending carers' capacity to protect child ▶ Any previous suspicious death of a child or young person in the household
Reporter details	Other information
<ul style="list-style-type: none"> ▶ Name, agency address, phone and email details ▶ Position ▶ Reason for reporting today ▶ Nature of contact with child or family ▶ Nature of ongoing role with child or family (include frequency, duration and type) ▶ If report is being made by someone else in the agency, name of the agency worker who sourced the report 	<ul style="list-style-type: none"> ▶ Services involved with child/family if known ▶ Principal language of family and whether an interpreter or signing is required ▶ If parent knows of report and their response ▶ If child or young person knows about the report and their views ▶ Information related to worker safety issues (if known)
RISK OF HARM ISSUES	
Neglect	Psychological harm
<ul style="list-style-type: none"> ▶ Description of neglect – who, what, when: <ul style="list-style-type: none"> – inadequate provision of food/shelter – inappropriate clothing or hygiene – inadequate supervision – failure to provide medical treatment – emotional needs unmet ▶ Implications/impact of neglect on child 	<ul style="list-style-type: none"> ▶ Description of harmful parenting practices and frequency (e.g. rejection, criticism, scapegoating, isolating, ignoring, blaming) ▶ The impact on the child's behaviour ▶ Description of exposure to domestic violence, its nature and frequency ▶ Reason to suspect risk of serious psychological harm
Physical	Sexual
<ul style="list-style-type: none"> ▶ Description of injury – who, what, when: <ul style="list-style-type: none"> – site, size and colour of injury – who allegedly caused injury (if known) and how – medical treatment – what, when, who ▶ Suspicions regarding future risk of harm ▶ Did child/parents disclose/ – What did they say? 	<ul style="list-style-type: none"> ▶ Description of harm incident or risk of harm, including what occurred and when ▶ Did child disclose? – What was said (use direct quotes of child), to whom, when? ▶ Description of behaviours ▶ Who/where is the alleged perpetrator (if known)? ▶ Response of the non-offending parent

2.7 RESPONDING TO A CHILD OR YOUNG PERSON WHO DISCLOSES INFORMATION

It is very rare for a child to disclose abuse or neglect immediately or the first time something happens. Often children and young people experience a great sense of helplessness and hopelessness and think that nobody can help them. Weeks or even years may pass before a child or young person makes their abuse known, either directly or indirectly.

Depending on the age of the child and the nature of the abuse or risk, there can be a range of inhibitors to them telling someone about their situation. For instance, a child or young person may:

- ▶ believe that they are responsible for the abuse
- ▶ not understand that it is inappropriate behaviour by others
- ▶ want to protect the person responsible
- ▶ want to protect their own 'reputation'
- ▶ feel ashamed of the abuse/of the perpetrator/of protecting the perpetrator
- ▶ feel scared or powerless
- ▶ have been threatened with further harm if they tell someone.

A disclosure occurs when a child lets you know in some way that they have been abused or are likely to be abused. When a child does disclose this information, they might do this purposefully or accidentally. They could:

- ▶ 'blurt out' a harmful experience or their fear of something
- ▶ confide privately that they have been abused or fear that they will be
- ▶ tell another child
- ▶ provide hints – as evidenced in drawings, play or stories
- ▶ disguise a disclosure by posing 'what if' or 'a friend of mine' scenarios
- ▶ present with somatic symptoms (such as constantly feeling 'sick').

How a person responds to a disclosure by a child or young person can be critical.* If the child senses that the person they tell is not interested in listening to them or doesn't believe them, the child will typically stop disclosing the events. This will delay them from seeking help in the future. The important response, as outlined in the Table 2.9, is to be calm and listen carefully and non-judgmentally. Let the child tell their story in their own way.

***PRACTICE POINT**

IT SHOULD BE RECOGNISED THAT A CHILD OR YOUNG PERSON WHO DISCLOSES ABUSE CAN OFTEN BE SUBJECT TO CONSIDERABLE PRESSURE FROM FAMILY MEMBERS AND OTHERS TO WITHDRAW THEIR ALLEGATIONS. THE CHILD MAY FEAR THEY WILL BE THE CAUSE OF BREAKING UP THE FAMILY. IT IS IMPORTANT TO BE SUPPORTIVE OF THE CHILD AND DISCUSS ANY FEARS OR THREATS THAT MAY BE MADE TO ENCOURAGE THE CHILD OR YOUNG PERSON TO WITHDRAW THEIR ALLEGATIONS.

Table 2.9: Responding to a disclosure by a child or young person

Do	Don't
<ul style="list-style-type: none"> ▶ find a private place to talk ▶ if a child/young person uses a communication board/form of argumentative communication, consider whether another trusted person needs to be present who is able to understand them and accurately record the communication ▶ listen carefully to the child or young person ▶ allow them to tell, using their own words ▶ be open and non-judgmental to their account and support them in telling their experience ▶ tell them that it's not their fault and that they have a right to be safe ▶ provide reassurance that they have done the right thing by telling ▶ tell them you know this happens to other children, it's not just them ▶ tell them you will try to stop it happening 	<ul style="list-style-type: none"> ▶ express disbelief, shock or disapproval ▶ probe for additional information they are unwilling to provide ▶ ask leading questions (i.e. questions that contain or suggest answers, or multiple-choice questions) ▶ investigate the allegations ▶ make the child or young person tell others ▶ make promises not to tell anyone

The role of the person hearing the disclosure is not to interview or gather evidence, as this is the responsibility of the Department of Community Services caseworkers and/or police officers, who have received special training in investigative interviewing of children and young people.

It is important to acknowledge the impact of a disclosure on the child or young person. They may regret telling someone, or may react with guilt, anxiety or shame. They may even recant their disclosure in the days following or seek to provide more information. Disclosure is not always a discrete event but often an evolving process.

Immediately after the disclosure, it is advisable to write down and date the comments and statements made by the child. Try to use their exact words. Record any observations about the child's mood or demeanour during the disclosure. This information will need to be communicated to the Helpline as it will assist in the assessment and investigation process.

2.8 TAKING INTO ACCOUNT THE CHILD OR YOUNG PERSON'S VIEWS

An additional challenge facing a reporter is considering whether and how to tell a child or young person about making a report to the Department of Community Services. By and large, it will be important for the child or young person to be told of the need to tell someone else. The framing of this information will be influenced in part on whether the child or young person intentionally or accidentally disclosed the abuse, as well as on the child's age and capacity to understand.

With the exception of reporting the homelessness of young people aged 16 years or above but under 18 years of age, it is not a legislative requirement that a practitioner seeks the permission of the child or young person when making a report. This is because the safety, welfare and wellbeing of the child or young person must be the paramount consideration in all actions and decisions made under the Act, including over the principle of their participation in decision-making.

In circumstances where the concern is about the child's or young person's risk of harm of physical or sexual abuse or neglect, and their opposition to your reporting the matter is unequivocal, it is important to proceed and report the matter. This is because they may continue to experience harm, or other children and young people may also be at risk. For example, there may be siblings who could also be at risk or, in situations of extra-familial abuse, other children and young people with whom the alleged person responsible has contact.

Failure to report can also be seen as colluding with the abuse and with the alleged person responsible for perpetrating the maltreatment.

When making a report to the Helpline, remember to provide information about a young person's reaction to the report. This is because the legislation requires the Department of Community Services to have regard to any known wish expressed by a young person, including their opposition to the report being made.

2.9 RESPONDING TO DISCLOSURES BY A PARENT OR CAREGIVER

Another critical window of opportunity for child protection is opened when a parent or caregiver reveals that they have harmed or are worried that they will harm their child, or confides harm from another household member.

Parents who physically harm or neglect their children or tolerate their partner harming their children may still love their children very much. The parents' behaviour may be due to a range of factors such as:

- ▶ lacking a successful model of parenting and family life, for example, parents having been abused as children
- ▶ lacking an understanding of their child's needs or of age-appropriate expectations
- ▶ being overwhelmed by external stressors and unable to cope
- ▶ expecting their child to satisfy their own emotional needs
- ▶ being victims of violence themselves
- ▶ not able to control their anger or frustration, resulting in lashing out at their child
- ▶ illness or disability, which limits their ability to meet the needs of their children.

It is important to suspend personal judgment about the parent (whether this be favourable or unfavourable) and be mindful of temptations to minimise or exaggerate their behaviour or attitudes. It is also important not to ignore the role of the 'failing to protect' parent, or to prematurely ascribe them as an innocent party or a minimally responsible party.

Regardless of the parent's remorse or their intentions to seek professional help, the focus should always remain on the child and any risk of ongoing harm, and on obligations to report current concerns.

2.10 SHOULD I INFORM THE FAMILY OF A REPORT?

Good practice points to the value of practitioners discussing concerns with the parent or caregiver and advising them of the legal or professional obligations to report their current concerns to the Department of Community Services. Such practice is more likely to be the case for mandated reporters who have ongoing relationships with the parent, such as family support services, drug and alcohol services, teachers, counsellors or health care professionals.

The decision to inform the family of a report will be guided by good professional judgment and the important principles of working in partnership with families and involving children and young people in decisions that affect them. Practitioners can prepare for this by dealing with the issue of mandatory reporting obligations early in the relationship between the parent and the service/agency.

There may be circumstances however, when because of the urgency of the situation for the child, or the perceived risk to the safety of the child or even to themselves, the practitioner may need to report the matter prior to telling the parent. Circumstances where it might be inappropriate for a worker to disclose to parents/carers that they are reporting include if there are potential safety issues for workers or if it would place the child/young person at further risk of harm.

REFER The Association of Children's Welfare Agencies (ACWA) has prepared a series of information sheets to provide guidance to practitioners about this issue. For example, refer to Information Sheet 4 for workers: *Talking to parents about children protection, safety responsibilities and confidentiality*. This is available online at: <http://www.acwa.asn.au/infosheets>.

2.11 SAFEGUARDS FOR REPORTERS

Reports to the Department of Community Services are confidential.

In many situations, families will endeavour to figure out who reported them. In spite of any 'correct guessing' on their part, the Department of Community Services is prohibited from providing them with any affirmation or information that will lead them to identify the reporter.

Private citizens may give information anonymously if they wish. Persons who make a report through the course of their work, whether or not they are required by law to do so, should make known to the Helpline their position and the name of their agency or service.

Any person who makes a report is afforded the following protection by law if they make a report in good faith:

- ▶ the report shall not be held to be a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct
- ▶ no liability for defamation can be incurred because of the making of the report
- ▶ the report, or its contents, is not admissible in any proceedings as evidence against the person who made the report
- ▶ a person cannot be compelled by a court to provide the report or give any evidence as to its contents
- ▶ a report is an exempt document under the *Freedom of Information Act 1989*.

These protections may be overridden on rare occasions where information about the report is crucial to court proceedings. In such circumstances, disclosure of the reporter's identity can only be made with either the consent of the reporter or the leave of the court.

If, as a result of making a report to the Department of Community Services, a person is threatened or fears personal violence, this should be reported to the police.

2.12 FEEDBACK TO REPORTERS

The Department of Community Services recognises that mandated reporters often have an ongoing service role with the children, young people or families that they have reported to the Helpline. Under Sections 248 and 254 of the Act, feedback can be provided to mandated reporters where this disclosure is for the purpose of furthering the safety, welfare and wellbeing of a child or young person.

When a report is made, the Helpline will inform the reporter about the initial action to be taken. Mandatory reporters, except NSW Police, will be advised in writing either that the report has been closed at the Helpline or transferred to a Community Services Centre or a Joint Investigation Response Team (JIRT). Feedback will include details of which Community Services Centre or JIRT the matter has been referred to. NSW Police are provided with an automatic receipt of their report, providing a reference number.

The Community Services Centre will, in turn, make further decisions about the report. A caseworker from the Community Services Centre may initiate contact with the reporter for further assistance in the assessment of the safety, welfare or wellbeing of the child or young person. Such contact provides a reporter with an opportunity to offer further information about the child or young person, or to clarify any ambiguous or misleading information.

The contact also provides an opportunity for the Department of Community Services to make constructive suggestions about support that a reporter could provide to the child, young person or family. This is particularly relevant for reporters such as teachers, family support workers and child care workers who may be in daily contact with the child or young person and parents.

At this time the Community Services Centre may also provide the reporter with information about their intended course of action. It is not always possible or appropriate to provide detailed information. Feedback may include the identity of the relevant Department of Community Services caseworker, whether or not a home visit will be made or that there are to be further discussions with the police or other support services, or that, on the information available, no further action is to be taken.

The level of detail and information provided to reporters will depend upon the circumstances of the particular child or young person, the nature of the reporter's relationship with the child or family and the capacity of the Community Services Centre to respond at the time.

At a minimum, the Community Services Centre will provide feedback to mandated reporters who request it and who have an ongoing role with the child, young person or family and the feedback will enable that work to continue. Contact might be via letter or email. Alternatively, phone contact or a case meeting between a mandated reporter and the Community Services Centre might be indicated.

Mandatory reporters are encouraged to initiate contact with the Community Services Centre or the Helpline and request feedback.

The Department of Community Services has reached agreements with some mandatory reporters for more tailored feedback arrangements owing to their unique role with children, young people and families. For example, NSW Police require a reference number for their report; and school principals, who have a duty of care for reported children and young people, have designated 'contact officers' in Community Services Centres.

2.13 WHERE ALLEGATIONS INVOLVE AGENCY EMPLOYEES

Special procedures are in place to deal with reportable allegations or convictions against employees of all government and certain non-government agencies in NSW.

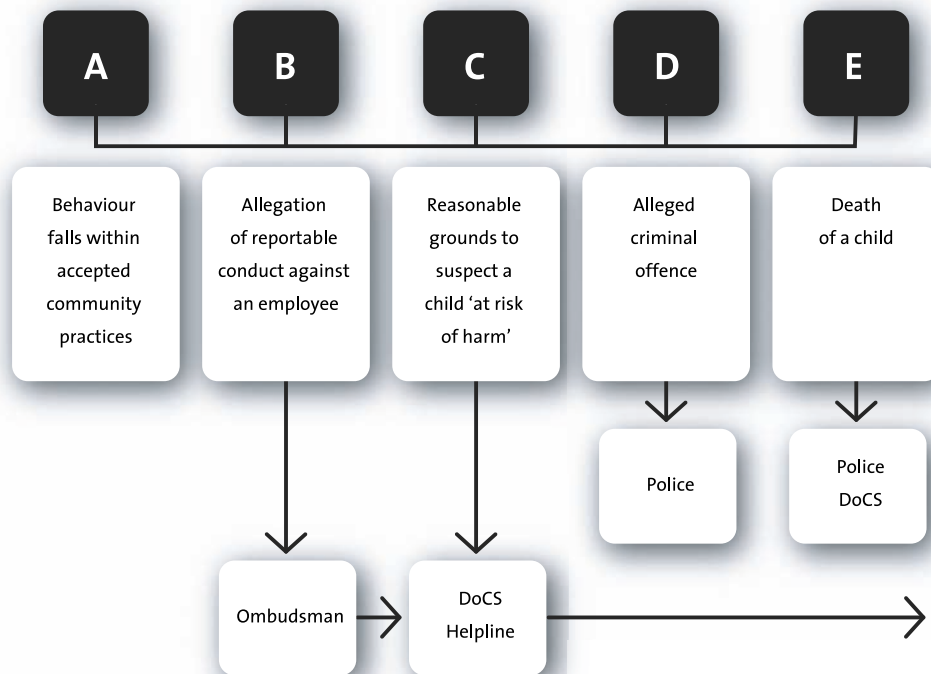
As Diagram 2.2 explains, a matter is notifiable to the Ombudsman when it appears that the information received by an agency constitutes an allegation of reportable conduct, a reportable conviction or an allegation of misconduct that may involve reportable conduct (B). However, this type of allegation may not be notifiable to statutory investigative bodies (for example, Department of Community Services) unless there is some evidence that a child may be ‘at risk of harm’ (C) or a criminal offence may have been committed (D). It should be noted that, when a child dies and an allegation of reportable conduct is made against an employee, the matter should be notified to the Ombudsman (E) under Part 3A of the *Ombudsman Act 1974*.

NOTE A head of an agency is required to notify the Ombudsman of a reportable allegation or conviction made against an employee of the agency within 30 days of becoming aware of the allegation or conviction.

REFER Further information is available online from the Ombudsman’s website: <http://www.ombo.nsw.gov.au>.

Investigations by designated agencies and other public authorities of allegations against employees under Part 3A of the *Ombudsman Act 1974* will at times take place in conjunction with Department of Community Services and/or police investigations, or they may take place without the involvement of these agencies if there are no risk of harm or criminal issues.

Diagram 2.2: Continuum of reporting obligations under Part 3A of The *Ombudsman Act 1974*



The responsibility for conducting an investigation in relation to a reportable allegation against an employee lies with the employing agency. However, all investigation processes should be carefully planned and coordinated to ensure that children and young people’s safety and welfare are being addressed and that investigating bodies do not act unilaterally. This will also help to ensure the integrity of an investigation.

If agencies are concerned about their capacity to undertake fair and proper investigations of allegations against employees, they should seek advice from the NSW Ombudsman, their funding body or the Department of Community Services.

In some cases, the Department of Community Services will decide not to respond to a risk of harm report where they are satisfied that risk of harm has been reduced through support and intervention, internal investigation and disciplinary processes being undertaken by the employer. For example, the employee may have been removed from contact with children and young people, and the child or young person's care and support needs have been addressed.

Where the Department of Community Services decides not to intervene, they should provide the reasons for this decision to the employer in cases where this will assist the investigation of the allegation against the employee.

REFER Appendix 2.5 'Responsibilities of employers'

REFER Appendix 2.6 'Investigations of reportable allegations against employees'

At the completion of its investigation, the agency is also required to report the outcome of the investigation to the Commission for Children and Young People (CCYP), unless the allegation is found to be false, vexatious or misconceived, or found not to involve reportable conduct.

REFER *Commission for Children and Young People Act 1998* and <http://www.kids.nsw.gov.au/> for information about the Working with Children Check Guidelines.