



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON HEALTH, AGEING AND COMMUNITY SERVICES
Ms Bec Cody MLA (Chair), Mrs Vicki Dunne MLA (Deputy Chair)
Ms Caroline Le Couteur MLA

Submission Cover Sheet

Inquiry into Child and Youth Protection Services (Part 2)

Information Sharing under the Care and Protection System

Submission Number: 6

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Support for Aboriginal and Torres Strait Islander Families

Introduction

The over-representation of Aboriginal and Torres Strait Islander children and young people in care is an issue of major concern in our community, as it is a major issue affecting every Australian jurisdiction. It is a legacy of the discrimination, disconnection and dislocation from country and culture that Aboriginal and Torres Strait Islander people have been subjected to.

The specific reasons for the over-representation of Aboriginal and Torres Strait Islander children in child protection are complex. Past forced removal practices, the intergenerational effects of separation from family and culture, poor economic participation and lower educational achievement have contributed to the poor social, economic and health outcomes of Aboriginal and Torres Strait Islander people.

The three main precursors to children and young people of any background entering out of home care are mental illness, drug and alcohol abuse, and family violence. There is substantial evidence at the national level, to indicate that Aboriginal and Torres Strait Islander people and families are over-represented when it comes to drug and alcohol abuse and family violence and are underrepresented in receiving and seeking support for mental health.

Specific action has been undertaken by the ACT Government to reduce the over-representation of Aboriginal and Torres Strait Islander children and young people in the child protection system whilst maintaining a focus on keeping children and young people safe.

Legislation

In making a decision in relation to an Aboriginal or Torres Strait Islander child or young person, Child and Youth Protection Services (CYPS) must take into account the Aboriginal and Torres Strait Islander children and young people principle of the *Children and Young People Act 2008* (s10), in addition to the general principles applying to the Act (s9) and the best interest of the child (s8).

The Aboriginal and Torres Strait Islander children and young people principle ensures CYPS acts in ways that:

- maintains a child's connection with the lifestyle, culture and traditions of their community
- consider submissions made by or on behalf of any Aboriginal or Torres Strait Islander persons or organisations identified by CYPS as providing ongoing support services to the child and their family
- maintains the traditions and cultural values as identified by the child's family, kinship relationships and community with which they have the strongest affiliation.

Practice

CYPS seeks to provide and promote the importance of culturally appropriate practice. CYPS understands cultural differences can have a fundamental impact on:

- child rearing practices
- domestic living arrangements
- domestic relationships
- kinship relationships
- communication styles
- body language
- knowledge and historical factors.

The development of a strong and secure cultural identity is integral to an Aboriginal and Torres Strait Islander child's wellbeing. In accordance with the Aboriginal and Torres Strait Islander Children and Young People Principle (S10 of the CYP Act), the right to stay connected to family and community must be upheld, and the child, their family and community enabled to participate in decision making regarding their care.

CYPS responses and practice when working with Aboriginal and Torres Strait Islander families is maturing with the benefit and support of the *Our Booris, Our Way* review.

Our Booris, Our Way Review

In 2017, the Minister for Children, Youth and Families instigated an independent review into the circumstances of each Aboriginal and Torres Strait Islander child and young person involved in the child protection system, including those in out of home care.

The *Our Booris, Our Way* review focuses on systemic improvements needed to address the over-representation of Aboriginal and Torres Strait Islander children in the child protection system within the ACT. The *Our Booris, Our Way* review is one example of a significant review into the child protection system that is instrumental in changing practice and supports CYPS to evolve and mature with new system responses.

The Interim Report from the *Our Booris, Our Way* review was provided to Government on 31 August 2018 which included a set of recommendations. Further recommendations were received in December 2018 and in May 2019. The final report from the review Steering Committee is due to be provided to Government in December 2019. The review methodology is iterative, meaning the Steering Committee provides recommendations to Directorates and the Government throughout the review period.

The Community Services Directorate (CSD) has been working to deliver on the intent of the recommendations from the review since the Interim Report in August 2018 and is committed to a reform process for working with Aboriginal and Torres Strait Islander families. Some of the significant projects within CYPS already underway include:

Allocation process

CYPS has developed a process that facilitates priority allocation of Aboriginal and Torres Strait Islander families, where possible, to CYPS staff who have completed the CYPS Cultural Development Program. This process goes to the intent of the *Our Booris, Our Way* recommendation that requires CYPS staff to build their knowledge and understanding of Aboriginal and Torres Strait Islander culture to deliver culturally responsive services.

CYPS has also implemented processes to ensure that all Child Protection Reports for Aboriginal and Torres Strait Islander children rated for appraisal are notified to the Cultural Services Team. The Cultural Services Team is able to provide support and advice to case managers to assist in their engagement of the family and response to the family.

Cultural Development Program

CYPS continues to support staff to undertake the CYPS Cultural Development Program. The Cultural Development Program is core training combining face to face activities and utilising an online training program developed by the Australian Institute for Aboriginal and Torres Strait Islander Studies. The Cultural Development Program is designed to provide staff with an understanding of Aboriginal and Torres Strait Islander cultures and has a strong focus on collaboration and the establishment of positive working relationships.

This program has been specifically designed for CYPS staff to assist them to develop a better understanding of the history, spirituality and importance of the land for Aboriginal people. The program is run over a three-month period. Participants engage in a range of face to face activities including:

- A half day on Ngunnawal Country with interpretation of cultural sites of significance, storytelling, bush plants and their uses
- Viewing of the Kanyini Documentary and Babakieuria “A Current Affair Racism” video clip. Bob Randall tells the history of Australia’s Indigenous people. He explains how they have been dispossessed of the five central aspects of life essential for people to thrive, and indeed, survive. These five things – Beliefs, System, Spirituality, Land and Family – are central to his explanation
- A visit to the Australian Institute of Aboriginal and Torres Strait Islander Studies in order to explore their resources. The visit specifically looks at archives of images and the language of the time related to the history of child removals.

Recruitment to designated Aboriginal and Torres Strait Islander positions

CYPS is committed to building cultural capability across the workforce through recruitment of Aboriginal and Torres Strait Islander staff. In an effort to support this, CYPS has sort to remove existing qualification barriers to employment for Aboriginal and Torres Strait Islander staff, instead focusing on skills, experience and community relationships.

CYPS has employed a designated Aboriginal and Torres Strait Islander Practice Leader. The Aboriginal and Torres Strait Islander Practice Leader has a key role in supporting the embedding of the Aboriginal and Torres Strait Islander Child Placement Principle.

CYPS has also employed a designated Aboriginal and Torres Strait Islander senior Policy Officer who commenced in her role in March 2019. This senior policy officer has commenced scoping and developing a strategy to implement the Aboriginal and Torres Strait Islander Child Placement Principle into all policies and procedures and reviewing content to ensure it is culturally appropriate.

The Aboriginal and Torres Strait Islander senior policy officer has established an advisory committee comprising internal and external stakeholders. Currently the group has confirmed membership from CYPS, Gugan Gulwan Youth Aboriginal Corporation, Aboriginal Legal Services, Justice and Community Safety, Winnunga Nimmityjah Aboriginal Health Service, ACT Together and ACT Health. All invitees have been chosen for their expertise in working with Aboriginal families and this committee will assist the Directorate in reviewing the content of prioritised policy and procedure tasks. The first meeting of this group occurred on 16 July 2019.

To support the implementation of the Aboriginal and Torres Strait Islander Child Placement Principle and to support the implementation of updated policy and procedures, CYPS has recruited a designated Aboriginal and Torres Strait Islander Training and Workforce Development officer. The officer is responsible for reviewing the existing CYPS Cultural Development Program and will work in partnership with the Cultural Services Team to deliver the program on a more regular basis. CYPS gives priority access to operational casework staff to this training.

Practice Guide for CYPS staff

CYPS have engaged Curijo Pty Ltd, an Aboriginal owned organised certified with Supply Nation, to develop a Practice Guide for CYPS staff. The guide provides information about effectively embedding 'active efforts' for best practice casework under each element of the Child Placement Principle.

To inform the development of the Practice Guide, Curijo staff undertook six workshops across November and December 2018 including a workshop with community organisations and one with the *Our Booris, Our Way* review team to ensure the Practice guide is informed by the work of the review team.

To finalise the Guide, further Question and Answer sessions were held in February 2019. Curijo facilitated detailed discussions with CYPS staff about how to embed the Aboriginal and Torres Strait Islander Child Placement Principle into practice.

The content for the Aboriginal and Torres Strait Islander Child Placement Principle Practice Guide has now been finalised. CYPS has engaged an Aboriginal young person to design the artwork for the Guide and it is now in the final stages of design.

CYPS Cultural Services Team

The CYPS Cultural Services Team provides staff with support and advice when working with Aboriginal and Torres Strait children, young people and families. The Cultural Services Team also provides assistance in engaging with community agencies.

The Cultural Services Team is a critical part of CYPS, offering a variety of support including:

- Engagement with pregnant women and families, to prevent children's entry into the child protection system
- Assistance to young people on youth justice orders, including assisting young people to access knowledge of their family and culture, and linking young people with mentoring and support where agreed
- Kinship carer support and assessment
- Advice to case managers regarding placement decisions
- Cultural input into case management, including therapeutic planning and family contact arrangements
- Support to case managers to engage with families.

The Cultural Services Team has developed three information brochures about the role of the Cultural Services Team targeting families, community organisations and young people.

[Working with SNAICC National Voice for Our Children](#)

SNAICC called for Expressions of Interest from States and Territories to work with them on resources to assist the effective implementation of the Aboriginal and Torres Strait Islander Child Placement Principle. The ACT was chosen as one of three States and Territories to participate in this work.

Meetings occurred with the (then) SNAICC CEO and Social Policy and Research Manager regarding working together to embed the Aboriginal and Torres Strait Islander Child Placement Principle within practice in CYPS, in two ways:

- As one of three states and territories undertaking the project referred to above; and
- Through the provision of training to CYPS staff.

As part of the project, SNAICC delivered a two-day seminar on embedding the Aboriginal and Torres Strait Islander Child Placement Principle on 21 and 22 November 2018. The CYPS staff who attended this seminar included Senior Practitioners, Principal Practitioners, Cultural Services Team, CYPS leadership group, policy staff, ACT Together representatives, Uniting representatives and members of the *Our Booris, Our Way* review team.

The two-day seminar focused on:

- an introduction to the six practice areas within the Child Placement Principle – (Identification, Prevention, Partnership, Placement, Participation, Connection)
- identification of what is already being done in each practice area
- identification of what more can be done in each practice area
- link to the SNAICC resource (being developed as part of the seminar)
- identify what needs to occur to support implementation
- exploration of challenges and opportunities to implementation

- solutions and next steps to implementation of the Child Placement Principle within policy and practice.

In March 2019, CYPS engaged SNAICC to conduct training for CYPS staff on embedding the Aboriginal and Torres Strait Islander Child Placement Principle into practice. SNAICC facilitators consulted with staff to tailor training to CYPS' specific needs, with the top three priority areas being:

- engaging skills to work with Aboriginal and Torres Strait Islander families
- understanding Aboriginal child-rearing practices and
- practice examples for each of the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle.

This training has now been delivered by SNAICC over 9 sessions (2-day training workshops) and involved CYPS leadership and case managers. Training commenced in March 2019 and the final sessions occurred in late July 2019.

SNAICC recently promoted this training on its website advising: *"SNAICC commends the (Community Services) Directorate and the Our Booris, Our Way Steering Committee for setting the path and priorities to improve responses for Aboriginal children and families in the ACT including enhancing practice and creating more collaborative partnerships with Aboriginal community-controlled organisations"*.

Innovative programs for Aboriginal and Torres Strait Islander families

Family Group Conferencing (FGC)

FGC is an innovative form of family led decision making. It is where families are provided the opportunity to come together in a supported and structured environment to take part in decision making for their family and to plan together to ensure the safety and wellbeing of their children.

Collaborative work is key within the FGC model. It aims to empower children, young people, their families, extended family members and significant others via a strength-based approach to come together to discuss safety concerns, the children's wellbeing and develop a Family Plan.

The ACT Government committed \$1.44m funding over four years in the 2018-19 ACT Budget for the ongoing delivery of Family Group Conferencing, to ensure that Aboriginal and Torres Strait Islander families can be supported to make decisions to keep their children safe, strong and connected to their family and culture. The funding has provided the opportunity for CYPS to permanently employ two dedicated and designated Family Group Conferencing facilitators. In addition to these two positions, CYPS has provided training and support to additional staff within the Cultural Services Team to ensure that all families who wish to take part in a Family Group Conference are afforded the opportunity. Since the commencement of the Family Group Conferencing in November 2017 to June 2019, 29 families have been involved in a Family Group Conference, involving 69 children.

Functional Family Therapy - Child Welfare (FFT - CW)

Gugan Gulwan Youth Aboriginal Corporation, in partnership with OzChild, is undertaking a trial of FFT-CW for Aboriginal and Torres Strait Islander families at risk of ongoing involvement with the child protection system. The aim of the pilot is to reduce the number of Aboriginal and Torres Strait Islander children and young people entering, or remaining in out of home care, through interventions that strengthen families and communities.

FFT-CW is for Aboriginal and Torres Strait Islander families with children and young people aged 0-17, at risk of entering the out of home care system, and to support reunification of a child or young person from care. It is a short term (3-6 months) intensive home-based program focused on motivating and embedding parental behaviour change. The framework for FFT-CW integrates and links behavioural and cognitive intervention strategies to the specific familial and ecological characteristics of each family. The program focuses on families who may be reluctant to engage with services, experience mental health concerns, abuse or neglect issues, have a history of family violence, substance abuse or engagement with the criminal justice system. Referrals to FFT-CW are through Gugan Gulwan and CYPs.

The FFT-CW team leader co-locates with CYPs on a fortnightly basis to provide information about the program and to discuss referrals. Gugan Gulwan and OzChild commenced taking referrals at the end of 2018. As at the end of May 2019, the program is working with 18 families involving approximately 20 children (the program's current capacity), with further families being accepted as capacity becomes available.

Early Support Initiative

The ACT Government, through the *Early Support* Initiative, has agreed to a new approach to partnership and investment with the community sector to change the service system and enhance well-being and early support across health, education, justice and community services.

Early support means support early in the life of an issue or an individual that is easily accessible before crisis point. Early support means services and systems actively work with individual and family strengths to build their capabilities, avert crises and enable long-term well-being. This is a long-term shift that will be achieved over a ten-year period.

More immediately CSD is enhancing early support capacity in the ACT through several implementation initiatives and through the establishment of the Aboriginal and Torres Strait Islander Policy and Practice Co-Design Forum.

Further information about *Early Support* is in **Attachment C**.

Community Services Directorate Strategic Plan 2018-2028

In July 2018 the *Community Services Directorate Strategic Plan 2018-2028* was launched, an ambitious 10-year plan that sets a long-term direction for the organisation. It identifies CSD's purpose, outcomes and key measures of success. The Strategic Plan was developed by staff, through an extensive and collaborative engagement process with over 80% staff participation and is collectively owned by them.

CSD is actively committed to celebrating the significant cultural heritage of our traditional owners and improving the outcomes of First Peoples in the ACT in all the work we do. The Strategic Plan strives to ensure that Aboriginal and Torres Strait Islander peoples have a strong voice, are decision makers on issues that impact them and lead in the achievement of positive life outcomes.

CSD is the first Directorate to include a Cultural Integrity Statement in its Strategic Plan. The Cultural Integrity Statement outlines our commitment to work respectfully with Aboriginal and Torres Strait Islander Canberrans and continue to improve services to meet their needs. The Cultural Integrity Statement also includes a commitment to cultural proficiency across the Directorate, stating:

Commitment to cultural proficiency — *continuously improving and embedding understanding of Aboriginal and Torres Strait Islander culture in the workplace will lead to the development of culturally-proficient policies, and culturally-safe work spaces and services. As a key action, core cultural competency training will be reviewed regularly by Aboriginal and Torres Strait Islander people for accuracy and relevance, to recognise contemporary issues and cultural growth.*

CSD continues to encourage staff to explore our history. The Reconciliation theme of *Don't Keep History a Mystery* is one CSD will continue to focus on. Developing knowledge and understanding of our shared history helps us to make all to make informed decisions and strengthens the work being progressed across CSD.

As first steps towards this directorate wide commitment to cultural proficiency, CSD has:

- Engaged Associate Professor Richard Frankland to provide Cultural Safety Masterclasses to CSD staff;
- Commissioned three screenings of *After the Apology*, with the screenings held in July, August and September 2018;
- Made the online training program developed by the Australian Institute for Aboriginal and Torres Strait Islander Studies available for all CSD staff; and
- Provided access to the documentary *Lousy Little Sixpence*.

Cultural Safety Masterclass

CSD has engaged Associate Professor Richard Frankland to deliver Cultural Safety Masterclasses to approximately 300 staff. A total of 12 Masterclass sessions were delivered over six days.

Each Masterclass session commenced with an introduction to cross cultural awareness, involving general discussion and insight into pre-contact, contact and post-contact Aboriginal and Torres Strait Islander Australia. The Masterclass then moved on to examine issues of cultural safety, cultural loads and cultural foundations. Feedback from the Masterclasses highlighted that they provide an excellent opportunity to deepen our working understanding of Aboriginal and Torres Strait Islander Culture and contemporary issues.

After The Apology Film

CSD arranged for the private screenings of the 2017 Larissa Behrendt documentary *After the Apology*. There was an overwhelmingly positive response from over 500 colleagues who attended the screenings across three sessions (July, August and September 2018).

The film follows the journey of four Aboriginal grandmothers challenging government policy to bring their grandchildren home. Many staff found this powerful film confronting, however were able to join together and take time out to pause and reflect on past and current practices and to consider how we can move towards culturally safe practices that continue to improve the way we serve our community.

Australian Institute for Aboriginal and Torres Strait Islander Studies Online Training Program

CSD has made the online training program developed by the Australian Institute for Aboriginal and Torres Strait Islander Studies available for all CSD staff. There are 10 modules.

The introductory session hears from Mr Craig Ritchie, CEO of the Australian Institute for Aboriginal and Torres Strait Islander Studies, and Ms Kerrie Tim, Chief of Staff in the Office of the Minister of Indigenous Affairs. The online training program seeks to set the foundation for continual learning.

Module 1 - gives you the opportunity to reflect on the notion of culture and how your own cultural influences impact how you think and behave toward others. It is a critical first step towards (re)thinking about how to engage with Aboriginal and Torres Strait Islander peoples and peoples from other diverse cultural backgrounds.

Module 2 - is an introduction to Aboriginal and Torres Strait Islander cultures and worldviews. It provides you with key statistical information, explains the central importance of 'Country' and introduces the fundamental elements of Aboriginal and Torres Strait Islander laws and societies.

Module 3 - explores how events and policies in the past have shaped the identities and experiences of Aboriginal and Torres Strait Islander peoples today. The module looks at Aboriginal and Torres Strait Islander activism; the 'rights' movement and campaigns waged by the key organisations in the lead up to the establishment of the Commonwealth Department of Aboriginal Affairs in 1972.

Module 4 - provides an overview of the complex world of Aboriginal and Torres Strait Islander Affairs; examines some of the key policy approaches of governments since 1972; and explores how the numerous changes have, over time, led to current policy frameworks and administrative arrangements.

Module 5 - gives you an insight into the unique attributes of the thousands of Aboriginal and Torres Strait Islander community organisations, collectively known as the 'community-controlled' sector. It explores the vital role these organisations play in areas such as health, housing, education, youth, employment and justice and explains the benefits of working

more effectively in partnership with them to drive positive change in Aboriginal and Torres Strait Islander communities.

Module 6 - explores Aboriginal and Torres Strait Islander rights, particularly those relating to land and native title and explains how Australian laws and policies have evolved to recognise and protect Aboriginal and Torres Strait Islander peoples' traditional connect to Country.

Module 7 - examines 'self-determination'; what it means to Aboriginal and Torres Strait Islander peoples and the ways in which it is expressed - from personal every-day acts to formal agreements with governments. The Module also explores the relationship between self-determination, development and economic participation and prosperity.

Module 8 - focuses on the important role Commonwealth employees have in engaging with communities and provides tips and suggestions to assist you to develop the capacity to engage effectively with Aboriginal and Torres Strait Islander peoples to achieve sustainable outcomes

Module 9 - celebrates the historical and contemporary contributions of Aboriginal and Torres Strait Islander peoples to Australian society and provides an insight into how these contributions have played (and continue to play) a valuable role in shaping our national identity.

Module 10 - provides you with a conceptual framework and some useful tools to enable you to continue your cultural learning journey, by embedding the values of diversity and cultural learning into your professional development and workplace culture.

Lousy Little Sixpence Documentary

To assist in continuing our exploration of our shared history, the Director-General arranged access to the documentary *Lousy Little Sixpence* for all staff. This 1983 documentary details the early years of the Stolen Generations and the struggle of Aboriginal Australians against the Aboriginal Protection Board in the 1930s. Through old newsreels, archive film, photographs and interviews with Elders, the film weaves a moving account of a hidden history and the early struggle for Aboriginal land rights and self-determination.

The documentary was available to all staff from October 2018 until 31 January 2019.

A Step Up for Our Kids – Out of Home Care Strategy 2015-2020

On 1 January 2015, the ACT Government delivered the transformative framework for the delivery of out of home care services - *A Step Up for Our Kids: Out of Home Care Strategy 2015-2020 (A Step Up for Our Kids)*. *A Step Up for Our Kids* was developed in response to considerable research and engagement in to the previous care system in the ACT.

The general intent of *A Step Up for Our Kids* is:

- fewer children and young people should experience the out of home care system
- those who do come into care are safely reunified with their parents as early as possible
- early, well informed decisions are made not to return children and young people to their birth parents where risk cannot be reduced and managed
- safe, nurturing and permanent alternatives will be found for children and young people who cannot return to their family home.

The intent is delivered through the vision of Children and young people in care – growing up strong, safe and connected and by embedding the high-level strategic priorities *for A Step Up for Our Kids* including:

- Trauma-informed care
- Preservation – keeping families together
- Restoration – restoring families wherever possible
- Permanency – long term solutions to keeping children and young people safe, strong and connected

These priorities are operationalised within three domains:

Strengthening high-risk families

The strengthening high-risk families domain aims to divert children and young people from entering long-term care either through family preservation or restoration. The focus is on managing child abuse and neglect risks experienced within a child's birth family, and avoiding children coming into care. There is a strong emphasis on timely decision making, especially for infants and very young children. The services under this domain are culturally proficient to meet the needs of Aboriginal and Torres Strait Islander families.

Services to strengthen families at high-risk of their children coming into care are delivered by Uniting Children and Families ACT (CFACT) and Karinya House upon referral from CYPS. Families are offered a comprehensive package of service options that effectively engage them to work through their case plan goals to reduce the risk of harm to children and young people.

Continuum of care

The continuum of care domain brings together all the service elements in *A Step Up for Our Kids* designed to support children and young people who cannot live with their birth families. The focus is on providing nurturing, trauma-informed therapeutic and stable placements. Risks relating to child safety and wellbeing in care placements, including assessing the suitability of carers, and the availability of at home and support services are also managed. The continuum of care refers to a service's ability to step up and step down their service response depending on the needs of the child or young person. At different stages in a child or young person's life they may require more or less support depending on the complexity of their behaviours.

CYPS and ACT Together are the main providers of out of home care services. ACT Together is a consortium of providers that was created to provide a range of trauma-informed therapeutic services for children and young people in out of home care in the ACT. The consortium is led by Barnardos Australia and includes the Australian Childhood Foundation (ACF) and Ozchild. This outsourcing arrangement allows for decision making to be made close to the child, young person, family and carers.

CYPS, ACT Together and Uniting CFACT work closely together to provide services to children and young people who are at risk of or who have come into the care system. The agencies support children and young people through a Declared Care Team process which allows children, young people, professionals, carers and family members to meet and work together in the best interest of the child or young person. A Declared Care Team encourages sharing of information and responsibility and collaborative practice.

Strengthening accountability and ensuring a high-functioning care system

The strengthening accountability and ensuring a high-functioning care system domain includes activities designed to ensure the care system operates safely, effectively, efficiently, equitably and sustainably.

Service elements

Under *A Step Up for Our Kids*, and in the ensuing years since its adoption, several service elements have been delivered to strengthen family support options for children and young people to remain safely at home or be unified, particularly for Aboriginal and Torres Strait Islander children and young people, or to have children in safe, permanent placements. These service elements include:

Birth Family Advocacy Service

The Australian Red Cross provides independent information and support to parents with children in care, or with children at risk of entering care. It aims to empower parents to effectively, and in an informed way, understand and participate in child protection processes. The Australian Red Cross partnered with CYPS and other agencies to develop new policy documents, resource material and training programs specifically for parents to empower them to participate more fully when CYPS are involved with their family.

Uniting Children and Families ACT (CFACT)

Uniting CFACT offer several services to help strengthen families at high-risk of their children coming into care, these include:

Intensive Family Based Services

A safety focused preservation service delivered in the family's home using the Homebuilders model, Uniting CFACT staff work intensively with the family for up to 15-20 hours per week and are available 24 hours a day, seven days a week.

Newpin

A centre-based, attachment focused family preservation and restoration program which can work with a family for up to 18 months.

Family Preservation

Flexible support in the family home for up to 18 months to sustain preservation and work toward restoration. Uniting CFACT case managers will link families with other services such as Karralika (alcohol and other drug services).

Karinya House

Karinya House accommodates and supports mothers and their young babies either in a 24-hour supervised and supported environment or in an outreach capacity. The mother and baby service provides assistance to mothers to learn how to parent in a safe environment, preventing children entering care.

Legislative amendments

In 2015 and 2016, amendments to the *Children and Young People Act 2008* were passed to give effect to several important elements in the Strategy. Some critical amendments included:

- A change to the period of time before long term orders can be considered. The period of time reduced from not longer than two years to one year. For children over the age of two years the period of time will remain two years; and
- A reduction in the period of time that a child or young person is required to be in care and living with the carer who will be assuming full parental responsibility under an Enduring Parental Responsibility order. The period of time reduced from two years to one year or a total of one year in the previous two years.

These amendments recognised the importance of providing secure, loving relationships for very young children to lay the groundwork for healthy emotional, social and cognitive development. These amendments do not mandate an application for long term orders or adoption after 12 months, however, it provides an option for the Courts for timely decision making about a child or young person's long-term care where reunification with the birth family is not possible.

Another amendment included information sharing provisions to allow other people, close to the care of children and young people, to declare care teams. Consistent with this reform,

the Act gave responsibility for a number of functions including the development of annual review reports and care plans to a responsible person of an approved care and protection organisation for children and young people on long-term orders. This amendment saw people who have greater knowledge about and closer relationships with children and young people making case-management decisions.

Changing partner relationships

A Step Up for Our Kids saw a significant shift in how CYPS partners with non-government providers to deliver care services. ACT Together is a consortium of organisations led by Barnardos Australia and includes the Australian Childhood Foundation and Ozchild. ACT Together provide a continuum of care to meet the changing needs of children and young people in out of home care. Some of the programs they offer include short and long-term foster carer support, long-term kinship carer support, case management of children and young people on long-term orders, foster and kinship carer assessments, concurrency planning, restoration support, contact services, therapeutic support, permanency assessments, residential care, the Community Adolescent Program (CAP) and post care support.

ACT Together have several delegated responsibilities under the CYP Act to enact statutory activities for children, young people, families and carers. These responsibilities are delegated under s883A of the CYP Act and allow for decision making to occur close to the child and their families. ACT Together are well placed to make decisions about the children and young people they provide care for every day with the continuing support of CYPS for children and young people with complex needs and those that are still going through a Court process.

Mid-Strategy evaluation of *A Step Up for Our Kids*

CYPS is committed to continuous quality improvement in service provision and as such as built in several external reviews of *A Step Up for Our Kids* to ensure it is making a positive difference for children, young people and their families.

An independent mid-strategy evaluation of *A Step Up for Our Kids* by KPMG identifies at June 2018:

- Overall, the level of stability provided for children and young people in care has either remained the same or improved since the implementation of the Strategy. For those children exiting care after 12 months, 61 per cent in 2016-17 had one or two placements.
- The number of children aged under 11 years being placed in residential care continued to decrease through the implementation of the Strategy to 2017-18. There were no new children aged under 11 years placed in residential care during 2017-18.

- The report shows an increase in the number of children remaining at home three months after completing prevention services. It also indicates that further work is required to keep children and young people at home six and 12 months after engagement with reunification programs.
- Aboriginal and Torres Strait Islander children continue to be over-represented at every stage of the child protection and out of home care system. The proportion of children and young people in care who are placed with extended family, their Aboriginal and Torres Strait Islander community or with other Aboriginal and Torres Strait Islander people has remained stable since the introduction of *A Step Up for Our Kids*.
- The number of new carers approved each year remained stable. There are more active kinship carer households than foster carer households. This is consistent with the intent of both the Strategy and the Aboriginal and Torres Strait Islander Child Placement Principle.
- There has been a steady increase in the number of kinship carers and placements with kin as an alternative to placement with foster carers, which is consistent with the Aboriginal and Torres Strait Islander Child Placement Principle.

Early Support Initiative

Early Support is an initiative of the Human Services Cluster, comprising Canberra Health Services and the Health, Education, Justice and Community Safety, and Community Services Directorates. The Cluster arrangement acknowledges that no single organisation acting alone can improve outcomes for Canberra's most vulnerable.

The long-term objective of the Human Services Cluster is to improve life trajectories and enable intergenerational wellbeing in three priority areas: vulnerable children and their families, with a focus on early childhood; Aboriginal and Torres Strait Islander families and children; and families who have experienced domestic and family violence.

Background Information

In September 2018, the ACT Government committed to a ten-year plan to shift the human services system to an *Early Support* environment, including enhancing immediate early support capacity via four Implementation Initiatives in the first instance. These are: Child Protection Diversion, Sustained Nurse Home Visiting, Youth Justice Diversion and an Education Directorate-led initiative.

Implementation Initiatives

Three 'proof of concept' Implementation Initiatives and a fourth initiative leveraging Commonwealth funds for a place-based collective impact initiative are being established.

The Implementation Initiatives are key opportunities to demonstrate the reinvestment approach underpinning *Early Support*. By providing support early or opportunities to divert people from crisis services, we will, over time, develop a better evidence base for what works in the ACT to inform future targeted investment for additional early support. This includes quantifying the reduced demand and associated cost impact on tertiary services.

The Implementation Initiatives will adopt a try, test, and learn approach to focus on developing innovative policy and practice responses, testing the approaches, and building broader learnings about early support. They are intended to build an evidence base about what works – and what doesn't – for early support in the ACT.

The Implementation Initiatives will embed the principles of *Early Support*: supporting children in the context of their families, enabling intergenerational wellbeing and self-determination for the Aboriginal and Torres Strait Islander community.

The development of a 'proof of concept' necessarily requires working within existing services and resources to develop early support capacity. In doing so, these initiatives will achieve practice and policy change and shift some focus of current tertiary services toward early support or diversion approaches. This will occur, initially, through focusing on improved front end assessment processes and referral pathways to earlier support.

Where work has previously been undertaken by Directorates to understand or address issues relevant to the implementation initiative this will be used to inform scope and response.

Child Protection Diversion Implementation Initiative

This implementation initiative will focus on keeping Aboriginal and Torres Strait Islander children out of the child protection system, with a primary focus on achieving against early recommendations from *Our Booris, Our Way*.

Implementation of this initiative will require strong collaboration with CYPs, as establishing the initiative involves shifting a component of the child protection system away from the crisis end of the system towards a focus on earlier support or diversionary responses.

It is anticipated the service will be provided within Government resources, necessitating careful scoping of the potential response so as not to have unintended consequences or negative impact on statutory service provision.

At present there are a number of potential target groups for the diversionary response being considered:

- children for whom there have been multiple child concern reports that have not been assessed as requiring appraisal, but for whom there is a risk of accumulated and escalating trauma;
- parents who have been the subject of pre-natal child concern reports and for whom there is a high risk of statutory intervention post birth; and
- parents who have previous children removed.

Further consideration of these target groups will be given throughout a co-production approach and process to develop the initiative and the service model. The model may be developed to consider multiple service entry points, which focus on both points of diversion and earlier support.

Co-production has commenced with Government officials. Broader co-production commenced in July 2019 and involve members of the Aboriginal and Torres Strait Islander community, key service providers and a mix of senior and operational staff from Children, Youth and Families.

Sustained Nurse Home Visiting (SNHV) Program Implementation Initiative

The SHNV program is being developed in conjunction with Canberra Health Service's Early Family Support Initiative, which also comprises a review of Women's, Youth and Children's Community Health Programs (WYCCHP) services for vulnerable families. The project officer undertaking this work commenced in the week starting 29 April 2019.

Initial discussions between (WYCCHP) and CSD regarding joint work on the review has indicated there is significant evidence and research on both potential models and the social and health benefits of sustained nurse visiting programs which was undertaken for the *Early Support* initiative which can be utilised by WYCCHP in their work.

Discussions on the initiative to date have indicated some high-level agreement about the potential scope of the model:

- The SHNV initiative will be multi-disciplinary with the nursing component supplemented by skills such as social workers or other specialist supports to address the needs of complex families (for example, drug and alcohol or mental health supports). The source of these additional support services will be determined through the further development of the model.
- The target group for the service will be determined through a risk assessment process. This risk assessment will also likely be a trial site for the Family Safety domestic violence risk assessment, which is currently in development. These assessments will determine the level of vulnerability and target group for the initiative.
- The likely length of time for the SHNV program will be from birth to three years. This aligns with the Government's initiative of universal three-year old pre-school and will increase the supports available for vulnerable children and families that will encourage greater access to pre-school for children who currently are at risk of not accessing crucial early childhood education and development services.

Project governance arrangements and project planning is underway for the initiative.

Youth Justice Diversion

The youth justice diversion program will target young people in the middle years (8-13 years old) and have a strong focus on working with the children of parents who are in the adult corrections system. It aims to create alternative pathways for young people at risk of contact with the youth justice system and will work with children and young people in the context of their family.

It aligns with the Blueprint for Youth Justice, the emerging Disability Justice Strategy, and the reducing recidivism by 2025 target. A key component of the initiative will be its alignment with the ACT policing strategy's focus on diversionary approaches for children and young people involved in the criminal justice system.

Place Based Initiative

Discussions between CSD and the Commonwealth to progress an ACT place-based collective impact (PBCI) site have been underway since early 2018. Over this period, a number of Ministerial and Executive changes in the Commonwealth have resulted in alterations to the preferred approach and model for PBCI site (now titled *Stronger Places, Stronger People*).

While CSD has identified opportunities for a local PBCI that align with the *Early Support* reform, the Commonwealth's view of how these proposals fit with their model has altered over time. As at May 2019, the ACT is awaiting further advice from the Commonwealth Department of Social Services (DSS) about options for how *Stronger Places, Stronger People* could support a PBCI in the ACT before further scoping work is undertaken.

CSD has consistently seen the PBCI as an opportunity to bring together opportunities for therapeutic supports for families experiencing intergenerational disadvantage, including children who have parents who are incarcerated, and Aboriginal and Torres Strait Islander-led solutions for Aboriginal and Torres Strait Islander families. Ways of working, particularly the development and testing of trauma informed practice frameworks, and models of co-production with community members were intended to identify effective models for scalability ACT wide.

Education Directorate-led Initiative

Early scoping is underway to explore options.

Co-production approach

A co-production approach will be used to design, develop, implement and evaluate all aspects of *Early Support*, including the Implementation Initiatives and practice change across the human services system.

Co-production involves an equal and ongoing partnership between people with lived experience and professionals working towards shared goals; it is a transformative process where community members and frontline service providers are involved in all aspects of service design and development. This process represents a movement from participation, or consultation towards people with lived experience having a more meaningful and powerful role in the service production process.

Aboriginal and Torres Strait Islander Policy and Practice Co-Design Forum

A core component of *Early Support* is the establishment of an Aboriginal and Torres Strait Islander Policy and Practice Co-Design Forum (the Forum). The Forum will be a key mechanism to ensure policy and practice advice on changes to the service system are developed and led by the Aboriginal and Torres Strait Islander community. This is in line with Government's commitment to self-determination for Aboriginal and Torres Strait Islander peoples.

The Forum was conceived through engagement with Aboriginal and Torres Strait Islander community members as part of *Early Support*.

This engagement, as well as a number of previous consultations, reiterated that positive outcomes for the community will only be achieved when the opportunities and resources are made available to allow solutions to be Aboriginal and Torres Strait Islander designed and led.

The Forum includes members from the Aboriginal and Torres Strait Islander Elected Body, the United Ngunnawal Elders Council and key service providers for the core group. It is expected final membership of the Forum will also include individuals in the community.

Child protection processes in the ACT

In reading this Attachment, the terms 'child' and 'children' also refer to 'young person' and 'young people'. Concerns of child abuse or neglect can be reported regarding any child under 18 years old who usually lives in the ACT.

Introduction

Child and Youth Protection Services (CYPS) has legislative responsibility under the *Children and Young People Act 2008* (the CYP Act) to facilitate and coordinate services across government for the care and protection of children believed to be at risk of abuse and neglect. This involves assessing risk and working with families and other professionals to resolve issues relating to the safety and wellbeing of children.

CYPS provides a continuum of service delivery to children considered at risk and exposed to abuse and neglect. CYPS functions as part of a broader community human service system that responds to the safety and wellbeing of children and shares the responsibility of child protection across government and non-government services, including the court system.

Child protection policy and practice is continuously evolving and maturing to respond to the most vulnerable and at-risk families in the ACT. CYPS is committed to quality improvement, demonstrated by ongoing investment in improving practice to better respond to the individual families that come to the attention of the service, and building enabling functions that support better practice and improved performance.

Service framework

CYPS works to deliver positive outcomes for families through providing a response that focuses on:

Diversion

- connecting children with the right government and community services at the right time to support them
- diverting young people from custody
- supporting families to keep them strong and safe
- being culturally sensitive and responsive
- supervising young people on justice orders

Protection

- keeping children safe from harm
- supporting and encouraging young people to do no harm
- assessing and investigating child concern reports
- providing a safe custodial environment

Restoration

- helping children to be reunified with their families and restored to their home

- helping families to support a smooth and successful restoration
- providing rehabilitation and support programs to prevent young people from reoffending

Transition and Permanency

- helping young people transition successfully to living as independent adults
- preparing children and their support networks as they transition from care
- supporting children to have permanent, stable homes
- working closely with foster and kinship carers

Trauma Informed Practice

- providing therapeutic assessment for all children in our care
- providing culturally sensitive trauma informed support
- helping children to recover from trauma.

Consistent with the message that child protection is everyone's business, CYPS relies upon partnerships and good information sharing mechanisms to fulfil its statutory function. Most families interact with a number of local services systems including schools, health services, child care providers and other community-based services on a regular basis. The child protection system relies upon the quality and currency of information provided by these services to assist decision making about the most appropriate response that is required for a child and their family.

CYPS is primarily responsible for:

- receiving reports regarding children who may be at risk of neglect, harm and abuse
- investigating concerns raised about the safety and wellbeing of children
- providing case management support for families who require active linking to support services for a period to ensure safety and engagement
- undertaking assessment of family safety and, where the parents are not willing and able to care for their child and it is in the child's best interest, placing the child with an alternate carer
- delivering case management for children where restoration is the focus and children are on short-term care orders
- applying to the Children's Court for a child protection order if the child's safety cannot be ensured within the family
- supervising children on child protection and youth justice orders granted by the Children's Court
- providing and funding accommodation services, specialist support services, and adoption and permanent care to children in need.

The Child Protection process

Child Concern Reports

CSD is the ACT Government agency responsible for child protection, however it relies on members of the community for early identification of those likely to be at risk.

Certain professionals who come into contact with children and families through their work are mandated by the CYP Act (s356(2)) to report suspected non-accidental physical injury and child sexual abuse. Mandated reporters can also make voluntary reports about any other matters if they believe or suspect that a child is being abused, is being neglected or is at risk of abuse or neglect. CYPs also relies on the broader community to make voluntary reports (s354) of suspected child abuse or neglect.

Child abuse and neglect can be difficult to detect, and a child's behaviour can be the symptom of any number of things happening in their life – abuse or neglect may or may not be one of them. It is important that any person considering making a report of suspected child abuse or neglect has a reason for their belief or suspicion.

The CYP Act provides a legal framework for CYPs to receive and respond to concerns of child abuse or neglect. CYPs receives, records and responds to all allegations of child abuse or neglect that occurs within a family. Such allegations are recorded as a Child Concern Report. Child Concern Reports usually include concerns about parental substance abuse, neglect, exposure to family violence, physical abuse and sexual abuse.

CYPs staff are unable to disclose the identity of any person who makes a Child Concern Report, or any information that may lead to the identification of a reporter (s857), except when requested by a court or an investigative entity (e.g. Police, Court, the ACT Ombudsman, Public Advocate, the Human Rights Commission) (s847). Information secrecy and sharing provisions are contained in Chapter 25 of the CYP Act.

Prenatal Reports

A person can also make a report if they believe or suspect an unborn child may be in need of care and protection after birth (s362). This is called a Prenatal Report. Prenatal Reports commonly relate to parental substance abuse, family violence involving the parents or a lack of adequate engagement with prenatal care.

When a Prenatal Report is received, CYPs may:

- offer, on a voluntary basis, an assessment of whether the child is likely to be in need of care and protection after the child is born
- offer to provide referrals to health and community services for support during the pregnancy and after the birth of the baby
- decide to appraise the baby's safety and wellbeing following birth.

If the family agrees to work with CYPs during the pregnancy, this will be on a voluntary basis. CYPs cannot work with the family, prenatally, without the family's consent to engage with CYPs.

Where consent is not given by the family for prenatal support, CYPS may commence an appraisal following the birth of the baby. ACT Health is notified of CYPS involvement with a mother through a 'Pre-birth alert'.

Child Concern Assessment

When CYPS receive a Child Concern Report about a child, they are legally required (s360) to find out more information about the child's situation. To do this, a Child Concern Assessment will take place to help CYPS decide what the most appropriate response to the report.

A Child Concern Assessment involves an analysis of a child's exposure to risk and their potential needs, together with any existing protective factors or mitigating circumstances. An assessment may also be conducted on a Prenatal Report if CYPS believes a baby will be in need of care or protection once born.

The assessment involves an analysis of all known information about the child, their siblings and their family and will include all other siblings and children (including unborn children) living in the same home.

The assessment involves an examination of:

- information from the Child Concern Report (or Prenatal Report)
- historic CYPS file information including previous Child Concern Reports, Child Protection Reports, assessments, appraisal records, file notes and any other relevant CYPS records regarding the family
- current advice from agencies and professionals (including school staff and carers) who are, or have been, involved with the family
- any other source information about the child or family.

The assessment guides CYPS in deciding whether or not the information provided in the Child Concern Report indicates the child may be *'in need of care and protection'* as defined in s345 of the CYP Act. If CYPS decides the threshold has been met, the Child Concern Report is upgraded to a Child Protection Report, which means it is likely an appraisal (investigation) will take place.

CYPS may also decide after completing a Child Concern Assessment that no further action is required. This may occur where the information provided is not considered to be child abuse or neglect, or it may be evident from the information that a parent is acting protectively and ensuring the child's safety.

If CYPS determines the child is not likely to be *in need of care and protection*, they might still recommend a program or service to support the family to manage any issues they may be experiencing.

A copy of the CYPS Risk Assessment Framework is at **Attachment D-1**.

Responding to a Child Concern / Protection Report

After conducting a Child Concern Assessment, CYPS may do one of several things to respond to a Child Concern Report, or Child Protection Report if upgraded. These may include any or all of the following types of intervention:

- support response
- referrals to support services
- an appraisal

Support response

When a Child Concern Assessment indicates a child is not considered at risk of abuse or neglect by anyone who has parental responsibility for them, but the family would benefit from support to address a specific issue CYPS may offer to provide a family with help on a voluntary basis.

This will usually begin with a meeting where CYPS will talk to the family about what CYPS can offer to help the family's current situation by developing an agreed support plan that seeks to address the family's goals.

Referrals to support services

CYPS can act on a Child Concern Report, or Child Protection Report, by referring a family to relevant support services. In these situations, CYPS will actively connect the family with the recommended support services. This may occur where the identified risks are minimal and can be appropriately addressed by community support services without the involvement or ongoing monitoring by CYPS.

CYPS staff will:

- call the recommended support service to determine if the referral will be suitable; for example, calling to ensure the service has the capacity to provide a family support worker before connecting the family with the service
- encourage the family to use the suggested support by providing them with information about the service and what they may expect from it
- follow through on the referral by sending the family a letter that provides the support service's details in writing

Appraisal

When a Child Concern Report has been upgraded to a Child Protection Report, CYPS will conduct a more thorough assessment of the child's situation. This assessment may lead to an appraisal (investigation).

An appraisal is a process of investigating whether the child has experienced, is experiencing, or is at risk of experiencing, abuse or neglect, or is otherwise in need of care and protection. It involves looking at the child's home and family environment and talking to both parents (where possible), the child and any siblings living in the same home. In doing this, CYPS aims to establish what is happening in the family to accurately understand the situation and what response, if any, is required.

An appraisal involves more than investigating the allegations made by the person who gave the original Child Concern Report. It can include exploring with the family any other issues raised by relevant professionals through the Child Concern Assessment process or found in the review of the child's history with CYPS.

There are two purposes for conducting an appraisal:

1. For CYPS to understand what is happening for the children in the family through exploring:
 - i. whether or not it is likely they have suffered abuse or neglect, or are otherwise at significant risk of abuse or neglect
 - ii. parent and family problems, needs, strengths and difficulties, and the impact these may have on the children in the family
2. For CYPS to form a professional view about the needs of the children, and also the parenting capacity of each parent (including their willingness and ability to provide care and protection).

An appraisal may also take place in instances where a child may be in need of care and protection because:

- there is serious and persistent conflict between the child and the people with parental responsibility; or
- the people with parental responsibility for the child are dead, have abandoned the child or cannot be found after reasonable inquiry; or
- the people with parental responsibility for the child are sexually or financially exploiting the child, or are unwilling to protect them from such exploitation.

Prior to conducting an appraisal, in most cases, CYPS must seek agreement from at least one person with parental responsibility for the child. The caseworker must provide the parent/s with the following information about the appraisal process as described in section 369 of the CYP Act:

- the purpose of the appraisal
- the type of any assessment to be conducted, if any – e.g. Medical assessment, developmental assessment
- that agreement may be refused
- that if agreement is refused, CYPS may still conduct some appraisal activities as described in section 371 of the CYP Act

When CYPS asks the parent/s for agreement to the appraisal, they are essentially asking for the parents' agreement to be involved in the appraisal process. This provides natural justice for the parents and an opportunity to tell their side of the story, and to put some context around the allegations that have been made.

The caseworker will provide information to the parent/s in writing and seek their written agreement. An information sheet for families about the appraisal agreement is included at **Attachment D-2**.

It is important to understand that the CYP Act allows CYPS to speak with a child without the parents' prior knowledge or agreement, if it is suspected on reasonable grounds that seeking

parental agreement is not in the child's best interest or would jeopardise a criminal investigation. Section 371 of the CYP Act allows CYPS to speak with the child at their school, in a health facility or a day care setting in order to visually examine and interview the child. In these situations, the CYP Act requires CYPS to take reasonable steps after the interview to let at least one parent know that the interview or examination has taken place.

An appraisal may include one or more of the following appraisal activities:

- Interview of children in the family
- Interview of parents
- A medical examination
- A developmental assessment
- Requests for information from other services the family may have had contact with including schools, health professionals and support services
- Referral to, and/or liaison with police if it is a criminal matter.

Where an appraisal outcome results in no identification of abuse or neglect to the child, CYPS will usually close the case. Sometimes, where the appraisal identifies that a child or family could benefit from some additional support, CYPS may offer to provide a voluntary support response to assist connect the family with support services.

Where an appraisal process indicates there is reason to believe the child is at risk of abuse or neglect, CYPS will remain involved and undertake further assessment. This usually takes the form of a Comprehensive Family Assessment to determine risks, protective factors and any additional needs of the children or family that may require support or further statutory intervention, such as seeking a Care and Protection Order. An information sheet to families about Family Assessments is at **Attachment D-3**.

At the completion of the appraisal, CYPS will notify all parties of the outcome in writing. The outcome letter includes the following details:

- the original allegations
- the appraisal activities conducted
- whether or not the abuse or neglect was substantiated, and if so, who has been recorded as the person believed responsible
- contact details for the caseworker in the event the family has any questions about the outcome.

The rights of parents during an appraisal process

Any parent, or person with Parental Responsibility, who is contacted by CYPS about an appraisal, has the right to:

- be advised of the allegations contained in the Child Protection Report
- reply to these allegations
- be aware that an appraisal process will take place

- be advised of the types of assessment that may be included in the appraisal process, such as developmental or medical assessments
- refuse to participate in the appraisal process
- support and advocacy throughout the process, including the right to seek legal advice
- a competent and objective assessment and decision-making process by CYPS
- make a complaint about the process

The rights of children during an appraisal process

Children have the same rights to information as their parents or carers. Section 351(1)(d) of the CYP Act requires that any information provided to a child must be done in a way that is clear and easy for the child to understand so they can fully take part in the process.

No one who is part of the appraisal process has a right to know the identity of the person who made the Child Concern Report. CYPS is legally required to protect the identity of this person (s857).

Abuse in care

Any allegation of suspected abuse and/or neglect, or significant risk of abuse and/or neglect, involving a child in an approved out of home care placement is an 'abuse in care' allegation. An allegation of abuse in care is recorded as a Child Concern Report and will proceed through the same assessment process as other Child Concern Reports. In responding to a Child Concern Report about an allegation of abuse in care, the primary responsibility of CYPS is to ensure the safety of the child.

CYPS must provide the Public Advocate with a report (s507) when an appraisal is carried out for a child and:

- the Director-General had, at the time of the incident that gave rise to the child concern report, daily care responsibility for the child; and
- the child was placed in the care of an authorised carer (foster, kinship or residential); and
- the circumstances of the child concern report involved the authorised carer or happened while the child was taking part in a contact visit that was either allowed under a contact provision in a care and protection order or approved by the Director-General.

The report that is provided to the Public Advocate contains information about the incident and what actions have been taken.

A child in care who is the subject of substantiated claims of abuse or neglect whilst in out of home care may access independent legal advice in regard to potential litigation. Abuse in care allegations may also meet the criteria for reporting under the ACT Reportable Conduct Scheme and the Working with Vulnerable People Scheme.

Substantiation of Child Protection Reports

Substantiation is not a legal construct in the CYP Act, and guidance is provided in CYPs policy and practice documents. An appraisal process will lead to a substantiated report if there is reason to believe or suspect that a child or young person has been, or is being:

- physically abused; and/or
- sexually abused; and/or
- neglected to the extent that failure to provide the child with a life necessity has caused, or is causing, significant harm to their wellbeing or development; and/or
- emotionally abused (including psychological abuse) if the child has experienced, or is experiencing, this abuse in a way that has caused, or is causing, significant harm to their wellbeing or development.

Careful consideration is required to determine if acts of abuse or neglect can be substantiated, based upon the available evidence. A decision to substantiate matters raised in a report should reflect the legal and policy definitions of abuse and neglect (s342 and 343).

A matter will also be substantiated where it can be demonstrated that the child is at significant risk of abuse or neglect (as defined in s344). This requires consideration of the child's entire risk environment, not just any one specific event, to determine if the environment is characterised by multiple risk factors with a high probability of having a negative impact on the child.

Patterns of circumstances and events in a child's life, which diminish a child's sense of safety, stability and wellbeing is known as cumulative harm. The decision to substantiate following an appraisal is a decision made on the balance of probabilities.

An appraisal process extends beyond the events reported in Child Concern / Protection Reports, encompassing a holistic assessment of the child's circumstances and risk issues. If an appraisal identifies abuse, neglect or a significant risk of abuse/neglect that is additional to or different to the content of the original report(s), these concerns must still be assessed (and substantiated if appropriate).

What can happen after an appraisal?

For the majority of families who experience an appraisal, children remain in the family home. However, if after completing the appraisal process CYPs decides further information is needed or that the subject child is likely to be 'in need of care and protection', the following may happen:

- Family Assessment
- Child Protection Case Conference
- A Voluntary Care Agreement
- Emergency Action
- Obtain a Care and Protection Order

Information on the availability of Family Group conferencing in the appraisal process is outlined at **Attachment A**.

Case Management Activities Following Appraisal Processes

Family Assessments

A Family Assessment is a further assessment of the family's situation and the child's needs. It is an opportunity for CYPS to more thoroughly understand what is happening; the risks the child is exposed to; and what protective factors are present. The assessment may also be used by CYPS to present as evidence to the ACT Children's Court in support of an application for a Care and Protection Order. This assessment may be conducted by the CYPS caseworker or an external independent assessor.

Participation in the assessment is voluntary, however if the family chooses not to participate, CYPS can apply to the Children's Court under section 443 of the CYP Act for an order that will compel the family to participate.

At the beginning of the assessment, CYPS is required to make sure all family members are aware that the information gathered during the assessment will be recorded and may be admitted to The Children's Court as evidence in the future. CYPS provides parents with an information sheet regarding the Family Assessment process. (A copy is at **Attachment D-3**).

The goal of the Family Assessment is to:

- identify the child's needs
- identify how risks can be reduced within the family
- identify whether parenting skills need to be improved and how
- consider where the child should live
- consider who the child should have contact with and how that contact may occur
- identify what, if any, supports might assist the family to ensure the safety of the child.

As part of the assessment process, CYPS will also conduct interviews with any relevant professionals working with the family, plus other relevant people such as the child's class teacher. CYPS does not need parental permission to speak with these people.

At the end of the assessment, the CYPS staff conducting the assessment will record a professional opinion about:

- the strengths and risks in the child's home environment
- the quality of the child's relationships with family members and other significant people
- the child's developmental needs and progress
- the ability of the parent/s to provide suitable care for the child.

When the assessment process is finished, CYPS provides a copy to all people with parental responsibility and will arrange a meeting to discuss the assessment report and any recommendations made by the assessor.

Each person with parental responsibility has the right to reply to the content of the Family Assessment report and provide any feedback, including factual errors, misrepresentations and opinions regarding the recommendations.

Each parent also has a right to make a complaint about the assessment process. Complaints can be lodged with the Team Leader, Manager or the Community Engagement and Client Services team. CYPS has produced a guide for families regarding how they can provide feedback and raise concerns about their experience with CYPS. A copy of this publication is included at **Attachment D-4** and can be accessed online at <https://www.communityservices.act.gov.au>.

If the assessment recommends court action, each parent is advised to seek legal representation and advice.

Child Protection Case Conferencing

CYPS may request that a family attend a Child Protection Case Conference to help decide on a plan to support the child and the family. Areas discussed in a conference may include:

- the support needs of the child and the family as a whole
- the health and wellbeing of the child
- the child's behaviour and current parenting strategies
- any goals the family may have and how they can be achieved
- any concerns CYPS may hold about the child and family.

Other parties can also be involved in the conference, such as representatives from relevant support services or a support person identified by the family.

During the conference, the aim is for the group to come up with and agree to a plan that outlines what needs to happen in the short-term to make sure the child will be safe and happy.

The plan, known as a Conferencing Unit Action Plan, may include things like setting positive goals, linking the family with appropriate services, or strengthening the support already in place for the family. It will typically focus on a specific situation and what immediate actions need to happen.

Prior to the conference, parents and family members are advised of the following:

- everything that happens in a Child Protection Case Conference will be recorded
- the conference records are not confidential and may be used in court
- parents and family members may have a support person attend the conference with them
- CYPS has an obligation to explain to families what is being discussed in a way they understand
- families may seek legal advice prior to the conference

An information sheet for families about the various range of conferences that can be held, including Child Protection Case Conferences, is at **Attachment D-5**.

Voluntary Care Agreement

A Voluntary Care Agreement is a legal agreement that may be entered into by CYPS and the parents to share parental responsibility for a child for a short period of time. It is signed by one or both parents (or persons with parental responsibility) as well as the child if they are 15 years or older and agree with the Voluntary Care Agreement.

The family may nominate a person within the extended family network to care for the child. The nominated person will need to comply with an assessment process to ensure they are suitable before the child is placed with them. If there are no suitable kinship care options, the child will be placed in an out of home care placement, such as foster care or residential care.

An initial Voluntary Care Agreement should be no longer than 6-10 days, and a Child Protection Case Conference should take place during that time. This is to ensure there is a clear plan for the child to be returned to the parents' care at the end of the agreement, and that everyone involved is clear about what will be achieved during the agreement period.

Legally, a Voluntary Care Agreement can be extended for up to six months, however, CYPS will only consider an extension if it is clearly in the child's best interests.

Voluntary Care Agreements are made in accordance with Section 397 of the CYP Act, which requires:

- consent to the agreement is voluntary and must be made on the principles of informed consent
- consent from the child if they are aged 15 years or older and have the mental capacity to understand what the agreement means
- the agreement is in the best interests of the child
- the child would not be in immediate need of care and protection if they were to return to the care of the parents

Information sheets about Voluntary Care Agreements for family members are provided at **Attachment D-6**.

Emergency Action

For some children, emergency action is taken to secure the immediate safety and wellbeing of a child in response to an appraisal that indicates the child is at imminent risk of abuse or neglect. This course of action is taken as a last resort.

This action temporarily removes the child from the parents' care and transfers daily parental responsibility to the Director-General, Community Services Directorate (CSD), for an initial period of no more than two working days.

During this time, CYPS must make an application to the Children's Court for a Care and Protection Order to continue the Director-General's parental responsibility for the child. In doing so, CYPS will seek to provide evidence that the child is 'in need of care and protection'. If CYPS is unable to demonstrate this, the Children's Court will order the child be immediately returned to the parents' care.

In assessing the need for this action to happen, CYPS must consider whether the child is in immediate need of care and protection or is likely to be in immediate need of care and protection if the Emergency Action is not taken.

Following Emergency Action, CYPS must notify the parents or any other person who has parental responsibility for the child. The parents are notified verbally and provided with written

advice about why the Emergency Action was taken, together with information about Emergency Action, what will happen next, and information on useful contacts such as Legal Aid. A copy of this document is included at **Attachment D-7**.

CYPS must also notify the Children's Court and the Public Advocate that Emergency Action has been taken. The Children's Court will allocate a time within two business days for the matter to be presented to a Registrar in a Case Management Conference. When the Children's Court has set a date and time, CYPS will notify the parents and/or their legal representatives.

As with a Voluntary Care Agreement, the family may nominate a carer from within the extended family network to care for the child. If there are no suitable kinship care options for the child, CYPS will arrange a placement for the child with ACT Together, usually in with a foster carer placement and in some circumstances, in a residential care placement.

During the two-business day period, CYPS will undertake further appraisal activities, which may include a medical examination of the child. CYPS may also make further enquiries about the child's welfare, including interviews with the child, family members and/or people who are significant in the child's life. This information may be used as evidence in court.

Care and Protection Orders

The CYP Act provides the legislative framework for proceedings regarding care and protection orders. This framework includes the *Court Procedures Act 2004*, the *Court Procedures Rules 2006* (the Rules), and any practice directions issued by the ACT Children's Court. The ACT Children's Court has jurisdiction for care and protection matters under section 288 of the *Magistrates Court Act 1930*.

For detailed information on court processes in the ACT Children's Court, see **Attachment E - 'Court Processes in the ACT Children's Court'**.

Care and Protection Orders provide CYPS with responsibility for aspects of a child's welfare. There are three types of care and protection orders made by the ACT Children's Court under the CYP Act:

- interim care and protection order (s433)
- care and protection order (s464)
- long-term care and protection order (s479).

An **interim care and protection order** is usually granted at the first application, as a means of putting in place short-term protective arrangements for a child and evaluating these arrangements prior to finalising the order. This provides time to see how the child is responding to the new arrangements, and to consider any changes the parents may make during this period to improve the safety of the child.

A **care and protection order** is granted when the Children's Court is satisfied it has sufficient information upon which to make a determination that a child is in need of care and protection, and that the child's best interests will be served by making the order. This order is usually made for either 12 months, 2 years, or until the child reaches 18 years of age.

A **long-term care and protection order** (also known as an order until 18 years of age) is a care and protection order that includes a long-term parental responsibility provision. This order applies until the child is 18 years old and assigns daily and long-term care responsibility for the child to the Director-General CSD (or another stated person).

Out of home care

Out of home care is a temporary, medium or long-term living arrangement for children who cannot live with their parents. Out of home care can be voluntarily and informally arranged (without intervention by the courts or by government), or it can be statutory where the child protection system intervenes, and a Care and Protection Order is in place.

When children are in care, CYPS works in partnership with ACT Together under the *A Step Up for Our Kids: Out of Home Care Strategy 2015-20*.

Kinship care

Kinship carers are people in the child's family or extended family network who are able to provide a safe home for the child and are given parental responsibility for them.

Often a kinship carer is a grandparent, aunt, sibling or a member of the child's cultural community, such as with Aboriginal or Torres Strait Islander children. They may also be a significant person in the child's life, such as a long-term family friend. Typically, a parent can nominate a person from their family to be the kinship carer and look after the child. The person nominated will be assessed to ensure they are suitable and can best care for the child. Kinship carers have the same rights and responsibilities as foster carers.

The Act recognises it is better for children to be cared for by someone they already know and trust. The advantages of kinship care include:

- less worry and stress for the child about living with people they do not know
- there is likely to already be a strong, positive relationship between the child and the kinship carer
- it is likely the kinship carer will be committed to caring for the child in the long-term
- the kinship carer is better positioned to maintain important family connections
- the kinship carer is better positioned to support the development of the child's identity.

In considering care for a child, CYPS and ACT Together will look at all options from the child's extended family to find a suitable kinship carer before considering any placements with unrelated carers (such as foster care or residential options).

All possible kinship carers will be assessed to ensure the child is placed in the best care possible. This will include a criminal history check and a 'Working with Vulnerable People' check, followed by a comprehensive carer assessment process. Once a kinship carer is approved, they will receive ongoing support and regular visits from the child's case manager (CYPS or ACT Together), referrals to helpful community services and may be eligible for kinship care subsidy payments.

Keeping children with people they know is preferable. However, sometimes kinship care can be difficult for parents and place a strain on relationships within the family. These situations can cause distress to everyone, and particularly, the child. Where an appropriate kinship carer cannot be identified then foster care is considered.

Foster care

Foster carers are people who have been pre-approved by ACT Together to be suitable carers for a child who needs to be cared for outside of their family home.

Like kinship care, foster carers are subject to a comprehensive assessment process, including criminal history checks, a 'Working with Vulnerable People' check and a medical assessment. Foster carers are trained to care for children who cannot live with their families. They are given ongoing support by ACT Together.

When a child is placed in foster care, ACT Together will liaise with the child's foster carer and CYPS in relation to the child's day-to-day care. ACT Together will coordinate contact arrangements with parents and other family members, arrange appointments for the child and coordinate most aspects of the child's Care Plan. For further information on Care Plans, see page 17.

Residential care

Residential care involves placement in a residential home with carers (youth workers) who support young people. Residential care is delivered by ACT Together. Young people who are placed in residential care usually have experienced significant trauma in their own families and come into the system with very complex needs. Care Teams are established for each young person. The Care Team comprises of people who have day to day care, teachers, therapeutic specialists and anyone with a role to inform the wellbeing of the young person. Residential care is the least preferred option for children and young people, and there are active efforts to limit the numbers of young people who are placed in residential care.

Decision making when children are in out of home care

Care and Protection Orders usually include provisions that change who has parental responsibility for children while they are in care. This means a change to who is legally responsible for making the day-to-day and/or long-term decisions about children's care arrangements.

Specifically, CYPS may apply for an order that allows the Director-General, CSD to hold either full parental responsibility for the child or to share this responsibility with another person. Generally, this other person is a biological parent, however can be anyone, such as another family member or a carer.

Where an order gives shared parental responsibility with the Director-General, both the parent/carer and CYPS can carry out this responsibility and make decisions about a child's care. However, the CYP Act empowers the Director-General to have the final say on most decisions. Section 18 of the CYP Act states:

'no other person with daily care responsibility for the child or young person may discharge the responsibility in a way that would be incompatible with the Director General's discharge of the responsibility'.

In making decisions about a child's daily care, CYPS (on behalf of the Director-General) is guided by their assessment of what is in the child's best interests. These decisions include:

- where and with whom the child lives
- who the child will have contact with
- arrangements for the temporary care of the child by someone else (for example, if a child attends a friend's sleep over)
- everyday activities such as the child having a haircut or what they wear
- daily care relating to school (for example, excursions), training and employment.

In practice, these responsibilities are delegated to the child's carer. The carer becomes legally responsible for making the day-to-day decisions and must do so in a way that is consistent with the child's Care Plan.

If the Care and Protection Order in place for the child includes a provision for shared long-term care responsibility, the CYP Act requires that the parent must be consulted in relation to decisions about:

- health treatments for the child that involve surgery (including immunisation)
- the child's long-term education, training and employment
- issuing a passport for the child
- administration, management and control of the child's property
- religion and observance of racial, ethnic, religious or cultural traditions.

It is important to understand that consultation does not mean consent. While the parent and/or the child, may be asked what they think, this does not mean CYPS (or ACT Together when they are involved) is obliged to follow this direction. Sometimes, what parents and children want is not always in a child's best interests. Case workers are required to try and achieve a balance between the views of all parties and ensuring the child's ongoing protection and wellbeing.

Declared Care Teams

A Declared Care Team may be established when a child first comes into care. The purpose of a Declared Care Team is to share safety and wellbeing information about a child. The information could be about the child, their family or someone else connected to the child.

A Declared Care Team is formed under s863 of the CYP Act and should be formed whenever there is more than one person or service involved with a child, and there is a need to share information, work collaboratively and share decision making. This should be done within five days of a child entering care as a result of emergency action. There should only be one Declared Care Team per child. Membership of the Declared Care Team can be changed at any time dependent on the child, birth family or carers needs.

The purpose of the Care Team is to share important and sensitive information about a child and their family. This does not include information about the identity of the reporter. The Care Team allows significant people in a child or young person's life, and where appropriate, the child or young person, to come together to develop and review the Care Plan and any other case documentation and to make decisions about the child's needs. The Care Team is a critical part of the child protection system and ensures there is accountability and responsibility for the child.

Care Plans

At the end of a Care Team meeting or at any stage in CYPS' involvement with a child, an agreed Care Plan may be developed. A Care Plan outlines what needs to happen to ensure the care and protection of the child. Care Plans are required by the CYP Act (s455) when a child is on a Care and Protection Order or a Voluntary Care Agreement.

A child's Care Plan covers all aspects of your child's care and will clearly state:

- the child's needs, how each need will be addressed, who will be responsible for addressing them and when
- the parent's needs and those of the child's family, how each need will be addressed, who will be responsible for addressing them and when
- an agreed date to review the Care Plan

Care Plans are developed in partnership with relevant people and groups linked to the child. Development of a Care Plan will include consultation with:

- the child – if they are of appropriate age and understanding
- each person with daily care responsibility for the child
- the child's parent/s
- anyone who would be involved in implementing the Care Plan, including agencies or services with an ongoing relationship with the child
- Aboriginal and Torres Strait Islander Services if the child identifies as Indigenous.

Each party is given an opportunity to make suggestions for the child's Care Plan, including for both daily and long-term matters if relevant, and CYPS and/or ACT Together must consider each suggestion. However, CYPS and ACT Together are not required to accept all suggestions and in making decisions will consider what is in the child's best interests. CYPS or ACT Together should always provide the child's parents with an up-to-date copy of their child's Care Plan.

Contact

In practice, contact is based on the principles of children's rights and best interests. The CYP Act makes legislative provision for contact, defining it as direct or indirect contact with a person. The Care and Protection Principles (s350 of the CYP Act) state that contact must be encouraged, if practicable and appropriate, and in making decisions about contact, the best interests of the child is the paramount consideration (Ss).

The complexity of determining how much contact, with whom, where and when, is determined on a case by case basis. There are a number of factors to be assessed and given due consideration to ensure that the contact plan reflects an individualised assessment of the child

and their circumstances. The contact plan should prioritise the child's needs and their best interests.

The primary reason for contact is to support and maintain the child's relationship with their parents, siblings, extended family and other significant people. For children who do not have regular contact with parents, the role of extended family in providing a sense of culture, identity and connectedness is important.

Where restoration is the goal, supporting the child's attachment to parents through contact should be the purpose of contact and provides a therapeutic means to assess, enhance and support the parent-child relationship. Where a child is in out of home care on a long-term basis, the purpose of contact with the birth family generally shifts to preserving a sense of identity – with links to family and culture; supporting the attachment process to the carer; and providing security and stability, to assist with trauma and loss.

Contact planning is child centred and offers children opportunities to express their feelings and wishes in relation to who they wish to have contact with – considering their age and stage of development – and participation in decision making. Consideration of a child's view must be balanced against their safety, wellbeing and best interests and means that decisions made may not always align with their wishes.

Children most often enter out of home care in an unplanned manner and against a backdrop of multiple competing priorities, including the need to identify a placement, prepare court documentation and gather necessary information about the child and their family. The urgency and demands at this time inevitably lead to a supervised contact arrangement which offers an immediate and safe option where there are questions of risk.

Supervised contact is used primarily to ensure that the child can see the parent, whilst ensuring their safety. It also allows observations of the contact between parent and child for assessment purposes to determine the quality of the relationship, the parents' parenting capacity and may identify any supports or education that would benefit the parents.

Whilst supervised contact may be a first recourse to ensure the child is safe and to make some initial assessment about the parent-child relationship, CYPS will revisit the necessity to continue this arrangement. These arrangements can often remain in place until there is another significant change or review, or if restoration is imminent or long-term orders are granted. In most situations supervised contact in a contact centre is not in the best interests of the child. There are exceptions where:

- the court has specified this
- there are concerns the parent may try and abduct the child
- there has been physical or sexual abuse
- there are concerns about the parent's ability to manage the child
- there are concerns about parental substance abuse
- the child is frightened or anxious or does not feel safe
- the parent is angry and abusive.

Key Service Partners

CYPS has established practical liaison and referral points within other government agencies and the community sector to better meet the needs of children and their families and share information.

Education Liaison Officer

The Education Liaison Officer is focused on improving coordination and collaboration between CYPS and the Education Directorate. This position provides extra support by working closely with CYPS and ACT Schools, with an aim to improve processes between the two organisations.

Health Liaison Officers

The Health Liaison Officers work between the Canberra Hospital and CYPS, offering accessible and flexible working arrangements to provide face to face contact with ACT Health and CYPS staff. They offer extensive knowledge to assist CYPS and ACT Health staff to understand and navigate each other's Directorate. They also identify system issues and inform improvements to engagement protocols and processes.

Canberra Rape Crisis Centre

Since May 2017, Canberra Rape Crisis Centre has been attending CYPS for half a day on a fortnightly basis to be available to staff to consult on matters that relate to sexual abuse.

Domestic Violence Crisis Service

Since August 2017, staff from the Domestic Violence Crisis Service have been attending CYPS for half a day on a fortnightly basis to be available to staff to consult on matters that relate to domestic violence. CYPS also attends the DVCS offices once per month to improve information sharing.

Supporting referrals to the community

The OneLink Community Child Protection Worker position is filled by two part time employees, each working 3 days per week. Both workers sit in the CYPS office a day each week to provide consultation to CYPS and facilitate referrals to OneLink.

Family Violence tracking meetings

CYPS participates in the weekly Family Violence Tracking meetings with the ACT Policing (Family Violence team), Director of Public Prosecutions, ACT Victims of Crime Commission, Domestic Violence Crisis Service and ACT Corrective Services.

The forum provides CYPS with updates to children's files (CHYPS) to assist and inform risk assessments and decision making. Where appropriate, this meeting enables the creation of interagency safety plans in relation to young people.

Interagency Youth meeting

An Interagency Youth meeting can be convened in respect of any CYPS young person where AFP have a mutual interest. Participants of this meeting can include Education Network Directors, Child and Adolescent Mental Health Services, the Australian Federal Police, Community Policing and CYPS.

Risk Assessment Framework CYPS

ACT Child and Youth Protection Services



ACT
Government

Community Services

GPO Box 158, Canberra ACT 2601

e CSD@act.gov.au t 133 427

w www.communityservices.act.gov.au



Risk Assessment involves:

- 1. Gathering information;**
 - 2. Analysing the information;**
 - 3. Applying professional judgement to the information;**
- at each stage of our work.**

ABOUT THIS FRAMEWORK

This document articulates the ACT Child and Youth Protection Services framework for risk assessment for child protection and youth justice work. It explains the:

- purpose of risk assessment in relation to our work
- intentions that drive our risk assessment framework
- practice principles and the supporting practice guidelines
- role of staff and other key people in ensuring a consistent application of the framework
- processes that we follow in applying the risk assessment framework

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OVERVIEW OF RISK ASSESSMENT

What is the purpose of the Risk Assessment Framework?

This Risk Assessment Framework is to be used by Child and Youth Protection Services (CYPS) staff in reaching professional decisions about a child's exposure to risk. It is intended to assist staff to both identify and articulate a professional analysis of the level and consequences of risk to a child based on the probability and consequences of abuse and/or neglect, as well as the impact of cumulative harm.

What legislation underpins our Risk Assessment Framework?

Involvement by CYPS into a family's circumstances is guided by the *Children and Young People Act 2008* (the Act) through graduated and proportionate steps (or thresholds). The thresholds act to balance the protection of children and young people against the protection of the family unit, within parameters set by the *Human Rights Act 2004*.

What is the value in a Risk Assessment Framework?

This Risk Assessment Framework provides CYPS with a structured and systematic process for making decisions consistent with:

- compliance with legal thresholds for government involvement with a family
- the level of concern held by CYPS about the safety and wellbeing of children and young people
- the scope of a response by CYPS to these reported concerns.

Risk Assessment Framework is applied to which stages of our work?

The ACT Risk Assessment Framework requires staff invoke a thorough and systematic process of professional analysis, based on known information. This process of assessment and decision-making is made up of four distinct and progressive stages:

1. Child Concern Report Risk Assessment
2. Child Protection Report Risk Assessment
3. Appraisal Risk Assessment
4. Ongoing Risk Assessment

The Child Concern Report Assessment begins as soon as a Child Concern Report is recorded by CYPS and is used to determine appropriate recording of this information. In particular, the Child Concern Report Risk Assessment is used to determine whether or not the threshold for a Child Protection Report has been met.

Once it has been determined that a matter will be recorded as a Child Protection Report, the Child Protection Report Risk Assessment process should begin to assist CYPS workers to determine an appropriate response to the Child Protection Report information.

Please note:

All references to 'child' in this Framework are intended to relate to both 'children' and 'young people'.

What are the major steps of Risk Assessment?

The major steps of risk assessment are outlined in Figure 1 below. These steps are repeated to varying degrees at each stage of analysis, building on the previous stages.

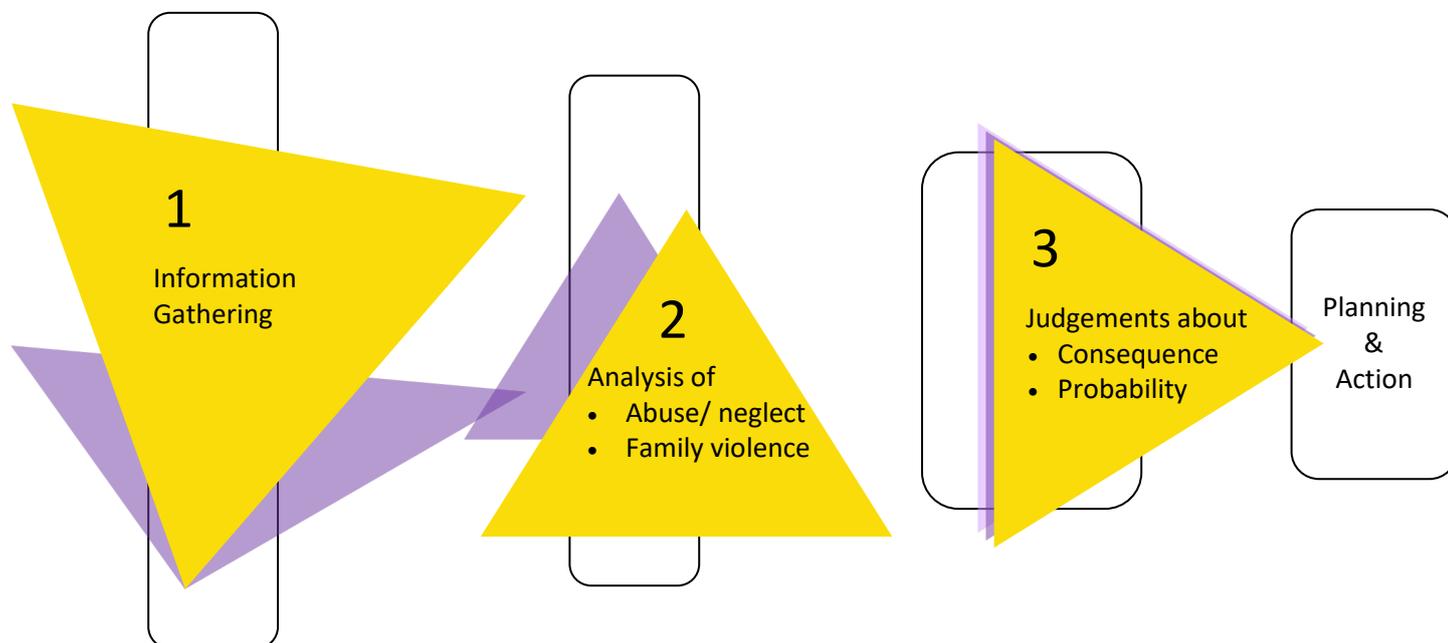


Figure 1 Overview of the role of Risk Assessment in CYPS

1. Information Gathering

At the information gathering stage we are seeking to details about the child, their environment and their situation.

2. Analysis

At this stage we are using the information we have gathered to:

1. Understand what has occurred;
2. Who is responsible; and
3. What is in place to protect the child

3. Judgements

At this stage we are making judgements regarding the:

1. consequences of the abuse and neglect on the child (what harm is it causing); and
2. probability of it occurring again

The **Risk Analysis Practice Guide** (Attachment 1 on **pg. 49** of this document) assists staff to reorganise and analyse information gathered.

Detailed questions to support these stages are included as attachments to this framework (**Attachment 2: Practice Tool - Risk Factors Guide** (including Questions)) on **pg. 55** and **Attachment 6: Ongoing Assessment Questions** on **pg. 64** of this document.

WHEN RISK ASSESSMENT IS APPLIED

Risk Assessment is applied to all work tasks undertaken in CYPS. It is only what is considered and undertaken at each stage that varies.

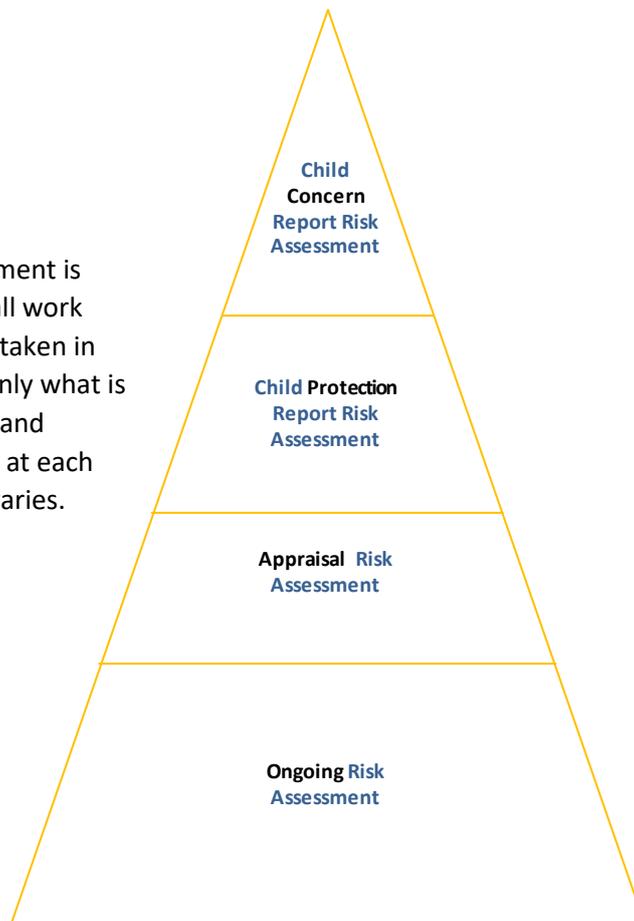
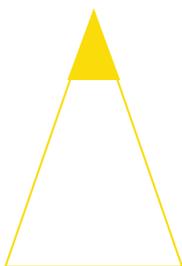


Figure 2 Work Tasks and Risk Assessment in CYPS



CHILD CONCERN REPORT RISK ASSESSMENT

A Child Concern Report Assessment involves a considered analysis of a child's presenting risk factors and potential needs, through gathering all known information about the child, their siblings and family.

A Child Concern Report Assessment requires a professional examination of:

- 1) The presenting Child Concern Report information;
- 2) Historic file information including previous Child Protection Reports, assessments, appraisal records, file notes etc.;
- 3) Current advice from agencies and involved professionals (including school staff and carers) who are, or have been, involved with the family; and
- 4) Any other source information about the child or young person and their family.

What must inform a Child Concern Report Risk Assessment?

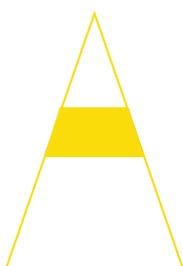
Assessment of the needs of a child must be informed by knowledge of normal child development and developmental milestones. It should also be informed by research and theory relating to the unique needs of particularly vulnerable groups such as children who are:

- exposed to an accumulation of risk factors over time
- under five years of age (with particular emphasis on children under 2 years)
- living with parents with drug and alcohol concerns
- exposed to family violence
- born drug affected or with foetal alcohol syndrome
- in the care of the Director-General
- diagnosed with a disability
- living with parents with serious mental health concerns
- exhibiting self-harm or suicidal behaviour
- pregnant
- at risk due to concerns about a pregnant mother.

Inclusion of siblings and other children in a Child Concern Report Risk Assessment

Where a Child Concern Report is received by CYPS pertaining to a child or children, the Child Concern Report Risk Assessment must always include consideration of all other siblings and children (including unborn children) either living in the home or exposed to the same risk.

*Child Concern Reports are covered in detail in **Section 5: Child Concern Report.***



CHILD PROTECTION REPORT RISK ASSESSMENT

A Child Protection Report Risk Assessment is used when the Child Concern Report Risk Assessment process indicates that the legal threshold for a Child Protection Report has been met* and the Child Concern Report will be upgraded to a Child Protection Report.

*(*Section 360 (3&4) of the Act states that where information relates to abuse, neglect or risk of abuse/neglect, and a parent's capacity and/or willingness to protect the child from this abuse/neglect is not known, it should be recorded as a Child Protection Report.)*

Once this has been determined, the Child Protection Report Risk Assessment is used to assist CYPS workers in planning an appropriate response to the Child Protection Report information. The analysis of risk focuses attention on three critical questions which must be answered in the analysis process:

- What (if any) are the risk issues for this child and siblings?
- What (if any) environmental factors might either increase or decrease the child and sibling's vulnerability to this risk?
- What (if anything) might increase or decrease the probability of abuse or neglect occurring, recurring or continuing in the future?

The outcome of the risk/safety analysis is a judgment about the consequences and the probability of ongoing abuse or neglect.

Reference should be made to **Attachment 3: Assessing Consequences of Abuse or Neglect** on **pg. 61** to assist in forming an opinion about the consequences of the identified risk for the child.

These guides define risk in the following ways:

The **risk**:

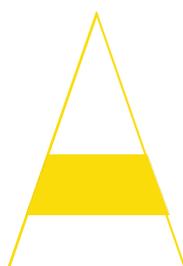
- ▲ **Extreme**
- ▲ **Serious**
- ▲ **Concerning**

The **probability** of ongoing risk:

- ▲ **Highly likely**
- ▲ **Likely**
- ▲ **Unlikely**

These judgments assist the staff to determine an appropriate response to Child Protection Reports.

*Child protection report risk assessments are covered in detail in **Section 6: Child Protection Report**.*



APPRAISAL RISK ASSESSMENT

The Appraisal Risk Assessment is a process of gathering in-depth information about the child or young person, the capacity of BOTH parents or people with parental responsibility, to protect them from abuse and neglect, and overall family functioning. In practice, it means a series of interviews and observations which might include a Child Protection Assessment.

The scope of an appraisal must build on the information gathering and analysis commenced at Child Concern and Child Protection Report Risk Assessment stages.

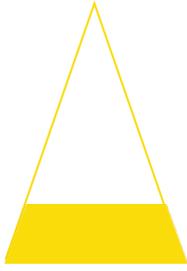
The purpose of the Appraisal Risk Assessment is to decide whether in your professional opinion it is likely that:

- the child has been abused and/or neglected and/or exposed¹ to family violence or is at significant risk of abuse, neglect or family violence; and
- there at least one parent who is both willing and able to protect the child from the risk of abuse or neglect; and
- what, if any, ongoing protective intervention is required following an appraisal.

The Appraisal Risk Assessment should also be used to determine the suitability of Case Closure.

*Appraisal risk assessments are covered in detail in **Section 7: Appraisal Risk Assessment**.*

¹ 'Exposed' does not mean that the child must have been present, or in the home at the time of family violence. Where a child lives in the same home as a person who is a victim of family violence they are always understood to be 'exposed' to family violence.



ONGOING RISK ASSESSMENT

Case planning focuses the case management process on strengths as well as the issues that must be acted on to promote safety and to reduce the risk of abuse or neglect occurring, recurring or continuing. Good practice requires that action be taken to engage the family in the processes of assessment, case planning and the review of progress made.

Continued information gathering, analysis judgements and then action occurs where ongoing support and involvement is required, and services are being delivered or coordinated by CYPS. Continued assessment focuses on; the systematic reassessment and review of risk and safety factors identified and the effectiveness or outcomes of the case planning process.

Risk assessment is an iterative process and in parallel with intervention, safety planning must be continuously revisited and reassessed, and adjustments made accordingly.

*Ongoing risk assessments are further covered in **Section 8: Ongoing Risk Assessment.***

PRACTICE PRINCIPLES

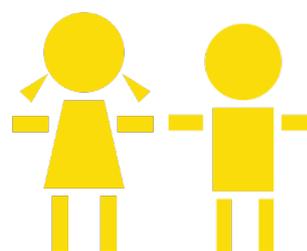
The Act provides a number of principles that must be applied when making a decision or taking action throughout a CYPS involvement.

Central to the Act is the notion that primary responsibility for providing care and protection for children and young people lies with a child's parents and other family members, and that they should be supported by the ACT community to fulfil this responsibility.

Only where a child or young person is *in need of care and protection* does the legislation allow government to share or take over this responsibility.

Making decisions in the best interests of the child or young person

- CYPS staff will ensure that the best interests of the child or young person will be the paramount consideration in all of our actions and decisions.
- This will include:
 - ensuring that the child or young person is not at risk of abuse, neglect or family violence and their safety and wellbeing is more important than the interests of a parent
 - any views or wishes expressed by the child or young person
 - intrinsic characteristics such as age, development, disability and gender
 - the nature of the child's or young person's relationship with each parent and anyone else important to them
 - the capacity of the child's or young person's parents, or anyone else, to provide for their wellbeing, care and protection
 - the attitude to the child or young person, and to parental responsibilities, demonstrated by each of the child's or young person's parents or anyone else
 - the likely effect on the child or young person of changes to the child's or young person's circumstances, including separation from a parent, siblings or anyone else with whom the child has been living
 - any abuse or neglect of the child or young person, or a family member of the child or young person, including abuse through family violence or sibling abuse
 - any court order that applies to the child or young person, or a family member of the child or young person
 - encouraging contact with each parent, siblings and anyone else with whom the child or young person has been living or with whom the child or young person has been having substantial contact with, including their friends where this is appropriate and practical
 - that it is important for the child or young person to have settled, stable and permanent living arrangements
 - that CYPS staff will avoid delays in decision making, including decisions about where a child or young person will live, and will ensure that the earliest possible decisions are made about what is a safe, supportive and stable living environment
 - any other fact or circumstance CYPS staff believe is important for each individual child, young person and family.



Aboriginal and Torres Strait Islander Peoples

CYPS staff will also ensure that it is a high priority to protect and promote your children and young people's cultural and spiritual identity by, wherever possible, maintaining and building their connections to their lifestyle, family, community, culture and traditions of the child or young person's Aboriginal and Torres Strait Islander family, or the community the child or young person has the strongest affiliation with.

CYPS staff will consider submissions made by or on behalf of any Aboriginal or Torres Strait Islander person or organisation that is providing ongoing support to the child or young person or their family.

Helping families understand care and protection procedures and decisions

CYPS staff will assist people affected by the decisions made about children in the following ways:

- clear advice what has been decided and why
- clear explanation of the process by which a decision will or has been made
- to contribute to the decision-making process as far as possible, and have their views and wishes heard
- to be are informed mechanisms for decision review and/or complaint.

OBJECTIVITY AND ACCURACY

Assessments and decisions are only as good as the information upon which they are based. A significant challenge in statutory work is remaining objective and being constantly curious and willing to challenge assumptions, their own and that of others. Assessing and verifying the accuracy of information, and information that decisions are based on, is an important discipline in CYPS practice.

Any CYPS assessments need to be based on credible information that provides the grounds for making 'balance of probability' decisions. Taking information at face value can result in poorly informed analysis and, in some instances, may place a child or young person at further risk of harm.

CYPS staff need to ensure that critical information is verified or corroborated through seeking information from a number of relevant sources. Establishing the validity of information also protects children, young people and families from unfounded or malicious allegations.

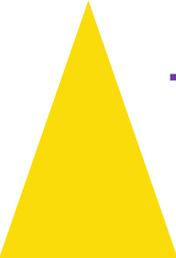
As a CYPS involvement progresses, the basis for alleged concerns needs to be tested and the veracity or otherwise of the concerns established in order to guide the analysis and decision making.

Information accuracy

In the verification process information may be categorised as:

- alleged
- verified
- confirmed
- disproved
- unable to be verified.

Definitions of each of these terms are found in the next section; terminology and definitions.



TERMINOLOGY AND DEFINITIONS

The following terminology has been included to ensure there is a consistent approach to Risk Assessment.

INFORMATION ACCURACY CATEGORY DEFINITIONS

Alleged means uncorroborated information. It:

- has been asserted or declared, but not tested or verified
- may be a sufficient basis for investigation depending on the nature of the concern
- may become known at intake or at any other phase of child protection involvement
- may be raised by an external person or the child protection practitioner.

Verified information has been corroborated or supported by another party, or is from a highly trusted source (for example the police, doctor, school principal) and suggests that the concern may be valid. Information may be verified:

- on the basis of the quality of the information and its source - for example a mandatory reporter from a hospital may provide information with sufficient detail to be considered verified on its own merit
- on the basis of additional information gathered through information sharing
- during intake and appraisal (but this will not in itself be a sufficient basis for substantiation)
- at any time when information is being used to inform decisions.

Confirmed information is when there is compelling evidence from a caseworkers own observations or known facts or from another professional that, on the balance of probabilities, substantiates that concern is valid or true. Confirmed information:

- is based on direct observation and interactions
- is a basis for substantiation.

Disproved information is when there is compelling evidence in the form of the caseworkers own observations or known facts or from another professional that an allegation is invalid, or not true. The view that an allegation is disproved should be formed with caution. Disproved information:

- is based on direct observation and interactions
- is a basis for not substantiating a concern
- reflects the current assessment at that point in time
- should not be used to discount any new allegation or report which must be assessed on its own merits.

Unable to verify means a concern was assessed or investigated but it could not be either confirmed nor disproved. Information that cannot be verified is:

- is based on direct observation and interactions
- allows for unsubstantiated allegations to remain live in the current assessment
- indicates a lack of compelling evidence that would serve to either confirm or refute the concern

- is a basis for not substantiating a concern.
- may be resolved in future with the receipt of new information which serves to verify, confirm or disprove the concerns.

IMPORTANT TERMINOLOGY IN RISK ASSESSMENT

This section outlines important terminology used in the CYPS Risk Assessment Framework.

Ability to communicate

Children's inability to transmit information, thoughts, needs and feelings so that they are clearly understood may make them more vulnerable. While communication ability is influenced by age and developmental level, it is also related to physical and intellectual disabilities and other individual characteristics.

Ability to meet basic needs

Children vary in their ability to meet their own basic needs for nutrition and physical care and this affects vulnerability.

Accessibility by perpetrator

Unsupervised access to a child by a perpetrator may present an obvious vulnerability for that child. This may be lessened by the presence of another adult who is capable and takes responsibility for their protection. The key component involves providing safeguards to ensure that a perpetrator does not have access to a child or the opportunity to compromise the safety of a child.

Age

Children from birth to six (6) years of age are especially vulnerable. They have limited speech capacity and are totally or primarily dependent on others to meet their nutritional, physical and emotional needs. Young children lack the ability to protect themselves from abuse or neglect. In addition, important social, cognitive and physical skills are developed in early childhood and failure to meet a child's needs may have a significant impact on later growth and development.

Abuse

Abuse of a child means:

- physical or sexual abuse, or
- emotional abuse (including psychological abuse) if the abuse has caused or is causing significant harm to the child's wellbeing or development.

Emotional abuse also occurs where a child has been or is being exposed to family violence where exposure includes:

- seeing the violence or
- seeing the consequences of family violence such as property damage, injuries to people involved including the emotional impact it has on the victim, police attendance at the home, or
- hearing the violence

AND this exposure to abuse either has caused, is causing, or would cause - *significant harm* to the child's wellbeing or development.

Cumulative harm

Cumulative harm refers to the effects of multiple adverse or harmful circumstances and events in a child's life. The unremitting daily impact of these experiences on the child can be profound and exponential, and diminish a child's sense of safety and wellbeing. For further guidance, see 'Cumulative harm' guide.

Dependence

Regardless of age, intellectual and physical capacity, children who are highly dependent and susceptible to others are vulnerable. These children are typically so influenced by emotional and psychological attachment that they are subject to the whims of those who have power over them. Children who are unable to defend themselves against aggression are vulnerable. This can include those who are unaware of danger (note: the reference here is to dysfunctional attachments and the misuse of power). It is recognised that all children need to have relationships on which they can rely and have psychological attachment.

Developmental level and intellectual disabilities

Regardless of age, a child who is cognitively limited is vulnerable because of possible limitations (such as recognising danger, knowing who can be trusted, meeting basic needs, having the ability to communicate concerns and seeking protection).

Harm

Harm refers to the detrimental impact of the abuse and/or neglect on a child. Types of harm include physical harm, emotional harm and psychological harm. Harm may occur following a serious single incident or be of a less serious nature but occur over a period of time and result in an accumulation of harm that is significant (see 'Cumulative harm' practice guide).

Neglect

Neglect of a child or young person means a failure to provide the child or young person with a necessity of life if the failure has caused or is causing significant harm to the wellbeing or development of the child or young person, e.g. food, shelter, clothing, health care treatment.

Perpetrator's relationship to the child

The ability of the perpetrator to exert power and control in the relationship can create situations of compliance and/or fear.

Protection

Protection is action demonstrated in keeping the child or young person from abuse or neglect.

Physical disability and illness

Regardless of age, children who are physically limited and therefore unable to remove themselves from dangerous situations are vulnerable. Children who, because of physical limitations, are highly dependent on others to meet basic needs are vulnerable as are children who have continuing or acute medical problems and needs.

Provocative, irritating or non-assertive behaviours

A child's temperament, emotional and mental health, or behavioural problems can be such that they irritate and provoke others to act out toward these children or to avoid them. Regardless of age, children who are passive or withdrawn and not able to make basic needs known, or who cannot or will not seek help and protection from others are vulnerable. Children who exhibit significant behavioural challenges may be more vulnerable because of increased stress levels associated with supervising and controlling negative behaviour. Children experiencing problems with toilet training, inconsolable crying and delinquent or defiant behaviour may be vulnerable because these conditions can be highly distressing to many caregivers.

Risk

Risk is defined as the 'relationship between the degree of harm and the probability of the believed harm occurring (or of protection being provided'. 'Risk assessment must consider the dual components of evaluation and probability. Probability includes factors which increase and decrease likelihood. (Source: Bearly, P. (1982) Risk and Social Work, Routledge, London)

Safety

Safety refers to factors which decrease the probability of abuse and neglect for a child or young person and are differentiated as either *strengths* or the demonstration of *protection*.

Safety relates to three (3) important concepts:

1. Safety from danger.
2. Safety during the assessment period.
3. Future safety.

Attention to safety factors within the risk analysis recognizes that:

1. Both the potential for abuse or neglect and for safety must be considered to achieve balanced risk assessment and risk management.
2. Strengths which increase the potential for safety are evident in most families and these are the fundamental building blocks for change.
3. A constructive approach to building safety may be taken which is different to efforts to minimize risk.
4. A strengths perspective can be actively (and safely) incorporated into what may otherwise become a 'problem saturated' approach to risk assessment and risk management.

(Sources: DHS, Victoria (2000) VRF; Turnell, A & Edwards, S (1997) 'Aspiring to partnership: the Signs of Safety Approach to Child Protection'. Child Abuse Review, 6: 179-190)

Safety from danger

CYPS workers will, at times, be required to make an urgent decision regarding the safety of a child or young person. This decision is required where there is the potential for danger or imminent abuse. At these times, immediate action must be taken to reduce the danger and increase the safety for the child or young person and/or the CYPS worker.

Safety during the assessment period

Sufficient safety is demonstrated over the immediate assessment period when the child or young person is safe to continue in the current circumstances.

The immediate assessment period refers to the period between the safety judgment and the next planned contact or review. The period varies depending on factors like the nature of the abuse or neglect, the vulnerability of the child or young person the degree of supervision, monitoring or support required.

Ongoing safety

Sufficient safety is demonstrated in the long-term when the degree of safety is judged as adequate to consider ceasing protective action.

Scapegoat

One or more children in a family may be a scapegoat (i.e. constantly the target of abuse/neglect while other children are not). For instance, one child may resemble a birth parent, which leads

to a child being targeted for abuse by the other birth parent or a new partner. Increased vulnerability may be a consequence of animosity toward the individual whom the child resembles.

Sexually problematic behaviour

Sexually problematic behaviour may include:

- inappropriate sexual behaviour by child towards a younger child
- inappropriate sexual behaviour by child towards a child of similar or older age or adult
- sexual offending

Strengths

Strengths are defined as 'positive attributes in relationships, skills and personality' where protective factors are defined as 'action that can be demonstrated to keep the child or young person safe'. In an assessment, strengths are not given the same weight as protective factors however they are considered as they may act to support, enhance or develop capacity, motivation or competence to protect children and young people in the future.

Visibility

Children that no one sees (who are hidden or hide) are vulnerable regardless of age. Children who do not attend day care, school, community or social activities may have increased vulnerability when compared to children with contacts outside the family. This includes children who may be hidden from CYPS. If children are very isolated, abuse/neglect may go undetected or unreported, which may increase likelihood of future abuse.



CHILD CONCERN REPORT RISK ASSESSMENT

This assessment answers the question: Does this information meet the legal threshold for recording the information as a Child Protection Report?

Tools used to inform this assessment Risk Safety Analysis; Urgency Rating guide; Practice Tool: Risk Factors Guide; Assessing Consequences of Abuse or Neglect; Assessing Probability of Abuse or Neglect; Risk Assessment Quadrant; Ongoing Assessment Questions.

Key sections of legislation CYPA s5; s25; s345; s360 (3&4); s368; s850; s859; s860; s861

The Child Concern Report Risk Assessment process needs to identify whether or not the statutory definition of a Child Protection Report is met or not. The Act sets a reasonably low threshold to facilitate early intervention – i.e. the receiving worker has formed a reasonable belief that the child in question, “may be in need of care and protection” as defined by s345 of the Act.

Sections 360 (3 & 4) of the Act indicates that where information relates to abuse, neglect or risk of abuse/neglect, and a parent’s capacity and/or willingness to protect the child from this abuse/neglect is not known, it should be recorded as a Child Protection Report.

The threshold for upgrading a Child Concern Report to a Child Protection Report is met when staff suspect on reasonable grounds the child may be in need of care and protection.

In reaching a decision about whether the threshold has been met, staff are not expected to **prove** a child is in need of care and protection, rather that the information held by CYPS indicates the child **may** be in need of care and protection.

SCOPE OF CHILD CONCERN REPORT RISK ASSESSMENT

A Child Concern Report Assessment involves a considered analysis of a child’s presenting risk factor and potential needs, through gathering all known information about the child, their siblings and family.

A Child Concern Report Assessment requires a professional examination of:

- 1) The presenting Child Concern Report information;
- 2) Historic file information including previous Child Protection Reports, assessments, appraisal records, file notes etc.;
- 3) Current advice from agencies and involved professionals (including school staff and carers) who are, or have been, involved with the family; and
- 4) Any other source information about the child or young person and their family.

Where a Child Concern Report is received by CYPS pertaining to a child or children, the Child Concern Report Risk Assessment must always include consideration of all other siblings and children (including unborn children) either living in the home or exposed to the same risk.

This process of Child Concern Report Risk Assessment does NOT involve making contact with the child/ren’s parents unless they are either:

- the source of the Child Concern Report and details need to be clarified; or
- they are not implicated as a ‘person believed responsible’ for the abuse/neglect in the context of the Child Concern Report being assessed.

Important note: Providing any information to parent/s at this stage of a Child Concern Report is inappropriate due to the risk of undermining a future appraisal process.

IS THE CHILD CONCERN REPORT ABOUT ABUSE AND NEGLECT?

Often Child Concern Reports provide information about situations which are not ideal for a child or young person, but at the same time does not meet the CYPS working definitions of abuse or neglect. For example, where a child is being smacked as a form of discipline, CYPS staff may not believe this is appropriate however, it does not constitute physical abuse in a legal sense.

Staff should work through the following critical questions:

Critical Question 1: Is it reasonably likely that the child *is being* abused and/or neglected and/or exposed² to family violence?

Critical Question 2: Is it reasonably likely that the child *has been* abused and/or neglected and/or exposed to family violence?

Critical Question 3: Is it reasonably likely that the child *is at risk of* abuse and/or neglect and/or exposure to family violence?

Sexual abuse, physical abuse, emotional abuse and/or neglect are the actions or inactions of a person towards a child.

To determine the answer to the above questions staff must consider the presence or absence of risk indicators. Findings should be clearly documented as part of the risk analysis process. Risk Indicators are outlined below. More practice information can also be found in the **attachments section** in this document.

ABUSE RISK INDICATORS

Risk indicators (see below) of abuse are frequently found in cases of child abuse. Their presence is not proof that abuse has occurred, but:

- may be regarded as indicators of possible abuse and/or neglect and/or family violence
- may require a Child Protection Report Risk Assessment
- may indicate a need to proceed to a subsequent Care and Protection Appraisal

Absence of these indicators does not mean that abuse and/or neglect has **not** occurred.

² 'Exposed' does not mean that the child must have been present, or in the home at the time of family violence. Where a child lives in the same home as a person who is a victim of family violence they are understood to be 'exposed' to family violence.

Factors that increase vulnerability to abuse and/or neglect

The following factors are relevant when considering indicators of abuse and/or neglect:

- history of previous harm to the child
- social or geographic isolation of the child or family, including lack of access to extended family
- abuse or neglect of a sibling
- family history of violence including injury to children
- domestic/family violence
- physical or mental health issues for the parent or caregiver affecting their ability to care for the child
- the parent or caregiver's abuse of alcohol or other drugs affecting their ability to care for the child
- a developmental disability of the parent or caregiver affecting their ability to care for the child
- parent or caregiver is experiencing significant problems in managing child's behaviour
- the parent or caregiver has unrealistic expectations of age appropriate behaviour in the child.

Characteristics of abused children

Although one child in the family may be singled out as the 'scapegoat', it is more often that all children in the family will be abused. In situations of neglect it is more common for all children to receive inadequate care, but it can happen that just one child is neglected. Characteristics or factors such as those below relating to the child may predispose them to abuse or neglect, however the presence of one characteristic does not automatically mean they will be abused or neglected:

- Poor attachment/bonding - disruptions to early attachment and bonding may occur for a number of reasons:
 - child not planned or wanted
 - difficult pregnancy
 - difficult birth/premature birth
 - child might be the 'wrong' sex or not meet expectations in other ways
- Challenging to rear - some children may be complex to care for (e.g. they eat poorly, choke easily, cry a lot, do not sleep, are unresponsive etc.). The child might have a disability or be frequently ill and these factors can place significant stress on parents
- Pronounced behaviours with developmental stages - some parents are bewildered by typical behaviour at certain stages and react violently to the child (e.g. biting or hitting adults or other children, resistance to toilet training, normal sexual exploration, constant questioning, tantrums etc.)
- Child is seen as different - sometimes the child is obviously different (e.g. has a disability) or is perceived as different (e.g. more or less intelligent; more or less attractive etc.). Children can internalise negative messages or images provided by parents and may in turn become a challenge to manage. Children may display attention seeking behaviour.

Characteristics of abusive relationships

In an abusive relationship a child or young person may:

- appear frightened of the parent/s
- act in a way that is inappropriate to her/his age and development (though full account needs to be taken of different patterns of development and different ethnic groups).
-

The parent or caregiver may:

- persistently avoid child health promotion services and treatment of the child/ young person's episodic illnesses
- have unrealistic expectations of the child/ young person

- frequently complain about/to the child/ young person and may fail to provide attention or praise (high criticism/low warmth environment)
- be absent or misusing substances
- persistently refuse to allow access on home visits
- be involved in domestic violence

Characteristics of abusive parents/caregivers

Research has shown that parents or caregivers who have abused and/or neglected their children share some common characteristics; however the presence of one or more of these does not necessarily mean that a parent/caregiver will abuse a child:

- Abused/neglected as a child - one of the most consistent findings in research suggests that parents or caregivers who abuse were themselves abused as a child
- Poor self-image - the personality of abusive parents/ caregivers may be characterised by poor self-esteem; they emerge from their own childhood as immature and dependent people who have difficulty forming and sustaining close relationships; they do not know how to meet their own needs appropriately and are often unable to meet other's needs, choosing inappropriate partners who reinforce their low self image
- Low impulse control - abusive parents/caregivers tend to get frustrated easily and have poor impulse control, 'acting' rather than 'thinking'
- Unrealistic expectations - many abusive parents/caregivers cannot separate their own needs from those of their children, which can lead to very unrealistic expectations being placed upon a small child or infant
- Poor knowledge of child development - the lack of understanding and knowledge of a child's physical, intellectual and emotional development can result in unrealistic demand being placed on a child's behaviour and ability (e.g. expecting a baby to be toilet trained by age one). Sometimes this lack of understanding can lead to parents perceiving the child as deliberately 'getting at them'
- Limited experience of play - many parents/caregivers may not have 'played' or been stimulated as children and therefore are unable to stimulate and play with their child.
- Belief in physical punishment - parents/caregivers many hold a firm belief in the value of corporal punishment as they fear that if they do not the child will be spoiled and undisciplined
- Negative view of children - many parents who abuse believe that children are intrinsically 'bad', 'naughty', 'evil' and it is their responsibility to control and discipline them
- Low socioeconomic class - while anyone from any class is capable of abusing children, regardless of race, religion, status, income, size of family or education, those from lower socioeconomic groups are more highly represented in the statistics.

Important note:

Staff should be aware of the potential risk to children when individuals, previously known or suspected to have abused children move into the household.

Characteristics of abusive environments

Many families in which abuse occurs live in an environment that is stressful and provides little support or nurturance (however these factors alone do not necessarily mean that abuse is likely to occur):

- Social isolation - many families in which abuse occurs find themselves living in situations where there is little or no family or community support, there is no other significant caregiver or an unresponsive one and there are little or few friends. Such a limited support system can cause enormous stress in the family life
- Life crises - sometimes things happen in a family that are quite unrelated to the child but may have significant impact on how the child is treated (e.g. pregnancy, desertion, death of a family member, unemployment etc.)
- Socioeconomic stress - financial difficulties, loss of a job, difficulty in accessing child care, lack of transport, poor community infrastructure can place undue hardship on parents
- Daily stresses - such as a car not starting, a child falling ill, hot weather can all add to the daily stress load and trigger an abusive event.

Recognising physical abuse

The following risk indicators are often regarded as indicators for concern:

- an explanation that is inconsistent with an injury
- several different explanations provided for an injury
- unexplained delay in seeking treatment
- the parents/ caregivers are uninterested or undisturbed by an accident or injury
- parents/ caregivers are absent without good reason when their child or young person is presented for treatment
- family use of different doctors and A&E departments
- reluctance to give information or mention previous injuries
- a description of events causing the child pain
- providing a child with alcohol or non-prescribed drugs

Bruising

Children can have accidental bruising, but the following must be considered as non-accidental unless there is evidence or an adequate explanation provided:

- any bruising to a pre-crawling or pre-walking baby
- bruising in or around the mouth, particularly in small babies that may indicate force feeding
- two simultaneous bruised eyes, without bruising to the forehead, (rarely accidental, though a single bruised eye can be accidental or abusive)
- repeated or multiple bruising on the head or on sites unlikely to be injured accidentally
- variation in colour possibly indicating injuries caused at different times
- the outline of an object used (e.g. belt marks, hand prints or a hair brush)
- bruising or tears around, or behind, the earlobe/s indicating injury by pulling or twisting
- bruising around the face
- grasp marks on small children
- bruising on the arms, buttocks and thighs may be an indicator of sexual abuse.

Bite marks

Bite marks can leave clear impressions of the teeth. Human bite marks are oval or crescent shaped. Those over 3cm in diameter are more likely to have been caused by an adult or older child. A medical opinion should be sought where there is evidence of a bite which is alleged to have been caused by a parent/carer.

Burns and scalds

It can be difficult to distinguish between accidental and non-accidental burns and scalds and will always require experienced medical opinion. Any burn with a clear outline may be suspicious (e.g. circular burns from cigarettes (but may be friction burns if along the bony protuberance of the spine), linear burns from hot metal rods or electrical fire elements, burns of uniform depth over a large area).

Scars

Scalds that have a line indicating immersion or poured liquid (a child getting into hot water of its own accord will struggle to get out and cause splash marks). Old scars indicating previous burns/scalds which did not have appropriate treatment or adequate explanation. Scalds to the buttocks of a small child, particularly in the absence of burns to the feet, are indicative of dipping into a hot liquid or bath.

Fractures

Fractures may cause pain, swelling and discolouration over a bone or joint. Non-mobile children rarely sustain fractures. There are grounds for concern if:

- the history provided is vague, non-existent or inconsistent with the fracture type
- there are associated old fractures
- medical attention is sought after a period of delay when the fracture has caused symptoms such as swelling, pain or loss of movement
- there is an unexplained fracture in the first year of life.

A large number of scars or scars of different sizes or ages, or on different parts of the body, may suggest abuse.

Recognising emotional abuse

Emotional abuse may be difficult to recognise, as the signs are usually behavioural rather than physical. The manifestations of emotional abuse might also indicate the presence of other kinds of abuse and may also be the result of cumulative harm. They may also be as a result of exposure to family violence. The indicators of emotional abuse are often also associated with other forms of abuse. The following may be indicators of emotional abuse resulting in significant harm:

- developmental delay
- abnormal attachment between a child or young person and parent/carer (e.g. anxious, indiscriminate or no attachment)
- indiscriminate attachment or failure to attach
- aggressive behaviour towards others
- frozen watchfulness, particularly in pre-school children
- low self esteem and lack of confidence
- withdrawn or seen as a 'loner'; difficulty relating to others.

Recognising sexual abuse

Boys and girls of all ages may be sexually abused and are frequently scared to say anything due to guilt and/or fear. This is particularly difficult for a child or young person to talk about and full account should be taken of the cultural sensitivities of any individual child or young person / family.

Recognition can be difficult, unless the child or young person discloses and is believed. There may be no physical signs and indications are likely to be emotional/ behavioural. Careful information gathering must inform the judgement that a person "may be in need of care and protection.

Important note:

Staff must also consider if a Child Concern Report of past sexual abuse has been reported if there are children or young people currently in the household of the alleged perpetrator that are at risk and may require follow up and possible appraisal.

Behavioural indicators associated with sexual abuse include:

- inappropriate sexualised conduct
- sexually explicit behaviour, play or conversation, inappropriate to the child or young person's age
- continual and inappropriate or excessive masturbation
- self-harm (including an eating disorder), self mutilation and suicide attempts
- involvement in prostitution or indiscriminate choice of sexual partners
- non consensual sexual activity or other suspicion of abuse/coercion/exploitation or there are questions about the capacity of one party to consent
- an anxious unwillingness to remove clothes (e.g. for sports events, although this may be related to cultural norms or physical difficulties).

Physical indicators associated with sexual abuse include:

- pain or itching of genital area
- blood on underclothes
- pregnancy in a younger girl where the identity of the father is not disclosed
- physical symptoms such as injuries to the genital or anal area, bruising to buttocks, abdomen and thighs, sexually transmitted disease, presence of semen on vagina, anus, external genitalia or clothing.

Child pornography and the internet

The internet has become a significant tool in the distribution of child pornography. Some adults use it to establish contact with children with a view to grooming them for inappropriate or abusive relationships. If someone is discovered to have placed child pornography on the internet, or accessed child pornography the police must be informed. Consideration must be given to the possibility that the individual might also be involved in the active abuse of children and her/his access to children should be established, including family and work settings.

Recognising neglect

Evidence of neglect is built up over a period of time (cumulative) and can cover different aspects of parenting. Indicators include:

- failure by parents or caregivers to meet the basic essential needs (e.g. adequate food, clothes, warmth, hygiene and medical care)
- a child or young person seen to be listless, apathetic and unresponsive with no apparent medical cause
- failure of child to grow within normal expected pattern, with accompanying weight loss
- child or young person thrives away from home environment
- child or young person frequently absent from school
- child or young person left with adults who are intoxicated or violent
- child or young person abandoned or left alone for excessive periods.

Recognising cumulative harm

Cumulative harm can be defined as the effects of patterns or circumstances and events in a child or young person's life which diminishes their sense of safety, stability and wellbeing.

Cumulative harm is not an abuse type in itself. It is harm caused to a child/young person that is accumulated over time by the ongoing exposure to effects of multiple adverse circumstances and events in a child's life, the unremitting daily impact of which can be profound and exponential.

In the context of child protection, cumulative harm is a consequence of repeated incidents of abuse, neglect, witnessing family violence and unrelenting low level care (i.e., cumulative harm caused by chronic child maltreatment).

At the point of intake, if considered in isolation, each episode of abuse and/or neglect may not reach the legislative threshold of suspicion on reasonable grounds that the child may be in need of care and protection.

However the unremitting daily impact of these experiences on the child can be profound and exponential, covering all dimensions of a child's life; developmental, social, psychological, relational and educational. Research (Bromfield & Higgins, 2005) has shown that the majority of children who are abused or neglected experience multiple incidents and multiple types of child maltreatment. Each report must also be considered in the context of the child or young person's child protection history and risk assessed accordingly. Please refer to 'Cumulative harm' practice guide for more information.

Exposure to family violence

Family violence—behaviour that controls or dominates a family member and causes them to fear for their own or another person's safety or wellbeing—is a fundamental violation of human rights and is unacceptable in any form, any community, or any culture. All family violence should be considered a risk and must be responded to.

The most effective way to create safety for a child is to create safety for their mother. Creating safety for women and children means taking action to address and prevent, the violence being used by the perpetrator. This means work to assess and strengthen the parenting capacity of both parents, and to engage with the perpetrator of violence as a *father* – to stop the harmful behaviour.

A risk assessment of the nature and shape of the violence and the characteristics of the coercive control being used, must inform any response to family violence in the child protection space. Risk assessment in the context of family violence may be defined as “the formal application of instruments to assess the likelihood that intimate partner violence will be repeated and escalated” (Roehl & Guertin, 2000, p171).

Staff should refer to the Family Violence Guide CYPS for further information about risk assessment when children are living with a violent parent.

Self-harm

Self harming behaviour, including suicidal thoughts (known as ideation), that threatens or results in a physical injury to a child can be characterised as non-accidental physical injury under the *Children and Young People Act 2008*.

However, a Child Concern Report in relation to self-harm will only meet the threshold for upgrading to a Child Protection Report if CYPS staff are not sure if a parent/carer is both **willing** and **able** to protect the child from self-harm.

Consider:

- Are the family engaged with support services, for example CAHMS or ACT Health?
 - If yes, contact the relevant service provider to seek information about the support and assistance being provided, the possible causes of the self-harming behaviour and the level of severity of the self-harming behaviours
 - If no, consider making appropriate referrals for the child or family

Discuss with a team leader about approaching the child's parent/s.

In many cases an appraisal response may not be appropriate as the cause of the self-harm may not be related to abuse or neglect, and a parent may be willing and able to protect the child. Often the reporter may be in a more appropriate position to further assess any self-harming behaviour and or thoughts with the child and implement strategies to reduce their self-harming. It may also be more appropriate for a reporter to contact the child or young person's parents and raise the issue of self-harm with them.

REVIEWING THE CHILD OR YOUNG PERSON'S HISTORY OF INVOLVEMENT WITH CYPS

This is an essential component of the Child Concern Report Risk Assessment process.

Does CYPS hold information about the child or young person (and sibling) that should inform an assessment of their risk of abuse/neglect/family violence?

In reviewing the full CYPS history of involvement with a child or young person and their family, staff need to be able to form a professional analysis of the following:

1. the history of the child and any other siblings in the home;
2. pattern and history of abuse and neglect or other forms of risk for the child or siblings within the home or care environment;
3. past and current opportunities for abuse or neglect to occur, reoccur or continue;
4. any particular vulnerabilities to abuse or neglect within the child, siblings, or the family as a whole (including factors such as; social isolation, disability, drug and alcohol misuse, child/ren under the age of 5, mental illness);
5. parent or carer factors which may affect the quality and competence of parenting or care (including social and psychological factors such as; the beliefs the parent or carer has about the child, the impact of these beliefs on parenting or care and the nature of the relationship between the parent or carer and the child);
6. the existence and nature of both the formal and informal supports available to the family, and the ability and willingness of the parents or carers to access and accept services; and
7. any known family strengths and protective factors that may reduce future risk to the child and their siblings.

CONTACTING INVOLVED AGENCIES WHO MAY BE ABLE TO PROVIDE SUPPLEMENTARY INFORMATION

To assist in quality decision making and assessment, it is essential that CYPS workers seek information from other government directorates, authorities or statutory office holders as permitted by the relevant sections of the Act.

Do other involved services hold information about the child or young person (and sibling) that should inform an assessment of their risk of abuse/neglect?

Information sharing provisions of the Act are governed by the principle that all information exchange will be *in the best interests of children*. This means that whenever the Director-General believes that the exchange of information with another person or service is *in the best interests* of that child, it is legally appropriate to seek, share or divulge confidential information, in a manner consistent with sections 25, 850, 859, 860 and 861 of the Act.

Section 5 of the Act allows the Director-General to request a *Territory entity* and an ACT Education provider to provide assistance, facilities or services relevant to the physical or emotional wellbeing of a child or young person.

Section 850 allows the Director-General to share protected information with a person who is not a *Territory entity* or an *information sharing entity* when it is clearly *in the child's best interests* to do so. It is necessary to invoke this provision when seeking to share information with: private psychologists and service providers that are not connected to a health facility or community service, extended family members who do not hold parental responsibility or other persons not defined as a *Territory entity* or an *information sharing entity*.

Use of section 850 to provide protected information about a child to a person who is not a *Territory entity* or an *information sharing entity* requires that CYPS workers are able to clearly express in writing: to whom they gave the protected information, on what basis it was in the child's best interests and evidence they informed the new *information holder* of their legal obligations to protect that information. The sharing of protected information must be approved at Team Leader level and should be clearly recorded on the child's file.

Sections 859, 860 and 861 allow for information sharing between the Director-General and *information sharing entities* in relation to the safety and wellbeing of a child or young person. An *information sharing entity* includes:

- people with parental responsibility,
- people providing out of home care,
- Out-of-Home Care Agency staff,
- an ACT Education provider
- a health facility
- a community based service involved with the child and their family,
- the Public Advocate,
- the Official Visitor/s,
- a Minister,
- the police,
- all statutory office holders and interstate or Commonwealth statutory office holders.

CHILD CONCERN REPORT RISK ASSESSMENT DECISION



Threshold for recording a Child Protection Report (s360(5))

Once the information has been gathered, considered and analysed the following key statutory decision needs to be made:

Key statutory threshold decision: That the information held by CYPS provides reasonable grounds to suspect that a child or young person *may be* 'in need of care and protection' (s345).

NB: At Child Concern Report stage a suspicion of abuse, neglect or family violence, along with an inability to verify a parent's ability to protect the child from abuse, neglect or family violence means this threshold is met.

When determining if the threshold for proceeding to a Child Protection Report is met, **staff** must step through the following statutory questions:

1. **Statutory question 1** – Do you suspect on reasonable grounds the child may:
 - a. have been abused, neglected or exposed³ to family violence?
 - b. be being abused, neglected or exposed to family violence?
 - c. be at significant risk of abuse, neglect or exposure to family violence?

If **no to all**, go to Statutory Question 2.

If **yes to any**, progress to Statutory Question 3.

2. **Statutory Question 2** – Do you have reason to suspect:
 - a. there is serious and persistent conflict between the child and people with parental responsibility (other than the Director-General) to the extent the child's care arrangements are likely to be seriously disrupted?
 - b. the people with parental responsibility (other than the Director-General) are dead, have abandoned the child or cannot be found after reasonable enquiry?
 - c. the people with parental responsibility (other than the Director-General) are sexually or financially exploiting the child?

If **no to all**, the threshold is **not** met. Record your decision and rationale, and develop and implement a Child Concern Report Action Plan'. See 'Child Concern Report' procedure.

If **yes to a or b**, the **threshold is met** and a Child Protection Report **must** be recorded. See 'Child Protection Report' procedure.

If **yes to c**, go to Statutory Question 3.

³ 'Exposed' does not mean that the child must have been present, or in the home at the time of family violence. Where a child lives in the same home as a person who is a victim of family violence they are understood to be 'exposed' to family violence.

-
3. **Statutory Question 3** – Where abuse and/or neglect is suspected, has a parent or person with parental responsibility (other than the Director-General) demonstrated they are willing to protect the child from abuse and/or neglect?

If **no or not sure**, the **threshold is met** and a Child Protection Report **must** be recorded. See 'Child Protection Report' procedure.
If **yes**, go to Statutory Question 4.

4. **Statutory Question 4** – Has the **same** parent or person with parental responsibility assessed at question three, demonstrated they are able to protect the child from abuse and/or neglect?

If **no or not sure**, the **threshold is met** and a Child Protection Report **must** be recorded. See 'Child Protection Report' procedure.
If **yes**, the **threshold is not met**. Record your decision and rationale, and develop and implement a Child Concern Report Action Plan. See 'Child Concern Report' procedure.

Note: A Child Protection Report cannot revert back to a Child Concern Report. Team leader approval is not needed to upgrade to a Child Protection Report.

Developing a Child Concern Report Action Plan

A Child Concern Report Action Plan will only be developed when a Child Concern Report Risk Assessment has determined the legal threshold to record a Child Protection Report has **not** been met. The Child Concern Report Action Plan is to outline the response necessary to address the child's unmet needs as identified through the risk assessment.

Planning an appropriate response to a Child Concern Report is a matter of professional judgement and can include one or several strategies. These may include one or more of the following activities:

- Support response
- Case Conference
- Referral to appropriate support services
- Safety planning
- No further action

Refer to the **Child Concern Report Procedure**.



CHILD PROTECTION REPORT RISK ASSESSMENT

<i>This assessment answers the question:</i>	What is the most appropriate response to this Child Protection Report?
<i>Tools used to inform this assessment</i>	Risk Factor Guides; the Assessing Consequences of Abuse or Neglect; Assessing Probability of Abuse or Neglect; the CYPS Risk Assessment Quadrant; and the Urgency Rating guide in this document to assist their analysis and decision making.
<i>Key sections of legislation</i>	CYPA s345, s361

A Child Protection Report Risk Assessment is the continuation of the Child Concern Report Risk Assessment process principally assesses the most appropriate response by CYPS to the Child Protection Report. It should only be undertaken when CYPS has determined that the threshold for a Child Protection Report has been met and therefore the child may be in need of care and protection.

The Child Protection Report Risk Assessment requires the following decisions and judgments to be made:

- What (if any) are the risk issues for this child and siblings?
- What (if any) environmental factors might either increase or decrease the child and sibling's vulnerability to this risk?
- What (if anything) might increase or decrease the probability of abuse or neglect occurring, recurring or continuing?

CHILD PROTECTION REPORT RISK ANALYSIS

Risk issues for the child and siblings

The **Practice Tool: Risk Factors Guide** on **pg. 55** of this document is a reference to assist in the identification and assessment of risk within a particular family situation. These risk factors are included to focus CYPS staff on critical case facts. Staff need to work through the information gathered above and consider the risk practice guides.

The analysis of risk is supported by the **Risk Analysis Practice Guide** on **pg. 49** of this document and focuses attention on three critical questions which must be answered in the analysis process.

Environmental factors

The presence of environmental factors, i.e. substance abuse, mental illness, violent behaviour and social isolation are relevant when they, in isolation or in combination, *diminish the parent or carer's capacity* to provide sufficient care and protection to the child or young person.

Research (Queensland Dept of Safety, 2015) has identified a higher likelihood of harm, including cumulative harm, occurring if:

- there have been multiple reports over time – child concern reports, notifications
- there is history of multiple sources of notifiers alleging similar problems
- concerns relate to multiple harm types and / or multiple persons responsible for harm over time
- concerns have been received from service providers / professionals
- reports include incidents of inappropriate parenting in public
- there is evidence of children not reaching developmental milestones (Bromfield, et al. 2007)

Probability of abuse or neglect

During the process of Child Protection Report Risk Assessment CYPS staff are required to consider the significance of the information being gathered and analysed in terms of the immediate safety of the child or young person and any potential future risk issues.

This will include an analysis of the **Strengths and Protective Factors** on **pg. 51**.

This requires CYPS workers to take into account the presence of **strengths** and **protection** that decrease the probability of abuse or neglect.

- **Strengths** are fundamental building blocks to change and are defined as positive attributes in relationships, skills and personality which act to support, enhance or develop capacity, motivation or competence to protect and care for the child or young person. Not all strengths, however, translate into protection.
- **Protection** is action demonstrated as keeping the child or young person free from abuse or neglect or risk of abuse or neglect.

The analysis of safety influences the other three analysis dimensions: vulnerability of the child or young person to abuse or neglect, the severity of the abuse or neglect and the likelihood of the abuse or neglect continuing or recurring.

For assistance in determining the probability please refer to the section on **Attachment 4: Assessing Probability of Abuse or Neglect** on **pg. 62** of this document.

For the purposes of analysis, CYPS workers are to re-organize the gathered information to:

- focus thinking on the degree and probability of abuse or neglect,
- reach a judgment of the level of risk and safety over the immediate appraisal period, and
- reach a judgment of the level of current risk and safety.

Consequences of abuse/neglect/family violence

This analysis of the consequences of the abuse or neglect requires CYPS workers to develop an understanding of the relationship between:

1. the seriousness of the abuse or neglect (the type and degree of the abuse or neglect and any pattern or history of abuse or neglect) and
2. the vulnerability of the child or young person to the abuse or neglect (the child's age, development and functioning, and the opportunity for abuse or neglect or for protection).

Not all children or young people will experience an incident of abuse or neglect in exactly the same way. CYPS workers are required to take into account the uniqueness of the child or young person and their circumstances.

Likelihood of abuse/neglect/violence

This element requires CYPS workers to assess the factors which increase or decrease the probability of harm occurring or recurring. Research identifies some characteristics in parents or carers as being salient:

1. prior pattern of behaviour with respect to the treatment of children or young people
2. the belief in the correctness of their opinions about children and young people
3. the presence of complicating factors.

Past behaviour refers to the number of abuse or neglect events the parent or carer has initiated their severity, frequency and recency. Past behaviour, in the absence of intervention to change the behaviour, is likely to be repeated.

If an individual believes that they are correct in their opinions about child and young people and in their behaviour towards children and young people, they are likely to continue the behaviour unless they are prevented from doing so.

CHILD PROTECTION REPORT COMBINED SUMMARY OF FINDINGS

This section of the Child Protection Report form asks staff to consolidate all the information they have gathered in respect of the child and family, and form a view about the child's overall vulnerability to abuse and/or neglect. This section forms a conclusion of sorts, about what your risk analysis leads you to believe should happen next.

The child or young person's vulnerability to abuse or neglect

Vulnerability refers to the relationship of two (2) important factors:

1. the characteristics of the child: their age, development and functioning, and
2. the opportunity for abuse or neglect or for protection.

Vulnerability in the context of risk assessment recognizes that each child or young person is unique and their circumstances and context are unique. Vulnerability may change over time, reflecting the child's differing developmental stages and the changing nature of their circumstances. Refer to the **Indicators of Vulnerability** guide on **pg.49** in this document for assistance.

CYPS workers may refer to the **Risk Analysis Practice Guide** on **pg. 49** of this framework for assistance in their analysis:

1. Indicators of Vulnerability
2. Risk Factor Warning List
3. Strengths and Protective Factors

The practice guides are there to assist with the analysis only. The presence of a factor or element may not necessarily indicate risk, and conversely, the absence of a factor does not necessarily indicate safety. The guides are based on research developed in Australia by the Department of Human Services, Victoria and the Department of Community Services, New South Wales and overseas, particularly the Manitoba Risk Estimation System.

CYPS workers should consult with other professionals and seek supervision to focus their analysis and professional judgments.

CHILD PROTECTION REPORT RISK ASSESSMENT OUTCOME

The outcome of the risk/safety analysis is a judgment about the consequences and the probability of abuse or neglect.

Reference can be made to **Risk Factor Warning List** on **pg.53** to support this decision making point.

The judgment about the **consequences** of the abuse or neglect for the child or young person can be one of the following (see **Attachment 3: Assessing Consequences of Abuse or Neglect pg.61**).

- ▲ **Extreme**
- ▲ **Serious**
- ▲ **Concerning**

The judgment about the **probability** of the abuse or neglect continuing or recurring can be one of the following (**Attachment 4: Assessing Probability of Abuse or Neglect pg.62** of this document):

- ▲ **Highly likely**
- ▲ **Likely**
- ▲ **Unlikely**

The judgement about whether the protective factors present in the environment are:

- ▲ **No protection (not present)**
- ▲ **untested**
- ▲ **limited, or**
- ▲ **high**

These judgments assist the CYPS worker to determine whether the child or young person **may be** at risk of abuse and/or neglect.

Abuse or Neglect Consequence

This judgment requires the CYPS worker to consider the impact, effect or outcome of the alleged abuse or neglect on the child or young person. The judgment requires taking into account:

- the severity dimension of the risk analysis (type and degree of the alleged abuse or neglect and the child or young person's vulnerability to abuse or neglect)
- the current and future impact of the alleged abuse and neglect.

CYPS workers will also arrive at a judgment about the likely **consequence** of the alleged abuse or neglect, if the allegations were found to be correct:

1. **Extreme:** The impact is extreme, enduring or deteriorating and likely to result in permanent consequences.
2. **Serious:** The impact is observable or ongoing or the impact intrudes on functioning or health.
3. **Concerning:** The impact is limited to the short-term or is an isolated incident and not persistent.
4. **Nil:** No discernible impact.

For assistance in assessing the consequences of abuse or neglect please refer to **Attachment 3: Assessing Consequences of Abuse or Neglect** on **pg.61** of this document.

Abuse or Neglect Probability

This judgment requires consideration about the possibility of the alleged abuse or neglect occurring or recurring. The judgment requires taking into account information from the analysis dimensions, attending to:

- the child or young person’s vulnerability to abuse and neglect
- the likelihood of the abuse or neglect occurring, and the opportunity for abuse
- safety factors: strengths and protections
- evaluation of the parent or carer’s capacity to change (this considers: patterns of engaging with services, sustained demonstration of protective factors, positive attitude towards the child or young person, motivation, and strengths/resources that positively impact upon the capacity to protect and care).

CYPS workers will arrive at a judgment about probability:

1. **Highly likely**
2. **Likely**
3. **Unlikely**

For assistance in determining the probability please refer to **Attachment 4: Assessing Probability of Abuse or Neglect** on **pg.62** of this document.

IMMEDIATE RISK

The child is believed to be **at risk of immediate danger** including where your assessment indicates:

The judgment about the **consequences** of the alleged abuse or neglect for the child or young person are

- ▲ **Extreme**

The judgment about the **probability** of the alleged abuse or neglect occurring is

- ▲ **Highly likely**

The judgement about whether the protective factors present in the environment is

- ▲ **No protection (not present)**

Contact ACT Police Operations on (02) 6256 7714 to request an immediate response. Police Operations will conduct a welfare check without CYPS presence.

- Call 000 if the child is seriously injured or if the assault is currently occurring.

The child is **not** at risk of immediate danger, but the criteria for a SACAT referral have been met.

A referral must be submitted to SACAT when **any** of the following criteria apply:

- sexual or non-accidental physical abuse of a child, either recent or historical
- physical neglect (excluding emotional neglect)

- non-consensual sexual activity or other suspicion of abuse, coercion, exploitation, or there are questions about the capacity of one party to consent, either recent or historical
- sexual activity where there is more than a two-year age gap between parties and at least one party is under 16 years
- any of the above mentioned offences occurred in the ACT.

Refer to **Child Protection Report Procedure** for further information.

DEVELOPING A CHILD PROTECTION REPORT ACTION PLAN

An action plan is to be developed for each Child Protection Report. It must outline the response necessary to address the child's unmet needs as well as any risks identified through the Child Protection Report risk assessment. Planning an appropriate response is a matter of professional judgement and can include one or several strategies

In developing a Child Protection Report action plan, staff are to:

1. Determine the appropriate actions to address the issues outlined in the Child Protection Report risk assessment. This can include one or more of the following:
 - Appraisal
 - Support response
 - Case Conference
 - Referral to appropriate support services
 - Safety planning
 - No further action

Where a Child Protection Report Risk Assessment indicates that it is appropriate to visit the family to explore the possible presence of risk to a child, this will usually mean that an Appraisal is required. An Appraisal response (to address *risk*) does not prevent the worker from also recommending strategies for addressing *need* such as; referral to community support or arranging a case conference.

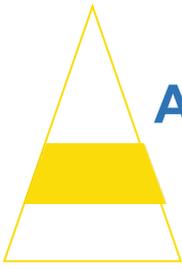
Staff should use the Urgency Rating guide to assist them in deciding the most appropriate response to the Child Protection Report. Staff should refer to the relevant procedures in respect of each of these actions to assist them.

URGENCY RATING GUIDE NB. This table is a guide only.

Consequence	Probability	Protective factors	Action Required
Extreme	Highly likely	No Protection	Same day
		Untested	Same day
		Limited	Same day
		High	Same day
Extreme	Likely	No protection	Same day
		Untested	Same day
		Limited	Same day
		High	24 hrs
Extreme	Unlikely	No protection	24 hrs
		Untested	24 hrs
		Limited	24 hrs
		High	72 hrs
Serious	Highly likely	No protection	24 hrs
		Untested	24 hrs
		Limited	72 hrs
		High	7 days
Serious	Likely	No protection	72 hrs
		Untested	72 hrs
		Limited	72 hrs
		High	7 days
Serious	Unlikely	No protection	7 day appraisal/support response
		Untested	7 day appraisal/support response
		Limited	7 day appraisal/support response
		High	Referral to services/NFA
Concerning	Highly likely	No protection	7 day appraisal/support response
		Untested	7 day appraisal/support response
		Limited	7 day appraisal/support response
		High	Referral to services/NFA
Concerning	Likely	No protection	7 day appraisal/support response
		Untested	7 day appraisal/support response
		Limited	7 day appraisal/support response
		High	Referral to services/NFA
Concerning	Unlikely	No protection	Referral to services/NFA
		Untested	Referral to services/NFA
		Limited	Referral to services/NFA
		High	Referral to services/NFA

Please note:

- If child under 2 years, and extreme or serious consequences then response must be no later than 24 hrs.
- CYPS workers must seek Team Leader consultation and approval for the priority rating allocated to each report.
- Child Protection Reports allocated a priority rating of '7 days' must be allocated as soon as reasonably possible, but no later than 72 hours of receipt of the report.



APPRAISAL RISK ASSESSMENT

This assessment answers the question: Is the subject child being abused or neglected? Is there a parent who is both willing and able to protect them from abuse or neglect?

Tools used to inform this assessment Risk Safety Analysis; Urgency Rating guide; Risk Analysis Practice Guide; Practice Tool: Risk Factors Guide; Assessing Consequences of Abuse or Neglect; Assessing Probability of Abuse or Neglect; Risk Assessment Quadrant; Ongoing Assessment Questions.

Key sections of legislation CYPA s360; s862; s344; s368; s370; s507

OVERVIEW

The Appraisal Risk Assessment is a process of gathering in-depth information about the child or young person, the capacity of BOTH parents or people with parental responsibility, to protect them from abuse and neglect, and overall family functioning. In practice, it means a series of interviews and observations which might include a Child Protection Report Assessment.

The scope of an appraisal must build on the information gathering and analysis commenced at Child Concern and Child Protection Report Risk Assessment stages.

The purpose of the Appraisal Risk Assessment is to decide whether in your professional opinion it is likely that:

- the child has been abused and/or neglected or is at significant risk of abuse or neglect; and
- there at least one parent who is both willing and able to protect the child from the risk of abuse or neglect; and
- what, if any, ongoing protective response is required following an appraisal.

The Appraisal Risk Assessment should also be used to determine the suitability of Case Closure.

The Appraisal Risk Assessment results in judgments and decisions which consider the following:

- Does the appraisal lead you to believe that there is an immediate safety concern for the subject child/ren or young people?
- Were any additional abuse or neglect issues identified during the appraisal process that were not part of the originating concerns?
 - Where yes, were these concerns in respect of physical or sexual abuse?
 - Where yes, did you form a reasonable belief or suspicion that the child had suffered, was suffering or at significant risk of suffering, physical or sexual abuse?
- What is your analysis of the child/young person's exposure to risk, including the opportunity for abuse or neglect?
- What is your analysis of the parent/s capacity to protect the child/young person from abuse or neglect? (NB. Refer to Family Violence Risk Assessment Guide in the case of family violence).
- What are the views and wishes of the child or young person?

Following completion of these aspects of appraisal assessment, CYPS are asked to arrive at a conclusion regarding substantiation.

APPRAISAL RISK ASSESSMENT

The Appraisal Risk Assessment begins with the commencement of an appraisal and does not conclude until all interviews and appraisal activities have been conducted. This may include waiting until the results of a s862 request for information from another entity have been received and considered by CYPS.

There are three related processes involved in assessing risk and safety:

1. Gathering Information.
2. Analysis of information.
3. Judgment of risk and safety.

At every stage of the assessment process CYPS workers are required to gather, analyse and judge the information collected.

The amount and depth of information gathered and analyzed will be dependent on a number of factors, including:

- the amount of information available to CYPS workers,
- the complexity of the issues within the case, and
- the amount of information required to make judgments and decisions.

ESSENTIAL INFORMATION GATHERING CATEGORIES

The information gathered should be factual, reliable and the reliability of significant information should always be checked.

The CYPS worker is required to gather, analyze and judge information gathered under the five (5) essential information categories:

1. Child or young person
2. Parent or carer
3. Source of abuse or neglect
4. Opportunity for abuse or neglect
5. Supports and services

Child or young person

Three (3) interrelated dimensions affect a child or young person's vulnerability to abuse or neglect:

1. Age
2. Development
3. Functioning

Age

The age of the child/young person is an important consideration as it influences a range of issues and judgments including vulnerability to abuse and neglect, opportunity for abuse or neglect, the capacity to protect self and the ability to communicate circumstances.

Development

Development refers to the range of physical, social, psychological and cognitive characteristics that are age related.

Functioning

Functioning refers to how a child or young person compares to established developmental milestones. Issues to be taken into account include disabilities, illness or other characteristic that influences the child or young person's functional capacity.

Parents and carers

It is important to identify and consider all people who have a parenting or carer role with the child or young person, particularly the primary care-giver. The primary care-giver may change over the course of the child or young person's life, or the course of protective assessment and intervention.

Each carer must be considered separately, take into account the following five (5) inter-related dimensions:

1. Parent or carer attitude to the abuse or neglect, and
2. Parent or carer relationship with the child or young person, and
3. Parent or carer relationship with each other, and
4. Functioning of the parent or carer, and
5. Parenting capacity.

Parent or carer attitude to the abuse or neglect

This element requires consideration of the parent or carer's beliefs and actions regarding:

- abuse and neglect generally and its effect on the child or young person;
- their understanding of responsibility and any justifications for any abuse or neglect of the child ; and
- the specific abuse or neglect that lead to the current assessment.

Parent or carer relationship with the child or young person

This element requires exploring the relationship the parent has with the child or young person. Issues needing consideration include:

- the degree of parental empathy with the child or young person;
- the capacity and willingness to recognize and respond to the child or young person's needs; and
- how the parent or carer views the child or young person is affectionately, critically.

Parent or carers relationship with each other

This element requires consideration of the nature of the relationship between parents and carers as this provides information about the household dynamics and the day-to-day living experience of the child. Issues to consider include:

- the approaches to parenting and the consequences on the relationship;
- the relationship dynamics; and
- the presence of domestic violence, intimidation or other means of control.

Functioning of the parent or carer

This element refers to how the parent or carer functions as a person, focusing on both strengths and difficulties, and how this may affect their capacity to parent the child or young person.

This may include issues like:

- Substance abuse
- Disability
- Mental health issues e.g. depression, psychiatric illness.

Parenting capacity

This aspect requires consideration of the parent or carer’s capacity to nurture and care for the child or young person. The parenting capacity may or may not be influenced by the parent or carer’s personal functioning, e.g. the capacity to parent may or may not be influenced by substance abuse.

Source of abuse or neglect

CYPS workers need to gather information about three (3) inter-related issues:

1. abuse or neglect behaviour, and
2. severity of the current abuse or neglect, and
3. history and pattern of abuse or neglect.

Opportunity for abuse or neglect

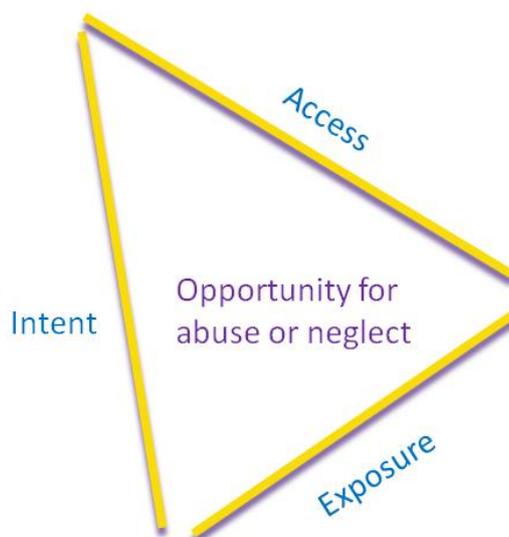


Figure 3 Opportunity for abuse or neglect

There are three (3) identified areas to consider when gathering information about the opportunity for abuse or neglect:

1. access of the person/s associated with causing the abuse or neglect, and
2. the intent of the person/s associated with causing the abuse or neglect, and
3. the child or young person’s exposure to the abuse or neglect.

Access of the person/s associated with causing the abuse or neglect

This element requires the CYPS worker to gather information about the access of the person/s associated with causing the abuse or neglect to the child or young person. Access may take many forms, including direct contact, electronic means, telephone or through other persons.

This element is important to consider carefully as it may influence the immediate safety of the child or young person.

The intent of the person/s associated with causing the abuse or neglect

This element requires careful consideration as many parent/s or carer/s do not intend to abuse or neglect their child/ren but the child or young person still experiences abuse or neglect. Issues to explore include:

- the parent or carer’s attitudes and beliefs about the child or young person
- the parent or carer’s attitudes and beliefs about the abuse or neglect
- the parent or carer’s behaviour, actions or omissions.

The child or young person's exposure to the abuse or neglect

This element requires gathering information about the child or young person's experiences within their broader context. It takes into account factors such as:

- the family dynamic which may be informed by family violence
- the parent or carer's acceptance of behaviour that pose a risk to the child or young person e.g. high levels of substance abuse, violence or criminal activity
- the presence of a protective adult within the family home
- time spent away from the person associated with the abuse or neglect e.g. attendance at school or childcare.

Abuse or neglect behaviour

CYPS workers are to record any information gathered about abuse and neglect. Other important details to gather information about include:

- the details of any actual or believed injury or effect on the child or young person
- abusive or neglectful behaviour or conduct
- any explanations given for the abuse or neglect or injury
- all persons associated with the abuse or neglect, suspected or otherwise:
 - the relationship to or role with the child or young person
 - their name and contact details
 - the method by which the person was identified as associated with the abuse, neglect or risk
 - the person's involvement in the abusive or neglectful behaviour e.g. active involvement or inability to protect the child from the abuse or neglect.

Severity of the current abuse or neglect

This element requires gathering information about how severe the current abuse or neglect or the risk of abuse or neglect is. Factors to consider are the:

- degree of the abuse or neglect (e.g. fractures, severe emotional rejection, sexual penetration etc.)
- frequency of the current abuse or neglect
- persistence of the abuse or neglect over time.

History and pattern of abuse or neglect

CYPS workers should gather information about any history and pattern of abuse and neglect in relation to the:

- child or young person
- parent/s or carer/s.

A thorough search should be conducted to assess the history of abuse and neglect. This may include information from:

- the child, young person and family members
- CHYPS
- other professional service providers
- interstate statutory child protection agencies.

The pattern of abuse or neglect provides important information about whether the abuse or neglect is sporadic, diminishing, constant, chronic, escalating or cumulating.

Supports and services

This element refers to gathering information about:

1. informal supports, and
2. formal supports.

Supports may be separated into two categories: actual and potential. Actual supports are those currently being accessed by the child, young person or their family; potential supports are those that are available but not yet accessed by the family.

An important consideration is how these supports assist the child, young person or their family in relation to abuse, neglect or risk. Supports should build on strengths and promote the capacity to care for the child or young person.

It is essential that information gathering confirms (via inquiry or s862) that supports that are identified as “actual” supports are active.

Example: **If CYPS information indicates Child and Family Centres are involved this must be confirmed by contacting Child and Family Centres to confirm the most recent contact and the frequency of the contact with the family.**

Example: **Previous Child Protection Report indicates a grandmother is a protective factor as she lives with the family full time and is at home each day. Confirmation that the Grandmother still lives with the family and is available to assist must be confirmed.**

Informal Supports

Informal supports are supports linked to the family that will assist them manage the issues identified. This may include extended family, friends and neighbours.

Formal Supports

Formal supports are services, and processes in place (e.g. court orders) that will support the family, e.g. Community agencies, education services

COMPLETING THE APPRAISAL FORM

The Appraisal Form requires that CYPS staff organise their appraisal risk analysis into answers to the following five questions:

- **Does the appraisal lead you to believe that there is an immediate safety concern for the subject child/ren or young people?**

As stated, a child is believed to be **at risk of immediate danger** including where your assessment indicates; the **consequences** of the alleged abuse or neglect for the child or young person are **Extreme**, the **probability** of the alleged abuse or neglect occurring is **Highly likely** and you have assessed the protective factors present in the environment to be **No protection** (not present).

In this circumstance, CYPS staff should immediately consult their Team Leader about the likelihood of taking Emergency Action in order to secure the child’s immediate safety. This will usually occur in partnership with ACT Police. Refer to Emergency Action Procedures.

This determination should be articulated with reference to:

- Source of abuse or neglect
- Access of the person associated with the abuse to the child
- The intent of the person associated with the abuse
- The opportunity for abuse or neglect

- The severity of the current abuse or neglect
- History and pattern of abuse and neglect
- **What is your analysis of the child/young person's exposure to risk, including the opportunity for abuse or neglect?**

Again, this response should include reference to:

- Source of abuse or neglect
- Access of the person associated with the abuse to the child
- The intent of the person associated with the abuse
- The opportunity for abuse or neglect
- The severity of the current abuse or neglect
- History and pattern of abuse and neglect
- **What is your analysis of the parent/s capacity to protect the child/young person from abuse or neglect? (NB. Refer to Family Violence Guide in the case of family violence).**

Analysis of parenting capacity of EACH parent or carer will include information gathered during appraisal in respect of:

- Parent or carer attitude to the abuse or neglect
- Parent or carer relationship with the child or young person
- Parent or carer's relationship with each other
- Functioning of the parent or carer
- Parenting capacity
- **What are the views and wishes of the child or young person?**

The source of this information will primarily be the forensic interview conducted by CYPS with the child or young person, also information gathered in the context of a home visit to observe the child's interaction with each parent or carer.

This section of the Appraisal form asks staff to provide explicit information about:

- The child's views in respect of the alleged abuse or neglect
- The child's attachment to each parent or carer
- How the child feels about any risks in their environment
- What the child would like to see change or improve in their home
- How the child appears to be growing and developing
- Any concerns or fears that the child has articulated during interview
- What (if anything) the child would change about their life
- What (if anything) the child believes their family needs to make life better

- **Were any additional abuse or neglect issues identified during the appraisal process that were not part of the originating concerns?**
 - Where yes, were these concerns in respect of physical or sexual abuse?
 - Where yes, did you form a reasonable belief or suspicion that the child had suffered, was suffering or at significant risk of suffering, physical or sexual abuse?

Due to an appraisal's broad focus on a child's entire risk environment, and **not just a singular event or episode of abuse or neglect**, it is entirely likely that other abuse categories will become relevant to an appraisal process. Where in the course of appraisal, a CYPS worker forms a reasonable belief that a mandated category of abuse (i.e. physical or sexual abuse) has occurred, or is occurring, the CYPA requires that mandatory reporters make a report of this abuse.

In this circumstance, a CYPS staff member will NOT create a new Child Concern Report⁴, instead they will:

- record on the child's Appraisal Form, in the box titled "*List any additional mandated abuse (sexual and/or non-accidental physical) which have been identified during appraisal but were not part of the originating Child Protection Report*", the form of mandated abuse (sexual or non-accidental) they believe is occurring, or has occurred, and the grounds for this belief; and
- immediately provide this information to SACAT.

NB. The Appraisal Form will not be finalised until SACAT has advised what (if anything) they intend to do in response to the new information.

Please note: Where CYPS has formed a reasonable belief that abuse has occurred or is occurring, this means the Appraisal will be **Substantiated** and a **Person Believed Responsible** will be recorded.

⁴ Refer to GSO advice by Cate Allingham, A/g Senior Solicitor, dated 26 October 2018

SUBSTANTIATION

Defining Substantiation

Key statutory threshold decision:

An appraisal process will be substantiated where:

There is reason to believe or suspect that a child or young person has been, is being or is *at risk of*:

- physically abused; and/or
- sexually abused; and/or
- exposure to family violence; and/or
- neglected to the extent that failure to provide the child with a necessity of life has caused or is causing significant harm to the wellbeing or development of the child; and/or
- emotionally* abused (including psychological abuse) if the child has (or is) experiencing the abuse in a way that has caused or is causing significant harm to his or her wellbeing or development.

*When answering 'yes' to the question of past abuse, please be aware that the question does not relate to a previously appraised allegation or 'historic' abuse. It is specific to a **current** allegation of abuse which you are investigating. The abuse act does **not** have to have taken place recently to meet this definition.*

A clear rationale (using the prompts on the Recording and Communicating Decision checklist) for the decision must be recorded.

Where neglect or emotional abuse are substantiated, it is important that the appraising worker can articulate the basis for asserting 'significant harm' to a child's wellbeing or development has taken place. This might include evidence of; a regression in the child's behaviour, trauma-related symptoms which have been observed, and/or advice provided by an involved professional who has a therapeutic relationship with the child.

A matter will also be substantiated where:

- It can be demonstrated that the child is at significant risk of abuse or neglect (as defined by s344); or
- There is serious or persistent conflict between the child and the person(s) with daily care responsibility to the extent that the care arrangements for the child are, or are likely to be, seriously disrupted; or
- The person(s) with daily care responsibility for the child are dead, have abandoned the child or cannot be found after reasonable inquiry; or
- The person(s) with daily care responsibility for the child are sexually or financially exploiting the child or are not willing and able to keep the child from being sexually or financially exploited.

Risk of abuse or neglect:

Remember! You are not substantiating only whether or not an event has taken place, you are required to give consideration to the child's entire risk environment. Section 344 of the Act provides guidance to staff in applying the concept of 'significant risk' through several case examples.

A child is at significant risk of abuse or neglect if their care environment is characterised by the presence of multiple risk factors which have a high probability of having a negative impact on the child. These may relate to the parenting history of a care giver or a pattern of behaviour over time.

For example; where a parent has a history of reuniting with a violent partner despite stating an intention to separate, or a parent has abused/neglected older siblings of the subject child, this information will be a valuable predictor of their reliability as a protective factor and the consistency of their parenting capacity.

Substantiated abuse type

A substantiated abuse type/s identified may, after appraisal and detailed information gathering differ from the alleged abuse type reported on the Child Concern Report (e.g. a Child Concern Report of alleged physical abuse may have an appraisal outcome of substantiated emotional abuse only). Different findings may still be included on the same appraisal outcome report.

NB: Where the substantiated abuse type is physical or sexual and it was not the originating allegation or abuse type, ensure you follow Appraisal Procedures with regard to making a note on the originating Child Concern Report to fulfil your mandatory reporting obligation.

Assessing the need for ongoing involvement:

After answering the substantiation question, staff are asked to record on the Appraisal Form a response to the question of whether the child has a parent who is **both** willing and able to protect them from risk of abuse or neglect. This is asking staff to make a professional assessment about the parent/carer's parenting capacity.

Where the answer to this question is either **No** or **Unknown**, then the appraising worker should recommend ongoing involvement via **Family Preservation** (refer to 'Family Preservation' procedure) aimed at actively reducing risk within a timeframe and/or further assessing the parent/s' willingness and capacity to protect.

Important note:

A decision to continue involvement is not predicated on an outcome of substantiation. A matter may not be substantiated because insufficient information was available to make the decision or there are early signs of risk which do not warrant substantiation.

If CYPS staff do not substantiate but have identified ongoing concerns about the parenting capacity and ability to protect a child they may determine to remain involved to continue Family Preservation action until it is determined any potential risk factors have been addressed/mitigated and appropriate supports are in place.



ONGOING RISK ASSESSMENT

<i>This assessment answers the question:</i>	What must be done to promote safety and reduce the risk of abuse or neglect from occurring, recurring or continuing?
<i>Tools used to inform this assessment</i>	Risk Analysis Guides and Indicators; Practice Tool: Risk Factors Guide; the Assessing Consequences of Abuse or Neglect; Assessing Probability of abuse or neglect; the CYPS Risk Assessment Quadrant; and Ongoing assessment questions will assist with ongoing risk assessment.

Case planning focuses the case management process on strengths as well as the issues that must be acted on to promote safety and to reduce the risk of abuse or neglect occurring, recurring or continuing. Good practice requires that action be taken to engage the family in the processes of assessment, case planning and the review of progress made.

As indicated, the main components of risk assessment are:

1. Information Gathering
2. Analysis (including analysis of existing information)
3. Judgements about consequence and probability

Continued information gathering, analysis judgements and then action occurs where ongoing involvement (Family Preservation work) is required and services are being delivered or coordinated by CYPS. Continued assessment focuses on the systematic reassessment and review of risk and safety factors identified and the effectiveness or outcomes of the case planning processes and interventions.

Risk assessment is an iterative process and in parallel with intervention, safety planning must be continuously revisited and reassessed and adjustments made accordingly.

ATTACHMENTS: RISK ANALYSIS GUIDES AND INDICATORS

Attachment	When to use this information
Attachment 1: Risk Analysis Practice Guide	<p>Use this practice guide to assist you with each phase (stage) of assessment, i.e.</p> <ul style="list-style-type: none"> • Child Concern Report • Child Protection Report • Appraisal Risk Assessment • Ongoing Assessment <p>to reorganise and analyse information gathered.</p>
Attachment 2: Practice Tool: Risk Factors Guide (including Questions)	<p>Use this tool to assist in understanding risk factors and in asking comprehensive assessment questions related to the:</p> <ul style="list-style-type: none"> • Child or Young Person themselves • Source of abuse or neglect • Opportunity for abuse or neglect • Parenting factors • Parent's beliefs about and relationship with child/ren • Supports and services
Attachment 3: Assessing Consequences of Abuse or Neglect	<p>Use this tool to assist in assessing the severity of consequences of abuse or neglect on a child or young person.</p>
Attachment 4: Assessing Probability of Abuse or Neglect	<p>Use this tool to assist in assessing the probability of abuse or neglect of a child or young person occurring.</p>
Attachment 5: CYPS Risk Assessment Quadrant	<p>Use this quadrant to guide your thinking and recording a summary of:</p> <ul style="list-style-type: none"> • Historical Risk • Current Risk • Protective Strengths • Proposed Actions
Attachment 6: Ongoing Assessment Questions	<p>Use this practice guide to assist you in analysing the:</p> <ul style="list-style-type: none"> • Child or young person's age, development and wishes/behaviour; • Parent's or carer's functioning, cooperation and beliefs and relationship with the child. <p>This practice guide also prompts you in what to observe in relation to the:</p> <ul style="list-style-type: none"> • Child or young person themselves • Sources of abuse or neglect • Supports and services

ATTACHMENT 1: RISK ANALYSIS PRACTICE GUIDE

The risk analysis practice guide assists CYPS staff to reorganise and analyze information gathered. As with all guides, it is not a stand-alone assessment guide and any factor identified must be evaluated in terms of safety and risk to the child or young person of concern.

It is made up of the following:

- ▲ Indicators of Vulnerability
- ▲ Strengths and Protective Factors
- ▲ Risk Factors Warning

Indicators of Vulnerability

There are many factors that make a child or young person more vulnerable to abuse and neglect and that may affect their healthy development. The Framework separates them into two categories:

Age and other intrinsic characteristics in the child or young person that may make them more vulnerable. Parent characteristics that may make the child or young person more vulnerable.

The child under twenty four months

Intrinsic characteristics which increase vulnerability

- Total dependency on adults to provide for nourishment and physical and emotional needs.
 - Vulnerability to physical trauma, e.g. shaking injuries.
 - Anxiety when separated from a primary carer.
 - Attachment difficulties to a primary carer when there are multiple carers.
 - Premature birth.
 - Development difficulties, or any form of disability.
 - Difficulty setting into any predictable rhythm or routine.
 - Inconsolable crying.
 - Erratic sleep patterns.
 - Extremely active or passive temperament.
-

Parent characteristics which increase vulnerability

- Belief that the child resembles a hated partner or spouse.
 - Disappointment when expectations are not met, for instance where the child is born the 'wrong sex'.
-

The pre-school age child

Intrinsic characteristics which increase vulnerability

- Taking on a sense of responsibility and personal connection with negative life events, particularly if children are separated from a primary carer at this time. Attributing self-blame will make them more vulnerable to the effects of future separations and may threaten their confidence in their 'secure base'.
 - Challenging authority figures is a part of healthy autonomous behaviour; however this may place children at risk of physical or emotional abuse.
 - Clinging constantly to a carer because of feelings of insecurity and reluctance to explore the environment, may increase a carer's irritation.
-

Parent characteristics which increase vulnerability

- Over or under protective behaviour towards the child, at a development stage when he/she should be safely exploring the environment.
 - A lack of healthy boundaries.
-

The school age child

Intrinsic characteristics which increase vulnerability

- Development delay or learning difficulties, requiring special assistance, especially when starting school.
 - Learning difficulties that impact on a child's social and emotional development.
 - Undiagnosed learning difficulties.
 - Aggression and/or other persistent behaviour problems.
 - Being identifiably different from the dominant culture for example, racial or religious background.
 - Passive and unresponsive in their interactions, and not seeking adult support for emotional needs to be met i.e. is passive and unresponsive and does not enlist adult support.
-

Parent characteristics which increase vulnerability

- Isolating the child as part of a closed family system.
 - Treating the child differently to other siblings in the family.
 - Scapegoating and responding negatively to a child, particularly where other siblings are more clearly valued.
-

The adolescent

Intrinsic characteristics which increase vulnerability

- Poor planning or problem-solving skills, which may result in an inability to protect themselves or ask for adult support in a healthy manner.
 - Established behaviour problems that have not been addressed and/or patterns of disturbed behaviour, especially conduct disorder in boys. They have usually encountered difficulties in nursery settings as well as in primary and secondary school as their behaviour sets them apart from their peers. They are more likely to:
 - Have poor self-esteem, self-efficacy and trouble in making and keeping friends.
 - Find it hard to develop a pattern of learning.
 - Be at risk of disrupted schooling or early school-leaving with the resulting loss of resilience, needed in later adolescence and in the transition to adulthood.
 - Be part of an under-achieving or anti-authority group with limited choice of other peers.
-

Parent characteristics which increase vulnerability

- Blaming or scapegoating the adolescent for family problems, leading to a sense of helplessness about being able to affect any improvement in their circumstances.
 - Giving responsibilities to an adolescent beyond their age and capacities.
 - Lack of support for developing independence.
 - Lack of support for questions and confusions about sexual development, identity or orientation.
 - Lack of emotional support at a stage of development when a 'secure base' is needed.
 - Lack of stable community connections leading to the adolescent being frequently separated from significant people such as attachment figures, peer connections and school supports, without the support to address or negotiate these changes.
-

Strengths and Protective Factors

The Strengths and Protective Factors guide is included to assist CYPS workers to differentiate between strengths and protective factors.

- **Protective factors** are defined as ‘action that can be demonstrated to keep the child or young person safe’. Protective factors can be time limited.
- **Strengths** are defined as positive attributes in relationships, skills and personality. Within the abuse or neglect analysis these attributes are considered as they act to support, enhance or develop capacity, motivation or competence to protect and care for children and young people.

Strengths

The family has:

- Love and affection for each other.
- An ability to talk through issues.
- An ability to find solutions.
- An ability to make plans and carry them out.
- A place to call ‘home’.
- A feeling of safety, stability and security.
- Reasonable expectations of each other.
- Friends and other community connections.
- Spiritual beliefs that enhance wellbeing.

The parent or carer has:

- Demonstrated appropriate parental concern.
 - High empathy with child or young person.
 - Good impulse control.
 - Reasonable understanding of physical, emotional, cognitive and social development needs of child or young person.
 - Expressed and displayed affection for child or young person.
 - Not engaged in violence with other parent or carer.
 - Not used physical discipline, or where used it is age appropriate and proportionate to the misbehaviour.
 - Regular care routine for babies and children.
 - Inter-generational functional families.
 - Supportive extended family and friends.
 - No long-term poverty.
 - View that involvement of welfare services is an opportunity not failure.
 - Demonstrated commitment to using formal and informal support services.
 - No alcohol or other drug problems.
-

The child has:

- Some success or achievement at school.
- Some success or achievement at sport.
- Some success or achievement in cultural activities.
- Confident and outgoing personality.
- Appropriate boundaries.
- Range of friends or one good friend.
- Help-seeking behaviour.
- Affectionate ties and spends time with a supportive adult ally or other family group.
- Rationalized hazardous use of alcohol or other drugs as an 'illness', which enables the child to understand and cope with parent's behaviours more easily.

The adolescent has:

- All strengths, as for child.
- Functional literacy.
- Regular day activity: school, training or employment.
- No imminent risk of homelessness.
- Some knowledge of social support system.
- Sense of purpose in the world.
- Ability to articulate a realistic safety plan.
- Pride in cultural heritage.
- Realistic plan for future and works towards goals.

Protective Factors

The unborn child has:

- Regular ante-natal care.
- Adequate nutrition, income support and housing for the expectant mother.
- The avoidance of viruses, unnecessary medication, smoking and severe stress, in the expectant mother.
- Support for the expectant mother of at least one caring adult.
- Safe, supportive residence for expectant mothers at risk from violence and the threat of violence.

The child under 2 has:

- The presence of an alternative or supplementary caring adult who can respond to the developmental needs of babies.
- Sufficient income support and good physical standards in the home.
- Regular supportive help from health and community services, including regular day care.
- A safe and supportive residence for mothers at risk from violence and threats of violence.

The child or adolescent has:

- Sufficient income support and good physical standards in the home.
 - Regular supportive help to the family from primary health care team and social services, including consistent day care, respite care, accommodation and family assistance.
 - Regular attendance at school, training, employment or other day programme.
 - A safe and supportive residence for mothers at risk from violence and the threat of violence.
 - An alternative safe and supportive residence for the child or young person.
 - The presence of an alternative, consistent and caring adult who can respond to the cognitive and emotional needs of the child or young person.
 - Belonging to organized out-of-school activities, i.e. sports clubs, craft groups.
-

Risk Factor Warning List

The Risk Factor Warning List is included to signal caution to the CYPS worker. It suggests that combinations of these factors are commonly associated with heightened risk to children or young people.

Factors are only meaningful for a particular family when it can be demonstrated that it affects the safety of the child or young person.

<i>Prior child protection history</i>	<ul style="list-style-type: none">• Prior substantiated or confirmed reports of abuse or neglect.• Escalating concern/pattern of contact with child protection service.
<i>Child</i>	Child under 2 years <ul style="list-style-type: none">• Any evidence of physical abuse/shaking.• Premature, disabled, chronically ill child.• Difficulty feeding, sleeping, cries a lot.• Born underweight or drug dependent.
<i>Adolescent</i>	<ul style="list-style-type: none">• No effective guardian.• Sexually offending behaviour.• No accidental physical injury/ Self harm.• Mental health issues.• Excessive? Drug and Alcohol use.
<i>Any child or young person in the home has:</i>	<ul style="list-style-type: none">• A developmental or other disability.• History of self-harm and/or suicide ideation (thought or attempt).• Offending behaviour.• Violent behaviour.• Mental health issue.• Hazardous use of alcohol or other drugs.• Recent significant behaviour change.• History of multiple separations/no stable placement.• No stable day program (education/employment/other).
<i>Parent or carer:</i>	<ul style="list-style-type: none">• Parenting skills.• Use of excessive or inappropriate discipline.• Domineering, i.e. high criticism/low warmth family type.• Unmotivated or unrealistic re: improving parenting skills.• Under 20 years at birth of first child.• Parent or carer abused as a child.• Parent or carer is not biological parent.• Parent or carer has intellectual disability.• Family is socially isolated or severely fragmented.
<i>Response to investigation/incident</i>	<ul style="list-style-type: none">• Viewed less seriously than professionals.• Blames child or young person for the abuse.• Uncooperative with professionals.

History of violent relationships

- Has physically abused a child or young person (past or present).
 - Perpetrator of domestic violence.
 - Victim of domestic violence.
 - Other violence.
 - Death of a child or young person due to abuse or neglect.
 - Unexplained death of a child or young person.
-

Hazardous use of alcohol or other drugs

- Alcohol.
 - Other psychoactive drugs (licit or illicit).
 - Has recently spent time in a detoxification/rehabilitation program or is otherwise in early stage of treatment.
-

Mental health issues

- Psychiatric illness.
 - Self-esteem issues.
 - Apathetic or depressed.
 - Beliefs about the child or young person.
 - Is predominately negative towards the child or young person in speech and actions.
 - Unrealistic expectations of the child or young person.
-

History of perpetrating sexual assault

- Of children or young persons.
- Of adults.

ATTACHMENT 2: PRACTICE TOOL - RISK FACTORS GUIDE (INCLUDING QUESTIONS)

Information Category

Child and Young Person

- Age
- Development
- Functioning

<i>Risk Factors</i>	<i>Comprehensive Assessment Questions</i>
<p>Under 2 years</p> <ul style="list-style-type: none"> • New born or infant • Evidence of physical abuse or shaking • Premature or underweight at birth • Born drug dependent • Currently underweight • Feeding/sleeping difficulties • Prolonged and frequent crying • Special significance or meaning to mother • Seen as problematic or over demanding by a parent • Not the birth child of one of the carers <p>Older children</p> <ul style="list-style-type: none"> • Previously abused or neglected • Impact of cumulative harm • Under five years when first abused or neglected • Developmental or other disability • Chronically ill child • History of multiple separations/placements • Previously removed • No stable day-care programme <p>Adolescents</p> <ul style="list-style-type: none"> • No regular or stable day programme (education, training, employment) • From recent refugee groups • No effective guardian/homeless • Mental health issues • Recent, significant behavioural change • Violent behaviour • Offending behaviour • Sexual offending • Unsafe or age-inappropriate sexual activity, including prostitution • Substance abuse problems • History of self harm/suicide (talk or attempt) • Lengthy involvement with Family Services 	<p>The Child's Age and Development</p> <ul style="list-style-type: none"> • Whether the child was premature, has a birth defect, chronic illness or developmental delay? • Was the child born drug dependent? • Does the child cry frequently or is difficult to comfort? • Does the child have difficulty feeding, toileting or a difficult temperament? • Has the child reached their development milestones? • Are there any concerns regarding the child/young person's psychological health? • Are there family life-cycle issues: adolescence/divorce/death/unemployment? • Is there any evidence of acting-out behaviour: running away, risk-taking and rule breaking? <p>The Child's Wishes/Behaviour</p> <ul style="list-style-type: none"> • What are the child's wishes in regard to the situation? • Are the child's wishes important to the parent/carers? • Can the child articulate a personal protection plan? • Does the child's wishes place them at greater risk? • How do you assess the child's non-verbal behaviour?

Information Category**Source of abuse or neglect**

- Abuse or neglect causing behaviour
- Severity
- History and Pattern

Risk Factors	Comprehensive Assessment Questions
<ul style="list-style-type: none"> • Pattern of escalating abuse or neglect • Any prior incident of maltreatment <p>Under 2 year old</p> <ul style="list-style-type: none"> • All indicators of physical abuse • Any evidence of shaking <p>Adolescents</p> <ul style="list-style-type: none"> • Frequent instances of challenging behaviour at home, in placement, at school • Substance abuse, suicidal tendencies, aggression, running away or chronic, continual absences without permission • Prostitution, association with sex offenders, inappropriate/dangerous sexual relationships • Presence of diagnosed psychiatric disorder or major psychological disorder • Pattern of consistent, escalating offending • Withdrawn/aggressive as a result of abuse or neglect 	<p>Severity and Recency of Event or Neglect</p> <ul style="list-style-type: none"> • Did the abuse result in physical injury to the child/ran? • Was medical help sought in a timely way? • Have there been previous incidents or allegations of abuse or neglect? <p>Previous Contact with Services regarding Abuse or Neglect</p> <ul style="list-style-type: none"> • Are there prior reports? • How many? • What was the nature of these contacts? • What was the outcome? • Viewed together does the picture change? <p>High Risk Adolescents</p> <ul style="list-style-type: none"> • Does the young person have a history of abuse and/or neglect? • Is there evidence of substance abuse? • Is there evidence of violent behaviour? • Is the young person within the education system/work? • Is the young person involved in offending behaviour? • Has the young person talked of/attempted suicide? • Has the young person been diagnosed with a mental illness? • Does the young person have stable accommodation? • Has the young person's behaviour changed significantly recently? • Is the young person placing themselves at risk in their choice of living environment? • Is the young person involved with known/suspected sex offenders?

Information Category

Opportunity for abuse or neglect

- Further access of alleged perpetrator
- Exposure to harm

Risk Factors	Comprehensive Assessment Questions
<ul style="list-style-type: none">• Alleged perpetrator has access to the child• Imminent exposure to abuse or neglect• Alleged perpetrator currently out of control• Alleged perpetrator has history of being out of control• Alleged perpetrator has been investigated/charged/convicted of violent behaviour• Alleged perpetrator is denying/minimizing/otherwise not taking responsibility for abuse or neglect• Constant or escalating exposure of child or young person to inadequate protection or care in the family home• No protective adult present• Non-abusive carer also a victim of alleged perpetrator’s violence• Young person not self protecting	<p>Further Access of Alleged Perpetrator</p> <ul style="list-style-type: none">• Is the alleged perpetrator the primary carer for the child/ren?• Does the alleged perpetrator accept responsibility for their role in the abuse?• How do they demonstrate this?• Is the primary carer (if not the alleged perpetrator) able to accept their parental responsibility towards the child/ren?• Are there alternative carers within the family systems?• Has the alleged perpetrator ever been investigated/charged/convicted of violent behaviour?• What is the relationship between the alleged perpetrator and the child/ren like? <p>Intent of the Alleged Perpetrator</p> <ul style="list-style-type: none">• How does the perpetrator view their role in the abusive episode/s?• Who does the perpetrator view as the victim?• Is the alleged perpetrator’s view of the child’s abilities consistent with their developmental stage?• Does the alleged perpetrator have alternative strategies for dealing with stressful situations?• Is there evidence of current alcohol/drug abuse or a history of alcohol/drug abuse?• Are there indicators of psychological or mental health issues?• Are there cultural or religious factors? <p>Exposure to abuse, neglect or harm</p> <ul style="list-style-type: none">• Are there frequent reports of exposure to environmental neglect/substance abuse/violence or other factors which impact upon parenting capacity?• Is the child or young person constantly criticised, scapegoated or verbally abused by the primary carer?• Is the child or young person engaging in self harming or risk taking behaviours?• Is the child or young person’s peer or social groups engaged in risk taking or other dangerous behaviours?

Information Category**Parenting Factors**

- Functioning and parenting capacity

Risk Factors	Comprehensive Assessment Questions
<ul style="list-style-type: none"> • Carer/s under 20 years at birth of first child • Carer/s under 20 years now • Prior abuse or neglect of child/ren • Other children removed from carer/s care • Pregnancy/birth complications • Carer/s has current/past substance abuse • Carer/s has history of childhood abuse/neglect/state care • Carer has current mental health issues • Carer has history of mental health issues, including post-partum depression, depression, suicide attempts • Carer has intellectual disability • Carer not biological parent • Carer is or has been a victim of domestic violence • Carer is a perpetrator of domestic violence • Carer has poor health • Carer/s homeless or transient • Carer/s has history of unstable relationships • Carer/s experiencing financial difficulties • There is evidence of poor impulse control, low tolerance thresholds or anger management difficulties • Carer/s unmotivated or unrealistic about improving their parenting skills 	<p>Functioning of Carer/s</p> <ul style="list-style-type: none"> • Can a primary carer be identified? • Is there a physical/ emotional/intellectual/ psychiatric disability impacting on their ability to meet the child’s basic needs? • Is there evidence of current alcohol/drug abuse or a history of alcohol/drug abuse? • Does the carer demonstrate an inability to control their impulses or anger? • What does the carer do when they get angry at the child/ren? • Does the carer have difficulty controlling their temper? • Is there any evidence that the carer is a victim of violence: physical, emotional or sexual? • Are there current family stressors: relationship, accommodation, financial, medical? • Who does the carer view as the victim? • What is the carer’s view of their relationship with their partner? • Are there cultural or religious factors? • How does the carer discipline the child/ren? • Have other children been subject of protective intervention/removed/died in their care? • Are the carer/s biologically linked to the child? • Are the parent/s less than 20 years old? • Does either carer have a history of institutional care, abuse or neglect as a child?

Information Category

Parent’s beliefs about and relationship with child/ren

- Beliefs/attitudes to abuse / neglect, help and to child
- Relationship to child

Risk Factors	Comprehensive Assessment Questions
<ul style="list-style-type: none">• High criticism and low warmth to one or all children• Poor or absent capacity in caring for baby or young children• Carer/s unable to recognize or prioritise child’s needs• Carer/s use excessive or inappropriate discipline• Carer/s describe or act towards child or young person negatively• Carer/s have unrealistic or punitive beliefs and expectations about the child or young person• Carer/s view alleged abuse or neglect less seriously than reporter• Carer/s unwilling to accept assistance with parenting responsibilities• Carer/s have responded negatively or are resistant to offers of support	<p>Cooperation of the Primary Carer</p> <ul style="list-style-type: none">• Is the explanation of the injuries/behaviour/ observations consistent with the facts?• How have the carer/s demonstrated their openness to consider alternative ways of dealing with difficulties they are facing?• Are they willing or capable of accepting services/support?• How dependent is the carer on the perpetrator? Emotionally/physically/financially? <p>Beliefs about and Relationship with child</p> <ul style="list-style-type: none">• What meaning does the child have for the carer/s? Is there evidence of scape-goating?• Has positive interaction been observed? Is the environment child-friendly?• Does the child display aggressive behaviours towards the carer/s?• Is the carer’s view of the child’s ability consistent with their developmental stage?• Does the carer expect the child to provide them with emotional support?• How do the carer/s and the child describe their relationship?• Does the investigation place the child at further risk from the perpetrator?• Did the child have a prolonged separation from the carers?

Information Category**Supports and Services**

- Informal Network
- Formal services
- Alternate carers; other members of household; significant others

Risk Factors	Comprehensive Assessment Questions
<ul style="list-style-type: none"> • Family is socially isolated • Family is severely fragmented • Family has history of extensive welfare involvement • Family has no significant extended family network • Family's networks do not contribute to the care of the child/ren e.g. family's networks participate in risk causing sub-culture (i.e. hazardous drug using culture) • Carer/s have ineffective or limited ability to sustain relationships • Family experiencing poverty/material crisis • Family moves frequently or are homeless • Child or young person has no or limited social or extended family network • Child or young person estranged from carer/s and very limited contact • Carer/s not emotionally or physically available to child or young person • Family unaware of or resistant to professional support • Cultural/religious issues prevents family from accessing professional resources 	<p>Social Isolation</p> <ul style="list-style-type: none"> • Does the family have formal or informal support systems? • Are the support systems enacted? • What does the family do for fun? • What is a typical day like for the family? • With whom do they spend most of their time? • Are the carers isolated or supported? <p>Formal Networks</p> <ul style="list-style-type: none"> • What is the history of professional involvement with this family? • What response did the family have to professional involvement? • How successful was the professional network in the past in addressing issues/supporting the family? <p>Informal Networks</p> <ul style="list-style-type: none"> • How supportive of the carer is the extended family? • Does the extended family have involvement in the child/ren's life? • What role does the social/informal network have for the carer? • Is the informal network supportive of the carer's parenting responsibilities? <p>Alternate Carers/Household Members/ Significant Others</p> <ul style="list-style-type: none"> • Are there other adults in the household or network with carer-type responsibilities for the child or young person? • What is the nature of the child-alternate carer relationship? • Is the alternate carer protective of the child or young person? • What is the nature of the biological parent-alternate carer relationship? • How do they manage any real or potential conflict?

ATTACHMENT 3: ASSESSING CONSEQUENCES OF ABUSE OR NEGLECT

Abuse or neglect is extreme	Abuse or neglect is serious	Abuse or neglect is concerning
<i>Impact on child/young person is extreme, enduring or deteriorating and likely to result in permanent consequences</i>	<i>Impact on child/young person is observable, ongoing and/or intrusive to functioning and health</i>	<i>Impact on child/young person is immediate, isolated and not persisting</i>
<ul style="list-style-type: none"> • Extensive or life threatening injuries • Head injuries or multiple injuries • Other injury or physical condition requiring medical intervention (e.g. pregnancy, STD) • Any injury or shaking of an infant, particularly non-ambulatory infant • Abandonment • Developmental delay as a result of abuse or neglect • Extreme lack of food or fluids • Failure to thrive • Inadequate or no supervision for stage of child's development • Ongoing caregiver omissions re basic care or medical attention • Extreme lack of attachment or detachment • Suicide ideation, threats or attempts • Dangerous self-harm/risk taking • Hazardous use of alcohol or other drugs • Repeated sexual harm • Sexual penetration • Experiences of trauma / panic / terror • Enduring, severe or permanent psychological impairment or condition • Extreme humiliation/rejection 	<ul style="list-style-type: none"> • Observable injury or condition e.g. welt, bruise, strap-mark, eating disorder • Conduct disorder, soiling, school refusal • Sexual harm/exposure including lower tariff sexual offences • Deterioration in cognition / attention • Continuous inadequate provision of food / fluids • Underweight • Inadequate supervision for stage of development • Inadequate provision of basic care or medical attention • Fearful/anxious child • Lengthy / continuous absconding • Repeated exposure to / or potential for physical harm from family violence • Scape-goated / threatened with violence • Ambivalent / inconsistent / inadequate attachment or caring relationships • Altered or negative impact to self-esteem / self-confidence / peer relationships 	<ul style="list-style-type: none"> • No injury • Minor injury not requiring medical intervention (slap mark on lower body) • Inappropriate/minimal sexual exposure / activity / material • Isolated / minor / chronic low-level basic care, stimulation or supervision • Occasional and / or minor hazardous use of alcohol or other drugs • Emotional or psychological harm limited to timeframe of incident • No effective guardian – some self-sufficiency • Tense / conflictual relationships • Apprehensive or fretful interactions • Limited truanting • Non-dangerous acting out/attention seeking • Minor alterations in affect / mood / behaviour / confidence

ATTACHMENT 4: ASSESSING PROBABILITY OF ABUSE OR NEGLECT

Probability is highly likely

At least one of the following is present at a high level or a number are present at moderate levels:

Probability is likely

As for highly likely but at moderate levels:

Probability is unlikely

Multiplés of the following indicators are present:

- Presence of immediate significant abuse or neglect
- Pattern of escalating abuse or neglect
- Child highly vulnerable: (age / opportunity for abuse or neglect / unable or unwilling to protect self)
- Beliefs: poor view of child/lack of acknowledgement
- Aspect/s of carer / young person behaviour which negatively impacts on the provision of sufficient protection or care
- Lack of capacity, willingness or pattern of engaging with supports or services

OR

- Protective factors present but untested or insufficiently tested
 - No pattern of escalating abuse or neglect causing behaviour
 - Lack of vulnerability: age / presence of protective adult able and willing to protect child and self
 - Beliefs: good view of child / acknowledging of problem
 - Family strengths and resources demonstrated as protection
 - Capable and willing to engage with services
 - Pattern of approaching or engaging with supports / services
-

ATTACHMENT 5: CYPS RISK ASSESSMENT QUADRANT

Family: _____ Date: _____

Historical Risk	Current Risk
Protective Strengths	Proposed Actions

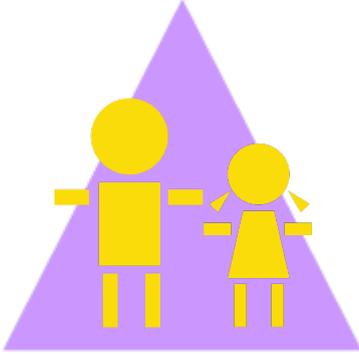
ATTACHMENT 6: ONGOING ASSESSMENT QUESTIONS

The child or young person

<p>The child or young person's age and development:</p> <ul style="list-style-type: none"> • Were they born premature or with a birth defect or chronic illness? • Are they the youngest or only child? • Were they born drug dependant? • Have they reached their developmental milestones? • Is there any developmental delay? • Do they cry frequently or are they difficult to comfort? • Do they have difficulty feeding or toileting? • Is there any concern regarding physical or psychological health? • Are there family life-cycle issues such as adolescence, relationship breakdown, death, other grief issues or unemployment? • Is there evidence of acting-out behaviour, running away, risk taking and rule breaking? 	<p>The child or young person's wishes/behaviour:</p> <ul style="list-style-type: none"> • What are their wishes in regard to the situation? • Can they articulate a personal protection plan? • Do these wishes place them at greater risk? • Are the child's wishes important to the parent or carer?
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The parent or carer

<p>Functioning of parent or carer</p> <ul style="list-style-type: none"> • Have their other children been subject to protective orders, been removed or died? • Who do they think is the victim? • Do they have a history of institutional care, abuse or neglect as a child? • Is there a physical, emotional, or intellectual disability impacting on their ability to meet the child or young person's basic needs? • Is mental illness impacting on their ability to meet the child or young person's basic needs? • Is there evidence of current or past hazardous use of alcohol or other drugs? • What do they do when they get angry with the child or young person? • Are they unable to control their angry impulses? • Do they have a history of criminal activity? • How do they discipline the child or young person? • What is their view of their relationship with their partner? • Is there evidence that they are a victim of physical, emotional or sexual violence, by acting submissively, fearfully or constantly deferring to their partner? 	<p>Cooperation of the parent or carer</p> <ul style="list-style-type: none"> • Is the explanation of the injuries/behaviour/observations with the known facts? • How have they demonstrated their openness to consider alternative ways of dealing with the difficulties they are facing? Are they accepting of services/support? • How dependent are they on the person associated with causing abuse and neglect i.e. emotionally, physically, financially? • How frightened are they of the person associated with causing abuse and neglect?
--	---

<ul style="list-style-type: none"> • Are there current family stressors, such as relationship, housing, financial or medical? • Do they believe that the child or young person has a difficult temperament? • Are there cultural or religious factors? • Are they biologically linked to the child? • Are they less than 20 years old? 	
<p>Parent or carer's beliefs about and relationship with child</p> <ul style="list-style-type: none"> • What meaning does the child or young person have for them? Is there evidence of scapegoating? • How do they interact with the child or young person? • Does the child display aggressive behaviours towards them? • Is their view of the child or young person's ability consistent with their developmental stage? • Do they expect the child or young person to provide them with emotional support? • How do they describe their relationship with the child or young person? • Does the assessment or investigation place the child or young person at further risk from the person associated with causing abuse and neglect? • Have they had a prolonged separation from the child or young person? 	

ATTACHMENT 7: SUGGESTED AREAS OF OBSERVATION

Child or young person - Observe the following:

Child under twenty four months

- Interactions with parent or carer. Is there eye contact, does the parent or carer respond to baby i.e. speak, soothe, nurse etc.?
- Physical condition: weight, colour, signs of injury or other physical problem, such as serious nappy rash.
- If developmental milestones have been met.
- If appropriately dressed for the environment.
- Whether physical injuries are consistent with the explanation of abuse and neglect.
- Sibling interaction with baby.

Child

- Interaction with parents or carers.
- If developmental milestones have been met.
- Temperament.
- Emotional stage e.g. anxious, frightened, relaxed, withdrawn.
- Non-verbal behaviour.
- If physical needs appear to be met, such as being fed, washed and appropriately clothed for conditions.
- Whether physical injuries are consistent with the explanation of abuse and neglect.

Adolescent

- Material living conditions.
- How they present.
- Interaction with parents or carers or significant others.
- Whether they appear to be affected or intoxicated by any substance.
- Whether they are evasive, hostile, withdrawn, anxious, depressed or fearful.
- Any signs of self harming behaviour such as self-mutilating or eating disorders.

High risk adolescents

- Has there been any recent, significant change in behaviour?
 - Do they have a history of abuse and/or neglect?
 - Is there evidence of hazardous use of alcohol or drugs?
 - Is there evidence of violent behaviour?
 - Are they pregnant?
 - Do they spend time at school, work or training?
 - Are they involved in offending behaviour?
 - Is there suicide ideation, threats or attempts?
 - Have they been diagnosed with a mental illness?
 - Do they have stable, affordable accommodation?
 - Are they placing themselves at risk in their choice of living environment?
 - Are they involved with sex work or known/suspected sex offenders?
-

ATTACHMENT 8: SOURCE OF ABUSE AND NEGLECT

Severity and recency of incident

- Did the abuse result in physical injury to the children?
 - Was medical help sought in a timely way?
 - Have there been previous incidents or allegations of abuse or neglect?
-

Previous contact with services regarding abuse or neglect

- Are there any prior reports or record of contact?
 - How many?
 - What was the nature of these contacts?
 - What was the outcome?
 - Viewed together, does the risk of abuse and neglect change?
-

Opportunity for abuse and neglect

Further access to the child or young person by the person associated with causing abuse and neglect

- Is the person associated with causing abuse and neglect the primary carer for the child or young person?
 - Is the primary carer (if not the person associated with causing abuse and neglect) able to accept their parental responsibility towards the child or young person?
 - Are there alternative carers within the family system?
 - Has the person causing abuse and neglect ever been investigated, charged or convicted for violent behaviour?
 - Describe the relationship between the person causing abuse and neglect and the child or young person.
-

Intent of person associated with causing abuse and neglect

- How do they view their role in the abusive episodes?
 - Who do they view as the victim?
 - Do they have a realistic view of the child or young person's abilities with regard to their developmental stage?
 - Do they accept responsibility for their role in the abuse? How do they demonstrate this?
 - Do they have alternative strategies for dealing with situations?
 - Is there evidence of current or past hazardous use of alcohol or other drugs?
 - Are there indicators of mental health issues or intellectual disability?
 - Are there cultural or religious factors?
-

Child or young person's exposure to abuse and neglect

- Are they frequently reported as being exposed to environmental neglect, hazardous use of alcohol or other drugs, violence, or other factors which impact the or carers parenting capacity?
 - Are they constantly criticized, scapegoated or verbally abused by a parent or carer?
 - Are they engaging in self-harming or risk taking behaviours?
 - Are their peers or social groups engaged in risk taking or other dangerous behaviours?
-

ATTACHMENT 9: SUPPORTS AND SERVICES

Social isolation

- Does the family have formal (agencies) or informal (kin and friends) support system?
- Are the support systems enacted?
- Does the child or young person have any allies in the system?
- What is a typical day like for the family?
- With whom does the child or young person spend most of their time?
- Are the parents or carers isolated or supported?

Formal networks

Factors relating to the functioning and coordination of the professional network (refer risk factors).

Informal networks

Factors and dynamics relating to the extended family, kin group, friendships and community network.

Other carers, household members, significant others

- Is the child or young person in out-of-home care? If so, assess relationship with carer and risk of safety issues in that household as per Parent category.
- Are there other adults in the household or network with carer type responsibilities for the child or young person?



REFERENCES AND INDICES

WHERE TO FIND MORE INFORMATION

- Knowledge Portal - <https://actgovernment.sharepoint.com/sites/Intranet-CSD/CYPS/Pages/Front-Page.aspx>

REFERENCES

- **Child Protection**, Victorian Government Department of Human Services, Melbourne Victoria Dec 2009, Leading Practice, A resource guide for Child Protection frontline and middle managers. <http://www.cpmanual.vic.gov.au/sites/default/files/Leading-practice-resource-guide-for-child-protection-leaders-3130.pdf>
- **Practice guide: The assessment of harm and risk of harm** – Queensland Dept of Safety January 2015
- Bromfield, L.; Gillingham, P. and Higgins, D.J. (2007) ‘Cumulative harm and chronic child maltreatment.’ Developing Practice, 19, 34-42. Queensland Paper
- Bromfield, L. M., & Higgins, D.J. (2005). **Chronic and isolated maltreatment in a child protection sample**, *Family Matters*, 70 (38-45).
- Manitoba: **Risk Estimation System**; Victorian Department of Health Services: *Victorian Risk Framework*; NSW Department of Community Services: **NSW Risk Assessment Framework**; South Australia Department of Family and Community Services: **Child Protection – a new approach**; Michigan Department of Social Services: **Child Protection Structured Decision Making System**

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May 2019 VERSION



Care and Protection Appraisal and your agreement

This information sheet is for parents and carers who are involved with Child and Youth Protection Services (CYPS). It provides an outline of the appraisal process, including parent/s rights.

What is a Care and Protection Appraisal?

A Care and Protection Appraisal is an assessment done by CYPS case managers to assess the safety and wellbeing of a child or young person following a report of suspected abuse or neglect. Sometimes it is called an 'investigation'. The decision to undertake an Appraisal means that CYPS needs to know more about your family's situation and how this has been (or might be) affecting the safety and wellbeing of your child. CYPS case managers can ask anyone for information about a child or young person's welfare under s862 of the *Children and Young People Act 2008*.

What happens in an Appraisal?

In undertaking an Appraisal, CYPS case managers will be visiting your family to talk about concerns. When visiting, workers will:

- formally identify themselves
- explain why they are visiting and ask for your agreement to an Appraisal
- let parents (or whoever has parental responsibility for a child or young person) know what their rights are and what may happen after the Appraisal
- talk about the concerns that have been raised (workers are not allowed to say who has reported the concerns)
- make a record of the visit and what was discussed (a family can ask to read this or obtain a copy).

Workers are likely to need to talk separately to the child or young person involved. They may also talk to other people who are in a child or young person's life, for example, a teacher, doctor, carer or other family members. Sometimes they may ask that a parent or a child or young person also see a doctor or other professional for assessment.

If there are real concerns that a child or young person might be at immediate risk of harm, or it is believed that a criminal offence may have been committed, the police may also be involved.

Do you have to agree to an Appraisal?

No, you do not have to agree to an Appraisal, however many parents/carers realise that by talking to the CYPS case manager most concerns can be resolved quickly. If you do not agree to an Appraisal and there are serious concerns for your child, CYPS can make an application to the ACT Childrens Court for a Care and Protection Appraisal Order. If the Court agrees that an Appraisal is necessary, the Court will make an Order so that CYPS can undertake the Appraisal without your agreement.

1 of 2



What are your rights?

A parent (or person with parental responsibility for a child or young person) has a right to:

- be treated with respect
- know what CYPS is concerned about in relation to your child
- have and provide information
- have support
- be listened to about your child and what you need to make things better
- participate in planning for your child’s safety and wellbeing and to comment on what is happening for them.

What happens after the Appraisal

After making further assessments based on gathering information and talking with a family and others in a child or young person’s life, CYPS case managers will make a decision about what needs to happen next. The case manager will keep you informed about the appraisal process and any further action.

Further action might include:

- a decision that a child or young person’s safety and wellbeing is not in question and the case is closed
- a decision that while CYPS workers don’t need to be involved, a family might need support to manage or resolve identified issues before they escalate. This could include referral to community services for drug or alcohol misuse, mental illness, counselling or parenting skills or connecting a family with a family support worker
- a decision that a child or young person is at risk of abuse or neglect and that CYPS need to remain involved with the family. This will usually be through a Child Protection Assessment
- a decision that a child or young person is in immediate need of care and protection, or likely to be if no action is taken. In this case, CYPS workers will take Emergency Action.

This action would only be taken when a person with parental responsibility will not or cannot consent to working in a voluntary way to address concerns for a child or young person.

Contact information

Name of CYPS case manager _____ Telephone: _____

Email: _____



Family Assessment Information

This information sheet is for parents and their families who are working with Child and Youth Protection Services (CYPS) in undertaking a Family Assessment as part of Child Protection work. It sets out the reasons for an assessment, the process and the rights of parents.

When CYPS becomes involved with a family because of concerns that have been raised, staff will do different types of assessments to decide if a child or young person's safety and wellbeing are at risk. A Family Assessment is one of these assessments.

In undertaking a Family Assessment, the CYPS case manager will need to collect information about you, your child, other family members and different aspects of your family's life. This kind of information is needed to help understand:

- whether your child is safe
- the child's physical, emotional and psychological safety
- how the needs of your child are being met (for example do they have adequate food and clothing, are they supervised, are they going to school)
- if there are needs that aren't being met and the reasons for this
- what supports and assistance are needed for you, your child or your family.

How are parents involved in the assessment?

Parents will always be asked to agree to an assessment they are asked to participate in. CYPS considers that the child or young person, parents and other family members know the most about what is happening in their lives (e.g. what is, and is not going well and what can help the situation to improve). Most parents realise that by talking to the case manager, the assessment is more likely to be an accurate reflection of the family's situation and will include the things that are very important to the family.

CYPS are required to make sure you understand the purpose of the assessment and what will be involved in any assessment they ask you to participate in. Part of the assessment may involve parents being supported to make changes to the current situation at home to improve your child's safety and wellbeing.

What if the parent/s don't agree to participate in an assessment?

Parents do not have to agree to participate. If this happens, CYPS can make decisions based on the information it already has or can get from other agencies. If parents refuse to participate and CYPS already has an application for a Care and Protection order underway with the Children's Court, CYPS may also apply for an Assessment Order. In this case, CYPS will have a legal requirement to do the assessment and the child, parents and other family members may be required by law to participate.

How long does an assessment take?

Generally, CYPS will try to complete the assessment within eight (8) weeks. There may be times when the assessment has to be done in a shorter timeframe to assist with the decisions that need to be made.





What information will CYPS use in the assessment?

CYPS will want to talk separately to the child or young person involved and their parents, carers and family members. They may also talk to other people who are in a child or young person's life (such as a teacher or doctor). Sometimes they may ask that a parent or a child or young person also see a doctor or other professional for a health or other type of professional assessment.

CYPS will also look at information that is already available in any child protection records or previous assessments. Section 862 of the *Children and Young People Act (2008)* allows CYPS to ask other agencies or organisations for information about a child or young person's safety and wellbeing. CYPS may work with other agencies to do things like an interview, questionnaire, observation of the interaction between a parent and their child and different kinds of activities. All these things will also be considered in the assessment and will help to make decisions about what action, if any, needs to happen.

What will happen after the assessment?

The assessment helps CYPS make decisions about what action (if any) needs to be taken. Some of these decisions will be that:

- a child is safe living at home
- a child's needs are not being met
- a parent is both willing and able to protect the child from being abused and/or neglect
- a child who is in out of home care can move back home to live with their parent/s.

CYPS will meet with parents to talk about the findings and recommendations from the assessment and about what will happen next. Parents will have an opportunity to share their views, or ask questions about the assessment and any decisions. They can also ask for something to be reconsidered.

Rights of parents

A parent (or person with parental responsibility for a child) has rights that must be respected. Parents have the right to:

- be treated with respect
- know what CYPS is concerned about in relation to their child
- have information and support
- be listened to about their child and what is needed to make things better
- participate in planning for their child's safety and wellbeing and to comment on what is happening for them.

If you are unhappy about what has been decided and you have already talked to your Case Manager (or their Team Leader) about what is happening and don't think they have helped you, there are other people who can help. You can talk to:

- Child and Youth Protection Services Complaints Unit 02 6207 5294.
- Community Services Directorate, Regulation, Oversight and Quality Service (ROQS) 02 6205 0473 or 02 6207 4504.
- Birth Family Advocacy Support Service (the Australian Red Cross) birthfamily@redcross.org.au or 02 6234 7600



ACT
Government
Community Services

GPO Box 158, Canberra ACT 2601

e CSD@act.gov.au t 133 427

w www.communityservices.act.gov.au



If you don't think you are being treated fairly or that you are not able to use your rights, there are people who have a job to help children and young people. You can talk to them, or get someone to help you do this for you. These people are:

- The Commissioner for Children and Young People (02) 6205 2222 www.hrc.act.gov.au
- Office of the Public Advocate (ACT) (02) 6207 0707 www.publicadvocate.act.gov.au.



ACT
Government
Community Services

GPO Box 158, Canberra ACT 2601

e CSD@act.gov.au t 133 427

w www.communityservices.act.gov.au



Family Assessment Plan

Date: Wednesday, 14 August 2019

The information gathered will be analysed and will be used **DELETE AS REQUIRED** to develop or update goals and objectives in your Case Plan to inform an Appraisal, to consider a change to legal status as part of an Assessment Order (s436)

The Family Assessment will gather and analyse the following: **DELETE AS REQUIRED**

1. Information about the development of: **INSERT THE NAME/S OF THE CHILD/REN BEING ASSESSED**
2. Information about the child/ren's relationship with each parent and the parenting capacity of: **INSERT THE NAME/S OF THE PARENT/S BEING ASSESSED**
3. Information about the extended family and environmental factors **LIST ANY FACTOR SPECIFICALLY BEING ASSESSED, FOR EXAMPLE THE CHILD/REN'S RELATIONSHIP WITH THEIR GRANDPARENTS OR EXTENDED FAMILY MEMBERS, THE FAMILIES HISTORY OF TRAUMA AND ADVERSITY ETC. AS RELEVANT**
4. A chronology of significant events that have impacted on the family

To gather sufficient information the following people may be interviewed: **LIST PEOPLE/ORGANISATIONS YOU INTEND TO INTERVIEW AS PART OF THE ASSESSMENT, INCLUDING THE MEMBERS OF THE FAMILY AND EXTENDED FAMILY, THE SCHOOL, HEALTH PROFESSIONALS, COMMUNITY MEMBERS ETC.**

-

The following Specialist Assessments will be undertaken: **LIST ANY SPECIALIST ASSESSMENTS THAT WILL BE CONDUCTED**

-

Your Case Manager will work with you and your family to gather the information required to complete the Assessment.

Your Case Manager is: **INSERT THE NAME OF THE CASE MANAGER**

Your Case Manager can be contacted on: **INSERT THE CONTACT DETAILS OF THE CASE MANAGER**



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Working together for kids

Guides for parents and families working
with Child and Youth Protection Services

Guide 4

Feedback and raising concerns

How can I let others
know what I think?



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the
power of
humanity



The purpose of this guide

The purpose of this guide is to provide you with information about how to provide feedback and raise a complaint regarding services provided by Child and Youth Protection Services (CYPS), or one of its partners, in connection to your child in care.

Specifically, this guide will tell you about:

- CYPS' commitment to hearing and responding to feedback.
- The difference between complaints and decision reviews.
- What you can expect when making a complaint.
- How complaints are managed and responded to.
- The role of independent and external services in the complaints process.
- Who you can contact to raise your concerns.

By providing this information we aim to help parents and family members understand how the child protection system works in the ACT so we can best work together for the benefit of children and families.

At the end of this guide there are blank pages for you to write down any questions or thoughts you might have as you read the information.

If you would like to speak to someone, please contact your case worker in the first instance or use the contacts provided.

This is the fourth guide in the 'Working together for kids' series. Please contact your case worker if you would like a copy of the other guides:

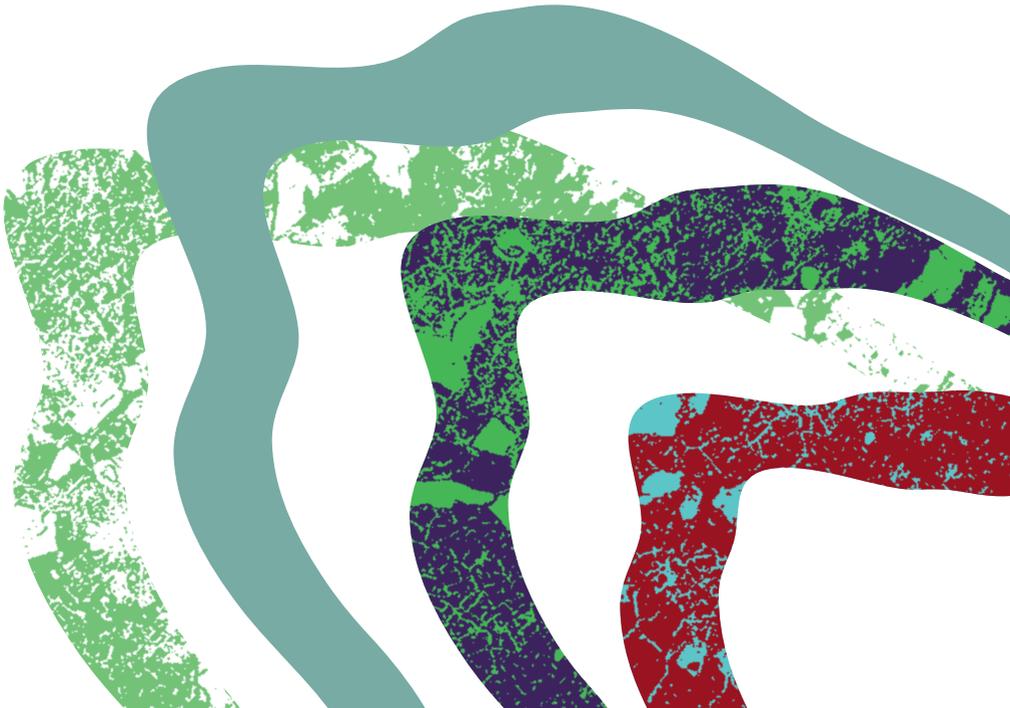
- Guide 1 – *Child Concern Reports: What are they and what does it mean if someone makes a report about my child?*
- Guide 2 – *Going to court and working to reunite families: What's involved and what can I do?*
- Guide 3 – *When children are in care: What happens with my child when they are in care and what can I do to have them come home?*
- Guide 5 – *Representing yourself in court: What do I need to know to navigate care and protection court processes?*

Thank you

The 'Working together for kids' guide series has been developed in partnership between CYPS and the Australian Red Cross Birth Family Advocacy Support Service. Acknowledgement also goes to the Family Inclusion Network ACT who was involved in the original *Working together for kids* book on which the guide series is based.

Children and young people

In reading this guide, the terms 'child' and 'children' also refer to 'young person' and 'young people'.



Contacts

Child and Youth Protection Services

To speak to my case worker: 6207 1069 (North team), 6207 1466 (South team)
To make a Child Concern Report: 1300 556 729

ACT Together

P: 6110 2200

Australian Red Cross Birth Family Advocacy Support Service

P: 6234 7600 | E: birthfamily@redcross.org.au

Legal Aid ACT

P: 6243 3411 or 1300 654 314 | E: legalaid@legalaidact.org.au

Public Advocate ACT

P: 6205 2222

OneLink

P: 1800 176 468 | info@online.org.au

Child and Family Centres

West Belconnen: 6205 2904
Gungahlin: 6207 0120
Tuggeranong: 6207 8228

Feedback and complaints

P: 6207 5294 | E: ocyfs@act.gov.au
Please ask for a copy of the 'Working together for kids' guide,
Feedback and raising concerns.



Accessibility

The ACT Government is committed to making its information, services, events and venues, accessible to as many people as possible.

If you have difficulty reading a standard printed document and would like to receive this publication in an **alternative format**, such as large print or audio, please call (02) 6205 0282.

If English is not your first language and you require the **translating and interpreting service**, please call 131 450.

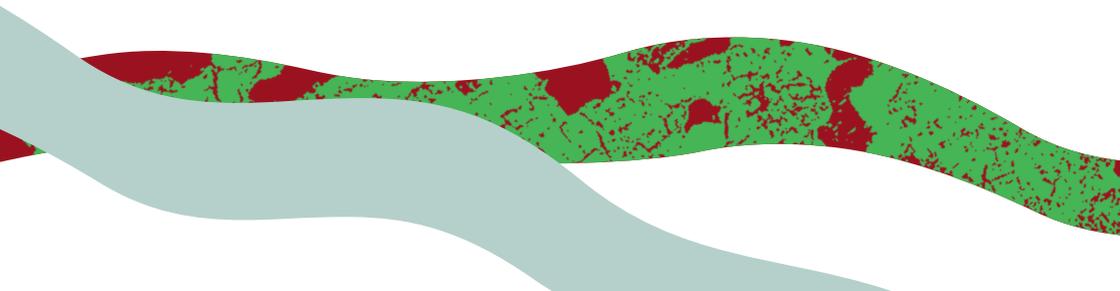
If you are deaf or hearing impaired and require the **TTY typewriter service**, please call 133 677 then ask for 133 427.

To access the **ACT Interpreter Service** for the deaf and blind, please call (02) 6287 4391.



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Commitment to service

Child and Youth Protection Services (CYPS) is part of the Community Services Directorate within the ACT Government, and upholds the Directorate's commitment to quality services for all members of the Canberra community.

CYPS welcomes and values complaints and has a strong commitment to responding to and resolving complaints, understanding feedback helps contribute to the improvement of the services it delivers.

Speak up

Committed to continuous improvement, CYPS wants to hear about any aspect of the services it provides or the way it provides them. CYPS wants to hear if you think it:

- has done something well
- has made a mistake
- has treated you badly or unfairly
- has made a wrong decision
- can do something better or differently.

Standards

In responding to your feedback, CYPS will follow the standards of:

- **Respect:** All complaints will be received respectfully.
- **Timeliness:** All complaints will be acknowledged and managed to specific, agreed and published timeframes.
- **Transparency:** All decisions will be explained in a clear simple language (except where this may be restricted by law).
- **Natural justice:** All complaints will be afforded the principles of natural justice.

Management

Case workers, Care Teams, dedicated complaints teams and when necessary external authorities are committed to hearing and resolving any concerns you may have with CYPS.

Complaint or decision review?

CYPS, and its partner ACT Together, interact with many members of the ACT community to ensure the safety and wellbeing of the region's children. This work can be stressful, difficult, confronting and challenging for everyone involved.

At times, dissatisfaction with the services provided does not require the formal complaints process to be initiated. Instead, such feedback can be better addressed through other avenues.

While all expressions of dissatisfaction are complaints, depending on the nature of your concern will determine what response from CYPS will occur.

Internal review of decisions

There may be times during your involvement with CYPS when you would like to have a decision that has affected you or your family reviewed by the area responsible for making it – this is a right you have. This could be because you do not understand why the decision was made or do not agree with it. A request to have a decision reviewed is not the same as a complaint.

To have a decision reviewed, your first step should be to understand the *basis* for the decision. To get this, contact your child's case worker (either CYPS or ACT Together) and ask for a 'Decision Making Statement' regarding the decision you are questioning.

This statement will explain:

- the *decision* that was made
- *who* made the decision
- on what *basis* the decision was made
- how the effect of the decision is in your child's *best interests*.

Once you have the statement, you can:

- request a meeting with your child's case worker to discuss the decision
- request a 'Review of the Decision' (where eligible).

If you have met with your child's case worker and are still unhappy with the decision, you can escalate your concern by seeking a Review of the Decision.

To be eligible to have a decision reviewed, you **must** be the person affected by the decision, or a person with a guardianship or parenting responsibility for the child about whom the decision was made. A simple disagreement with the decision on its own is not enough to trigger a review of that decision.

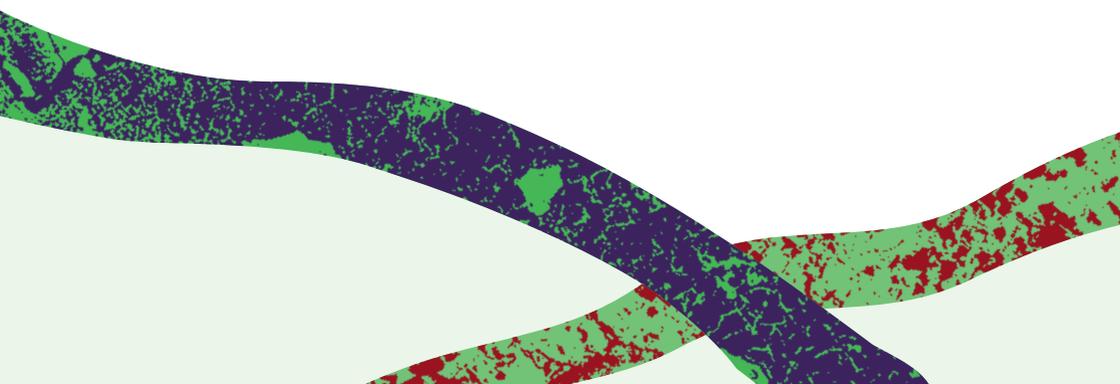
For a decision to be reviewed, it must be related to one or more of the following:

- the decision is based on an error of law
- the decision is based on an error of fact
- the decision is based on an error of policy
- the decision is based on incomplete information
- the decision is based on an incorrect interpretation of the information
- the decision goes against higher principles, such as human rights or child welfare
- highly unusual circumstances exist
- new information exists that was not available at the time the decision was originally made.

Examples of decisions that may be reviewed include:

- a decision to change the school your child attends
- a decision to change your child's care placement
- a decision to place your child with a particular carer.

To request a review of a decision, contact the CYPS Complaints Unit. They will be able to tell you if your concern meets the eligibility criteria and if so refer your request to the appropriate area within CYPS or ACT Together for the review to be conducted.



Legal review of decisions

Most decisions made by CYPS can be reviewed by the ACT Childrens Court.

As part of the annual review of your child's Care and Protection Order (which CYPS is required by law to conduct every 12 months), you and any other original party to the order, can apply to the ACT Childrens Court to request the order be amended or revoked. For instance, you may want to change the contact arrangements for your child or argue the order is no longer needed as your circumstances have changed and there is no longer any risk to your child's safety or wellbeing. Section 466 of the *Children and Young People Act 2008* provides more details about this.

The Act states an application can only be made if you (or the person making the application) believe on reasonable grounds the amendment to the order is in the best interests of your child.

An application to amend or revoke an order can in special circumstances be made prior to the annual 12-month review. This can only happen if the ACT Childrens Court is satisfied there has been *significant* and *sustained* change in any relevant circumstances since the last review and order were made.

If you believe your circumstances have changed to the extent where your child's best interests are no longer served by their current Care and Protection Order, you can make an application to the ACT Childrens Court either through seeking legal representation or representing yourself (if you intend to represent yourself please ask your case worker for a copy of the 'Working together for kids' guide, *Representing yourself in court*). However, as a first step, you are encouraged to discuss your views with your case worker. The easiest way to have an order amended or revoked is to work with CYPS towards achieving a situation where CYPS believes it is your child's best interests to return to your care.

Similarly, each time CYPS makes an application in the ACT Childrens Court regarding your child (for example initiating Emergency Action or when applying for the Care and Protection Order) all CYPS affidavits filed in relation to the matter can be challenged by affidavits of other parties, the views of your child's separate legal representative and also the views of the ACT Public Advocate.

Common concerns

Where your child is in care, you may not always agree with the decisions made by CYPs or ACT Together concerning your child's care. What is important to understand, however, is that **all decisions** will be based on what is in your child's **best interests**. Sometimes what is best for your child is not what you want to have happen.

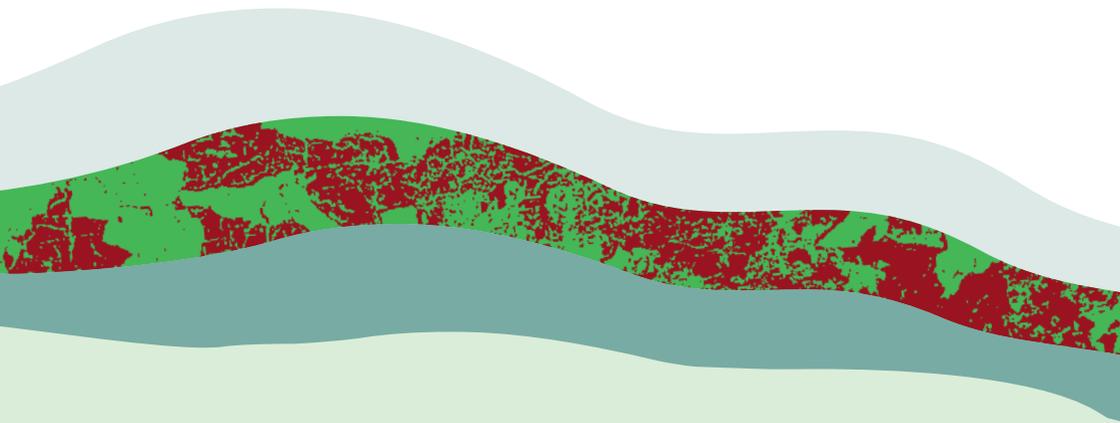
Below are some common concerns you may experience if your child is in care and what you should do in each case.

You don't like the case worker assigned to your child

Complaints about individual staff regarding how 'likeable' the person is or whether you would prefer a different case worker, are not alone sufficient grounds to request a new caseworker and such requests will not be considered. As with colleagues in a workplace, it is not important whether you like the people in your child's Care Team. What is important is that everyone involved works together effectively to promote your child's *best interests*.

If you are having difficulty working with your case worker, it is recommended you contact an advocacy service (such as the Australian Red Cross Birth Family Advocacy Support Service) to help you to manage the relationship as effectively as possible.

If, however, you have examples of behaviour by a staff member you believe demonstrates unprofessional, unethical or ill-informed conduct, then a complaint can be made through the complaints process. You will need to provide specific information about what the staff member said or did, and when, for your complaint to be properly investigated.



You are not happy with the frequency of contact

Contact frequency is usually determined by either the ACT Childrens Court (with a contact provision), or by a professional assessment conducted by your child's case worker of what is in your child's *best interests*. Changes to contact will only be made if it is believed the change is in your child's *best interests*.

The best steps to take if you have a concern about the frequency of contact with your child are to discuss with your case worker:

- why the current contact arrangements exist in their current format
- what (if anything) needs to happen before the existing arrangements will be reviewed
- why you believe it is in your child's best interests for the contact arrangements to change.

If your case worker does not agree with you, you can:

- escalate your concerns to a Team Leader or Operations Manager
- attend a Care Team meeting where you can raise your concerns with the broader group of people involved with your child's care.

It is important to also understand that sometimes specific contact arrangements are stipulated as part of a Care and Protection Order made by the ACT Childrens Court. In these instances, changes may only be made by applying to the Court to amend the existing order.

Contact arrangements are intended to reflect your child's right to contact with the people who are important to them. It is not about a parent's right or need. It is also important to balance your child's right to normality on weekends and to have time for involvement in sporting activities, time with friends, attendance at birthday parties, time to relax, and to participate in their carer's family events and activities.

You don't like your child's carer or placement

Decisions about your child's care placement are based on a detailed assessment and checking process. This includes a criminal history check and a 'Working with Vulnerable People' check, followed by a comprehensive carer assessment process. Sections 64 and 65 of the *Children and Young People Act 2008*, also provide criteria that is used to help make decisions about who should care for your child.

When making this decision, consideration is given to many factors, including (but not limited to):

- the proximity of the carer's home to your child's existing school and family members
- the fit of the carer's family for your child including the ages of any children the carer may already have
- the relationship between the carer and your child's biological family
- the long-term health prospects of the carer.

Once a carer is approved and your child is placed with them, your child's case worker (either from CYPs or ACT Together) will visit regularly to monitor your child's wellbeing and provide any necessary support. Your child's views and wishes about their carer and placement, should be regularly sought and recorded by their case worker.

If you do not get on with, or like, your child's carer, it is recommended you contact an advocacy service (such as the Australian Red Cross Birth Family Advocacy Support Service) to assist you in managing this important relationship. A positive relationship between you and your child's carer is very important to your child's wellbeing in care.

If your dissatisfaction is because the person you want to care for your child was *refused* based on their carer assessment (that is they did not meet the criteria to become an **approved** carer), you can have this decision externally reviewed by the ACT Civil and Administrative Tribunal (see 'External complaints handling processes'). If the person was approved but not selected because another person was deemed more suitable, this decision can be reviewed internally. To request this speak to the relevant CYPs or ACT Together manager.

However, if you are concerned about the quality of care your child is receiving, or believe your child may be at risk of harm in their care placement, this is something you should always report to CYPs. You should make a Child Concern Report by calling 1300 556 729, using the online portal from the Community Services Directorate website or contacting the CYPs Intake Team on 6207 6956 and provide as much specific detail about your concerns as possible. CYPs will then respond to your Concern Report through its normal procedures.

Complaints: what you can expect

During your involvement with CYPS (and ACT Together) you have the right to express your views about the services and decisions it provides concerning the care of your child.

What you can expect from CYPS

In making a complaint to CYPS, you can expect a process that involves:

- listening to what you have to say
- staff doing their best to understand your stated concerns or issues
- investigating your concerns in a fair and impartial manner
- staff doing their best to resolve your issue or fix the problem, understanding this is not always possible
- acknowledging any mistakes or errors CYPS or ACT Together may have made
- providing clear explanations for decisions, unless limited by law
- ensuring you are encouraged and supported to make a complaint in a way that is comfortable for you, your family, carer or advocate.

CYPS will respond to complaints in line with their complaints handling and management process. This process states staff must:

- seek appropriate confirmation if someone complains on your behalf
- investigate complaints in a timely manner and in line with the principles of natural justice
- acknowledge any mistakes or errors that may have been made
- ensure all decisions, including those occasions where you may not lawfully be entitled to certain information, are explained clearly and simply.

Confidentiality of complaints

Your complaint will be dealt with in a confidential manner and discussed only with the people directly involved in managing and responding to it. As part of the investigation into your complaint, the details of your allegations may be discussed with the specific staff in line with natural justice principles.

Complaint coordination: CYPS and partners

When your child is in care, CYPS works in partnership with ACT Together – a key group of care agencies in the ACT that specialise in child and family support services. This means your child's day to day care may be managed by CYPS or a member agency of ACT Together. When you make a complaint, it will be investigated and responded to by the agency with responsibility for the action or issue your complaint relates to.

In making your complaint to CYPS, if it needs to be referred to another agency the CYPS Complaints Unit will:

- let you know your complaint has been referred to the other agency
- let you know you can expect to be contacted by that agency
- make a record of your details and the nature of your complaint.

In referring complaints, a single point of contact has been created in each agency to ensure the effective coordination of your complaint. The contact points are:

Agency	Section	Phone	Email
CYPS	Complaints Unit Manager	6207 5294	ocyfs@act.gov.au
ACT Together	Office of the Executive Manager ACT	6228 9500	feedback@acttogether.org.au
Uniting	Head of Uniting Children and Families ACT	9268 3873	cfact@uniting.org

What is expected of you when making a complaint

When making a complaint you are asked to:

- provide as much information about your concerns as possible
- speak to staff respectfully – please remain calm and do not yell or become aggressive
- give the person you have spoken to an opportunity to either resolve or pass your complaint to the relevant person so it can be properly managed
- If possible, tell us what you want to happen as a result of your complaint
- let us know of any special needs you may have or if you need extra help in understanding or accessing our complaints service.

How complaints are managed

CYPS uses a four-level complaints system to determine the most appropriate area to respond. This allows staff to determine the complexity, urgency and risks associated with a complaint in a consistent manner.

The specifics of your complaint will determine its level. The levels range from a concern or enquiry to level three complex complaints.

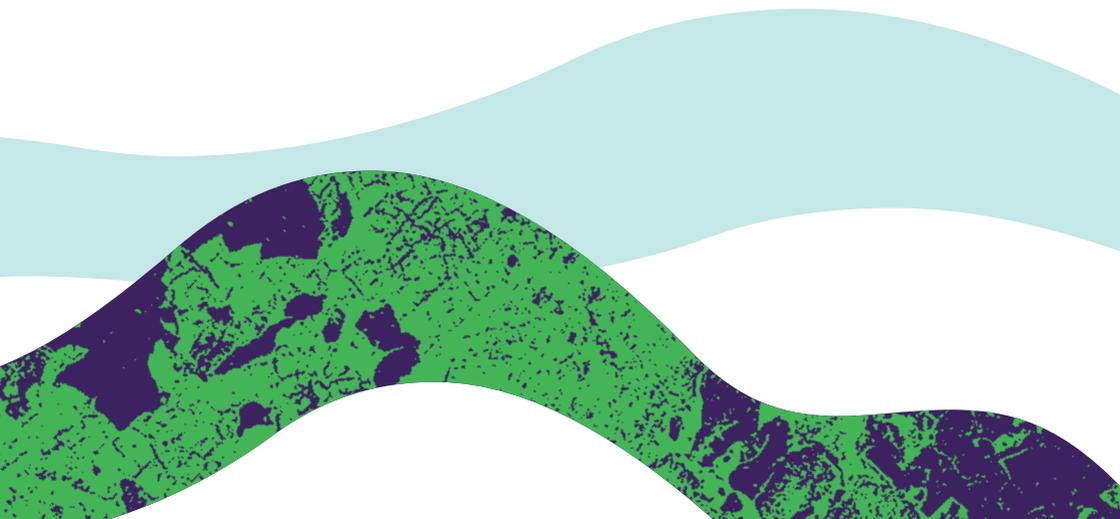
Concerns and enquiries

Concerns and enquiries are generally a one-off activity based on issues that can be settled quickly by frontline staff – for example your child's case worker. Examples of possible concerns and enquiries include:

- seeking advice on a particular matter
- enquiring about the rationale behind a decision
- letting CYPS know of incorrect personal details.

If you have a concern or enquiry, frontline staff will aim to resolve your issue as quickly as possible. Where possible, this will be done at the time you raise your issue with them, or if it cannot be resolved immediately CYPS may notify you once it has been addressed. Concerns and enquiries **do not** require a formal response be provided to you.

If you are not satisfied with the outcome of your issue at this point, or you want your issue to be treated as a complaint and receive a formal response, CYPS staff will escalate your issue to a level one complaint.



Level one: frontline staff and business areas

Level one complaints are reviewed and responded to within the business area the complaint relates to. The review will be conducted by a staff member identified by the relevant area's manager or director.

CYPS encourages complaints to be resolved at the 'local' level – that is with your child's case worker or their team leader (frontline staff). Decisions are best understood by those involved in making them, and issues and complaints can usually be resolved more quickly by dealing directly with your child's Care Team members.

Complaints about unsatisfactory service, especially rudeness or delay, are often more appropriate, and should be able, to be resolved by frontline staff. This may be done by telephone or via a meeting with relevant CYPS or ACT Together staff.

A senior officer may meet with you to hear your side of the situation, and if appropriate offer a formal apology.

Your complaint is considered to be resolved when you and CYPS (or ACT Together) agree on an appropriate response or remedy. Remedies should be implemented as soon as possible. There may of course be occasions when you and the staff involved cannot reach an agreement.

If you are not satisfied by a response provided by your child's case worker or their team leader, you should speak with the CYPS Complaints Unit and request your complaint be independently investigated or reviewed.

Level two: CYPS Complaints Unit

The CYPS Complaints Unit is responsible for handling level two complaints. These include complaints that have not been successfully resolved by the relevant frontline staff and business area, where the complaint is serious and/or complex and requires an independent investigation, or have been escalated through the level one process.

Typically, family members contact the Complaints Unit because they are dissatisfied with the service they received from CYPS or ACT Together, and want someone outside their child's Care Team to look into their issues.

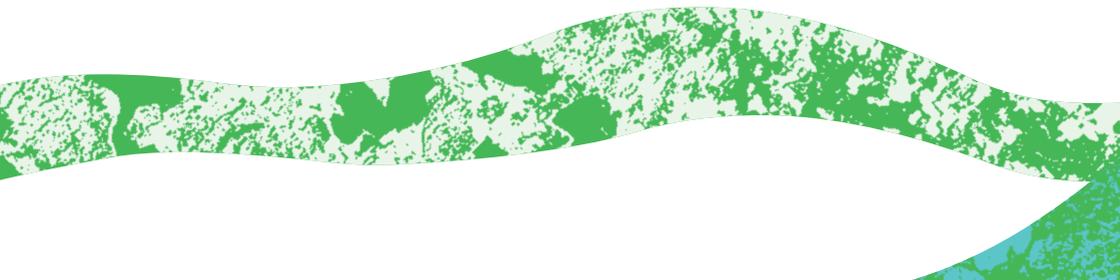
Examples of complaints raised with the Complaints Unit include where:

- staff misconduct is alleged
- the complaint concerns a staff member
- the resolution is beyond the delegation of the frontline staff member
- the complaint or issue is complex
- the issue cannot be satisfactorily resolved by the frontline staff member.

When managing a complaint, the Complaints Unit directly contacts the relevant CYPS or ACT Together team to investigate. Depending on the nature of the complaint it may be necessary for the Complaints Unit to contact either the relevant Team Leader or Operations Manager directly.

Children, parents and carers have a right to contact the Complaints Unit directly, and under these circumstances Complaints staff may interview them to better understand the situation and issues being raised. The Complaints Unit also has a specialised Carer Liaison Officer who may handle complaints from foster or kinship carers.

The CYPS Complaints Unit is independent of CYPS areas responsible for providing the frontline care services children, parents, carers and families interact with, and reports directly to the Executive Director.



Level three: Quality, Complaints and Regulation Unit

Level three complaints are managed by the Quality, Complaints and Regulation Unit – this unit is separate to CYPS.

The Quality, Complaints and Regulation Unit provides an **independent** complaints resolution service relating to complex or persisting complaints, plus an internal complaint review function for the broader Community Services Directorate, which CYPS is a part.

If your complaint has not been resolved to your satisfaction through the level two process, is complex or involves allegations of staff misconduct, it will be referred to the Quality, Complaints and Regulation Unit.

Your complaint may be referred to the Quality, Complaints and Regulation Unit if:

- you are not satisfied with the response from the CYPS Complaints Unit through the level two process and want someone else to reconsider your complaint
- the outcome you are wanting cannot be provided by the CYPS Complaints Unit
- your complaint is complex
- your complaint involves allegations of staff misconduct and disciplinary action is a possible outcome
- the facts are likely to be in dispute and an investigation may be needed
- questions of precedent for the Community Services Directorate may be involved.

Where relevant, the Quality, Complaints and Regulation Unit will ask you to outline your complaint in writing and why you believe the CYPS Complaints Unit did not resolve it appropriately. Where you are unable to provide a written account, the Quality, Complaints and Regulation Unit should act on the information provided verbally and assist you to write down your complaint. This may include face-to-face meetings, gathering information from relevant areas on your behalf and agreement on content and focus of ongoing work.

The Quality, Complaints and Regulation Unit will then consider:

- the content of your allegations
- the extent to which the Quality, Complaints and Regulation Unit may respond to the service delivery elements of your complaint
- whether your complaint can be managed by Executive staff within CYPS Business Support (this area is independent of CYPS frontline care areas)
- whether your complaint should be referred to the Strategic Human Resources area within the Community Services Directorate for advice on management of misconduct allegations.

If the complaint raises complex and sensitive issues, the Quality, Complaints and Regulation Unit may recommend a review be undertaken by an external agency (see 'External complaints handling processes').

The Quality, Complaints and Regulation Unit is also responsible for coordinating complaints raised by external review bodies, such as the Human Rights Commission and Public Advocate, as well as complaints from external agencies and the Minister's office. However, many of these complaints are also managed directly by CYPS Business Support.

Natural justice

In managing complaints, CYPS will apply the principles of natural justice. Natural justice (sometimes referred to as procedural fairness) means a person, including staff, who might be adversely affected by a decision or process **must** be given the opportunity of a fair hearing and to state their views on the matter in question before a decision is made.

Generally, this means three aspects need to be considered:

- Notice
- Fair hearing
- Unbiased.

The following table shows how the natural justice principles relate to both decision-making and complaints handling.

Natural justice principles			
Complaints	<p>1. Fair hearing</p> <p>Anyone making a complaint to CYPS is afforded the opportunity, and if needed, supported to do so.</p> <p>All complaints are given genuine consideration.</p>	<p>2. Unbiased</p> <p>The person responding to a complaint needs to be impartial, professional and unbiased in considering and investigating the complaint.</p>	<p>3. Notice</p> <p>The outcome of the complaint needs to be communicated to you, the complainant. The response requires an outline of the reasoning in sufficient detail to allow you the opportunity and means by which to appeal to a higher authority.</p>
Decision-Making	<p>1. Notice</p> <p>The person to be affected by the decision must be given a written notice which clearly outlines the critical issues and contains sufficient information to be able to allow that person to participate meaningfully in the decision-making process.</p>	<p>2. Fair hearing</p> <p>The affected person is given a reasonable opportunity to 'speak or respond' and the decision maker genuinely considers the affected person's submission in making the final decision.</p>	<p>3. Unbiased</p> <p>The person making the decision must act impartially in considering the matter. Bias can be actual or 'perceived'.</p>

Reviewing and responding to complaints

All complaints, regardless of level, will be responded to in a timely manner with respect, transparency and apply the principles of natural justice.

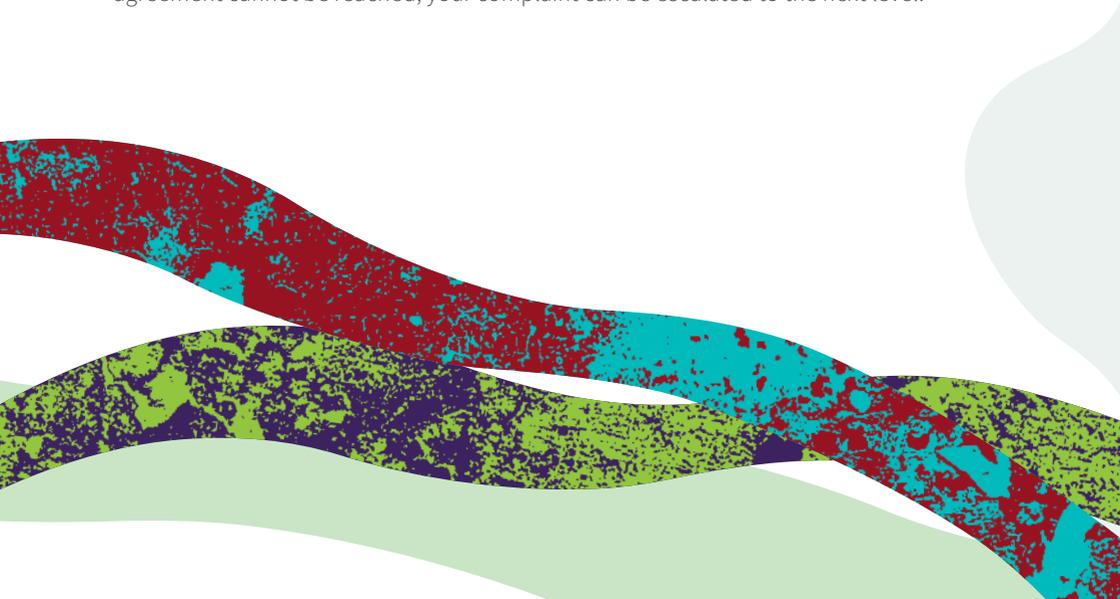
An effective response is achieved when everyone involved:

- communicates with respect
- provides full and factual information
- has clearly established expectations and objectives.

Acknowledgement and response times

When you make a complaint to CYPS, an acknowledgement will be provided to you verbally or in writing within **two working days**. At that time, you will be told who will look into (review) your complaint and when you can expect a formal response and outcome. The formal response will be provided to you within **20 working days**. For level three complaints, a response will be provided within **30 calendar days**.

If there is a delay in responding to your complaint, you will be told about this and asked for your agreement to extend the timeframe. This date will be negotiated with you. If agreement cannot be reached, your complaint can be escalated to the next level.



Review: investigation of claims

Reviews, or investigations, into the claims made in your complaint will be conducted in accordance with the 'fairness principles of investigation'. These principles include:

- no staff member is to be involved in reviewing a complaint relating to their own conduct
- the review is to involve meeting or engaging with the person making the complaint, except in the most straightforward of circumstances
- unless the person making the complaint has agreed to a resolution, or withdrawn their complaint, all complaints are to receive a written response
- where the complaint has been upheld, the formal response is to include a clear apology.

The staff member responsible for reviewing your complaint will, as a first step, make an initial determination as to whether:

- the issues are clearly outlined in your complaint
- the outcome you are seeking is clear
- it will be possible to fully explore the circumstances of your complaint.

If all these conditions are met, the staff member will then fully analyse and respond to your complaint.

The review **must** also adhere to the principles of natural justice. It is important that both you and any staff member subject to your complaint are given every opportunity to fully comment on the circumstances of your complaint.

Outcome of review

Following the review of your complaint, the staff member responsible for the investigation will make a decision based on all the information provided. The final decision will be either:

- **Complaint dismissed:** The review finds no evidence to support your complaint.
- **Complaint inconclusive, however on the balance of probabilities is unlikely:** The review is not conclusive but there is sufficient cause to suggest your complaint is unlikely to be confirmed.
- **Complaint inconclusive:** The review finds insufficient evidence available to make any determination.
- **Complaint inconclusive, however on the balance of probabilities is likely:** The review is not conclusive but there is sufficient cause to suggest your complaint is justified.
- **Complaint upheld:** The review supports the claim of your complaint.

Once the decision is made, you will receive a formal response, by mail or email, outlining:

- clear outcomes of the review and whether your complaint has been upheld, dismissed, or the review was inconclusive due to a lack of evidence
- a response to all issues raised in your original complaint and during the course of the review, and where relevant what actions are being taken
- an explanation on whether or not it is possible to offer you the outcome you requested, and if not why not
- where your complaint has been upheld, an apology provided
- an offer to escalate your complaint to a higher level if you are not satisfied with the outcome
- advice that you have the right to refer your complaint to external review authorities if you are not satisfied.

Any staff member who is the subject of your complaint will also be provided with details regarding the response provided to you.

It may not always be possible to fully resolve your complaint to your satisfaction. This could happen if CYPS policies or regulations are contrary to your views, or if you have unrealistic expectations about the outcome for your complaint.

If your complaint remains unresolved after all avenues within CYPS and the Community Services Directorate have been taken, or if you are dissatisfied with the manner in which your complaint was handled, the Quality, Complaints and Regulation Unit should inform you of options for review by an external agency, such as the ACT Human Rights Commission or ACT Ombudsman.

You can refer your complaint to one of the following external agencies at any time:

- ACT Civil and Administrative Tribunal: for reviews of certain decisions made under legislation.
- ACT Human Rights Commission: complaints of unlawful discrimination, contravention of the health privacy principles or about services for children and young people, and services to people with disabilities and their carers.
- ACT Ombudsman: complaints about administrative actions or decisions by CYPS or the Community Services Directorate.
- Australian Human Rights Commission: complaints of unlawful discrimination.
- Privacy Australian Information Commissioner: complaints about an unlawful breach of a person's personal information.

See 'External complaints handling processes', for further information.

External complaints handling processes

Like any other ACT Government agency, the Community Services Directorate (and therefore CYPs) is subject to the scrutiny of other Territory bodies. Sometimes it is more appropriate to refer a complaint (especially if it is serious and complex) to an agency such as the Human Rights Commission, Public Advocate, Privacy Commissioner or the ACT Ombudsman.

If this course of action would serve you better, the Quality, Complaints and Regulation Unit, will let you know.

It may also be possible for your complaint to be heard by the ACT Civil and Administrative Tribunal (ACAT). Applications to ACAT may be made in respect to *reviewable decisions*.

Reviewable decisions

Reviewable decisions are defined by Section 839 of the *Children and Young People Act 2008*. You can request these decisions be reviewed by making an application to ACAT.

In reviewing these decisions, ACAT will be guided by the Administrative Decisions (Judicial Review) Act 1989, which states government decision-makers have a legal responsibility to be accountable for decisions made and for the basis of their decision-making process.

Reviewable decisions include:

- refusal to approve an individual as a suitable entity
- decision to revoke the approval of an individual as a suitable entity
- refusal to approve person as an approved carer
- refusal to renew a person's approval as an approved carer
- refusal to authorise a person as a kinship carer
- refusal to authorise a person as a foster carer
- refusal to approve a place operated by an approved residential care organisation as a place of care.

If you would like to progress an application to ACAT for a decision to be reviewed, you are encouraged to seek legal advice.

External oversight agencies

CYPS recognises people who use its services, plus their families and guardians, are free to make complaints directly to external oversight agencies, such as the Human Rights Commission, and supports their right to do so.

It is CYPS' preference that you first try to resolve your complaint directly with the relevant area, and if needed the Community Services Directorate's Quality, Complaints and Regulation Unit before raising your concerns with an external oversight agency. However, you have the right to seek external assistance at any time.

The Public Advocate of the ACT

The Public Advocate of the ACT has broad functions and powers under the *Human Rights Commission Act 2005*, as well as the *Children and Young People Act 2008* and criminal matters relating to youth justice.

The Public Advocate may undertake individual advocacy if requested by a child, believes a child is in need of care and protection or if requested to do so by a court or tribunal.

The Public Advocate may also be heard in a proceeding concerning a child, as permitted under the *Court Procedures Act 2004*. These proceedings may include care matters or youth justice matters.

The Human Rights Commissioner

The *Human Rights Commission Act 2005* states a person may complain to the Human Rights Commission about a service for children if they have formed a view that the service is not being provided appropriately.

In responding to these complaints, the Commissioner is empowered under Section 865 of the *Children and Young People Act 2008* as an 'investigative entity' to request documents and information that is both protected and sensitive.

The *Human Rights Commission Act 2005* also provides the Commissioner with powers to obtain information or documents. Section 48 of the same Act also allows the Commission to consider a matter without a complaint (Commission initiated consideration) if the Commission is satisfied it is in the public interest to do so.

How to make a complaint

If you would like to make a complaint or provide feedback to CYPS the following steps will help you bring your matter to their attention.

- Raise your concerns early. This allows your concerns to be resolved as quickly as possible and to avoid issues becoming bigger and more complex.
- Speak directly with your child's case worker or Care Team to try and address your issue informally.
- Provide as much information as possible to explain your concerns, and if possible, what outcome you are wanting.
- If you would like a formal response, or are not satisfied with a response you have already received, contact the CYPS Complaints Unit and request your complaint be independently reviewed.
- If you are still not happy with the response, escalate your complaint through one of the other avenues, for example the Quality, Complaints and Regulation Unit.
- You can also make an anonymous complaint by contacting the CYPS Complaints Unit. In this situation however, you will not receive a response. It is also possible that your concerns will not be resolved if adequate information is not provided at the time you make the complaint to properly investigate your claims.

Who to contact

The following contacts can help you if you want to make a complaint or provide feedback.

- **CYPS:** Complaints Unit, 6207 5294, ocyfs@act.gov.au
- **ACT Together:** Office of the Executive Manager ACT, 6228 9500, feedback@acttogether.org.au
- **Uniting:** Head of Uniting, 9268 3873, cfact@uniting.org
- **Community Services Directorate:** Quality, Complaints and Regulation, 6205 0473

There following external agencies can provide some assistance in certain cases and types of complaints.

ACT Civil and Administrative Tribunal (ACAT)

Handles a wide range of civil disputes, requests for review of administrative decisions and professional and occupational disciplinary matters.

Level 4, 1 Moore Street, Canberra ACT 2601

P: (02) 6207 1740

E: tribunal@act.gov.au

W: www.acat.act.gov.au

ACT Human Rights Commission

Handles complaints of discrimination, sexual harassment, vilification (on the grounds of race, sexuality or HIV/AIDS status) or victimisation.

Level 4, 12 Moore Street, Canberra ACT 2601

P: (02) 6205 2222 or TTY (02) 6205 1666

E: human.rights@act.gov.au

W: www.hrc.act.gov.au

Public Advocate of the ACT

Responsible for matters related to guardianship and advocacy, particularly in relation to the delivery of services on behalf of adults, children and young people who are unable to advocate for themselves.

Level 3, 12 Moore Street, Canberra ACT 2601

P: (02) 6207 0707

E: pa@act.gov.au

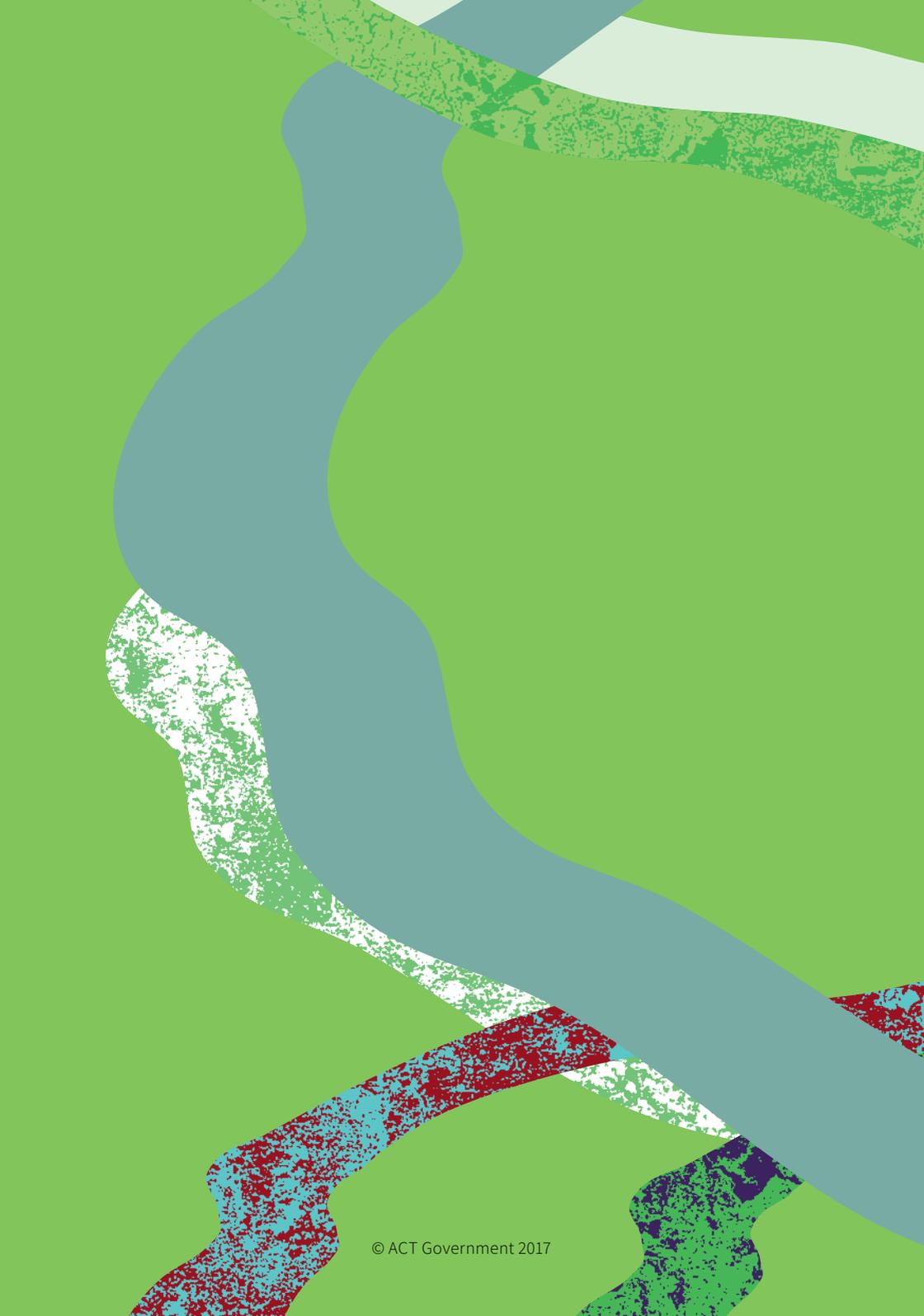
W: www.publicadvocate.act.gov.au

Notes

Use these blank pages to record any questions or thoughts you have when reading this guide.









About case conferences

This information sheet sets out the different types of case conferences that can be used by Child and Youth Protection Services (CYPS) in working with a child or young person and their family.

What is a case conference?

A case conference is a meeting of key people who are involved in the case management of a child and their family. It includes support/community networks, professional services, the child or young person's family and the child or young person themselves (unless it is not age appropriate or in their best interests to attend). Family members, carers and the child or young person can also bring people to provide support or advocacy. A case conference assists with the process of case planning and review and can also be a forum for bringing together the most appropriate people to discuss and resolve any issues that arise. Actions and decisions from case conferences are to be recorded and provided to participants following the meeting.

Why are case conferences important?

The best interests of the child is the paramount consideration in child protection practice in the ACT. Case conferences allow for an effective and collaborative approach in making the most appropriate plans to meet a child or young person's needs. They provide an opportunity for key people involved in a child or young person's life (and the child or young person) to have a say about the future and to resolve issues.

Types of case conferences

CYPS holds case conferences for different reasons. While the process is usually the same, the purpose and who attends may be different. Some case conferences have legal standing. The most common types of case conferences and their purposes are:

Care/case planning meeting: this involves a child or young person's Declared Care Team where the focus is on planning that will meet the child's or young person's needs. Goals and objectives will be confirmed, the tasks identified to achieve them, responsibility and timeframes are set and agreed. Objectives and tasks are set using a tool known as the SMARTER format and sets out that objectives and tasks are to be: **S**pecific, **M**easurable, **A**ssignable, **R**ealistic, **T**ime-bound, **E**ngaged and **R**eviewable (SMARTER).

Family meeting: this involves CYPS and the family, possibly including extended/influential family members, to discuss issues around the safety and needs of the child or young person and the needs of the family.

Professionals meeting: this involves CYPS and other professionals involved with the child or young person and their family to discuss matters relevant to the provision of services to address the child and family needs. This meeting would happen prior to, or without the child or family being present.



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Review of arrangements meeting: this is held when a child or young person is in care to review their progress across the developmental domains and the arrangements in place to meet their needs. It usually involves the whole care team. The meeting is often scheduled before CYPS draft the child or young person's Annual Review Report.

Child Protection Case Conference: this is chaired by a person who is independent to the case management structure in CYPS (known as an independent chair). A decision about when an independent chair would be most useful will depend on a child or young person's level of involvement with CYPS, age and individual circumstances.

Family Group Conference: this is legislated under the *Children and Young People Act 2008*. This type of conference is led by a registered family group conference facilitator. It involves the child or young person and their family getting together to make decisions and arrangements that will reduce the likelihood of a child or young person being in need of care and protection. An agreement may be made at the end of the conference. This can be registered with the ACT Childrens Court, making it legally binding. The agreement may include shared parental responsibility or transferred parental responsibility to a person other than the Director-General, Community Services Directorate. If a proposal of for the transfer of Parental Responsibility then the matter must be referred to the CYPS Assessment and Support Unit for a permanency consultation.

Case Management Conference: this has legal standing in the ACT Childrens Court. All care and protection matters before the ACT Childrens Court will go to this type of conference. It is less formal than appearing before a Magistrate. The case management conference is convened by the Court and orders will only be made if all parties consent. CYPS will have legal representation and other parties are encouraged to seek legal representation. Children or young people will also have a legal representative and they have a right to attend and have their say. At the conference, CYPS will present the order(s) sought by CYPS and what is proposed for the progression of the Court matter. The other parties then have an opportunity to put their view forward, including raising issues such as contact, concerns for the child and working with CYPS.

Most care and protection matters at the ACT Childrens Court resolve through the use of this type of conference and a matter will only go before a Magistrate:

- when there is no agreement to an interim care and protection order being made and/or extended
- if there is no agreement to the Care and Protection orders being sought by CYPS and the matter needs to be set down for hearing
- for a final hearing.

In a hearing, the Magistrate makes the decision about the orders based on the evidence presented.

For more information contact Child and Youth Protection Services on 1300 0055 6729.



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Information for parents and carers about Voluntary Care Agreements

This information sheet is for parent/s and carers and provides an outline of what is involved in Voluntary Care Agreements (VCA).

What is a voluntary care agreement?

For a range of reasons, a parent/s (or any person who holds parental responsibility for a child or young person) can ask Child and Youth Protection Services (CYPS) to place their child or young person in alternative care and into the temporary care of a suitable person for a limited period of time.

This agreement between the parent/s of a child or young person (or someone else who has parental responsibility) and the Director-General of the Community Services Directorate is called a Voluntary Care Agreement (VCA). The agreement is made by law under Section 394 of the *Children and Young People Act 2008* (the Act).

A VCA is only appropriate when:

- all other alternative supports have been considered and are found unsuitable and
- everyone involved agrees that entering in to a VCA is in the best interests of the child or young person at the time the agreement is made.

If your child or young person has another parent (or person with parental responsibility) CYPS will look at whether they are able to care for your child or young person.

- if your young person is aged 15 years of age or over they must agree to the VCA for it to be valid
- if your child is under 15 years of age and CYPS is satisfied that your child is able to understand that they will be cared for by someone other than you (or their caregiver), then their views and wishes will be sought when considering a VCA.

What does it mean?

A VCA means that the Director-General of the Community Services Directorate will share daily care responsibility for your child or young person with you, for the period of the agreement.

Entering into a VCA means that you (or or any person who holds parental responsibility):

- is asking CYPS workers to arrange for someone else to have the temporary care and daily care responsibility of your child or young person
- will share daily care responsibilities for your child or young person and retain long term care responsibility at all times, unless otherwise arranged.



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Short (temporary) or long term parental responsibility cannot be removed **without** the order of a Court.

Agreeing to share daily care responsibility for the temporary care of your child or young person means that CYPS is able to make day-to-day decisions about your child or young person. This may include things like:

- permission to go on school excursions
- taking your child or young person to a doctor for non-serious complaints
- managing your child or young person's behaviour.

CYPS will contact you (or anyone with parental responsibility) about any decisions that are not day-to-day decisions such as any medical treatment of a serious nature, to ask for consent. If any serious decisions must be made while your child or young person is in temporary care, you (or anyone with parental responsibility) will be consulted before any action is taken, unless there is a medical emergency requiring immediate treatment. In that event you (or anyone with parental responsibility) will be advised as soon as possible about any action taken.

You (or anyone who has parental responsibility) will be invited to attend case meetings and be involved in the review of your child or young person's progress and in planning for their wellbeing. A copy of the completed agreement will be given to you (or anyone with parental responsibility).

How long will the agreement last?

Usually an agreement will initially be approved by CYPS for seven (7) days, especially if a case conference has not been held or the consent of another person with parental responsibility has not been obtained. The length of a VCA may be extended, usually by a period of six (6) weeks.

- for children under 15 years of age, an agreement can only be for up to a maximum of six months in any 12 month period
- for young people 15 years or older, an agreement can be for longer than six months in any 12 month period.

Ending an agreement early

You or anyone involved in the VCA (including CYPS) may end a VCA early by giving 24 hours written notice to everyone involved in the agreement. For example, CYPS must give written notice to you (and any other person involved) and you (or anyone else involved) must give written notice to CYPS (and anyone else involved).

If you or anyone involved in the VCA gives notice to end the agreement early, your child or young person must be placed back into the care of the former caregiver (or another person as agreed). At that time the Director-General's daily care responsibility will end.





However, if at that time, CYPS believe that a child or young person would be at immediate need of care and protection if returned to your care (or to the care of the former caregiver), it may take Emergency Action and your child or young person will not be returned.

Will my child or young person be returned to my care?

At the end date of an agreement, unless there is agreement for an extension, your child or young person must be returned as soon as practicable after the day the VCA ends to the former caregiver of your child or young person at the time the agreement commenced or to another person as agreed by the parties to the agreement.

What if CYPS is concerned about my child or young person being returned to my care?

If CYPS believe that it would be unsafe for your child or young person to be returned to your care, CYPS will talk to you about their concerns before the VCA ends. If CYPS believe that your child or young person would be in immediate need of care and protection if they were returned to your care, CYPS may take Emergency Action, or make an application to the Childrens Court for a care and protection order.

This means your child or young person would not be returned, and they would be under the daily care and responsibility of the Director-General.

Does having a VCA cost anything?

Although your agreement is voluntary, CYPS ask that a parent/s (anyone with parental responsibility) make whatever financial contribution they are able to make toward the living expenses of a child or young person while they are not in their care.

Contributions can be made by:

- Mail to Finance Officer, Child and Youth Protection Services, GPO Box 785, CANBERRA CITY ACT 2601 (cheques made payable to The Receiver of Public Monies) or
- in person at 11 Moore Street, Canberra City by arrangement (a receipt will be provided).

Other contributions such as clothing, nappies, school expenses etc and any arrangements for collection can be discussed with the case manager

If you have any questions or concerns about your child or young person, or have any difficulties in paying an agreed contribution, talk to your CYPS worker.

If you are in receipt of Centrelink benefits, you are obligated to report this change in circumstances to Centrelink.





Before you sign a VCA

It is important to understand what a VCA means for you and your child or young person (and anyone else involved) before signing anything. CYPS strongly recommend that you seek legal advice before signing a VCA.

For free legal advice contact:

- ACT Legal Aid on 1300 654 314
- Women's Legal Centre (02) 6257 4499
- Youth Law Centre (02) 6173 5410

If you (anyone involved) continues to have any doubts about what you will be signing or you cannot read or understand this information or the VCA, it is recommended that you do not sign the agreement.

Recording important contacts

If you have any problems about the agreement or anything else in this information sheet, you can talk to your CYPS worker or the Team Leader.

+Your CYPS case manager is _____

Contact telephone number _____ email: _____
You may have to leave a message but your call will be returned as soon as possible.

Team Leader _____

Contact telephone number _____ email: _____

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Information for young people about Voluntary Care Agreements

When you can't stay at home

Sometimes young people aren't able to live at home with their parents (or guardian). There are lots of reasons why this might happen. Every family and situation is different, but sometimes young people can't stay at home because:

- a family might need some help to cope
- there are personal problems that need sorting out
- someone in the family is very sick or dies.

If something like this happens, a parent (or guardian) can decide that they need help to look after their young person. To make sure they are well looked after, a parent or guardian can agree for Child and Youth Protection Services (CYPS) to be responsible for their young person for a little while. This is called making a 'Voluntary Care Agreement'.

If this is happening in your family, CYPS will share your care with your parent/s or guardian. 'Sharing your care' means that someone else in your family, a friend of the family or a carer will look after you for a while.

Do you have a say?

Yes – if you are under 15 years of age you will be asked what you think about the agreement and what you would like - but it might not change what happens.

If you are 15 years old or older, you will be asked what you think about the agreement and whether you agree with it – and if you don't agree, the agreement can't happen. The agreement is a legal matter and if you need help to decide about it, you can talk to someone who understands what the agreement means for you and your family. *There are phone numbers over the page for people who can help you.*

You can also talk to your parents or guardian. If you are worried or have questions you can also ask your CYPS case manager. Some questions to think about might be:

- Is there someone you would like to stay with (remember, everyone will have to agree on this)

- Is there someone you want to keep in touch with? _____
- Are there any activities you would like to continue? _____



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What happens next?

If everyone agrees, a CYPS case manager will arrange for you to stay with your family member, family friend or a carer who wants to care for you. This is called 'being in care'.

Your carer will give you somewhere to stay, provide your meals and make sure you get to school each day. They will also help you to get to any appointments and you can keep doing regular things like sport or after-school activities. While you are in care you will still be able to speak with your parents or guardian, family and friends. You will also be able to see them if this is agreed to by you, your parent or guardian and your CYPS case manager.

It's important for you to know that you still have rights while you are in care. Your CYPS case manager will give you a booklet called *Rights for Children and Young People in Out-of-Home Care* and talk to you about what your rights are and what they mean. You will also get a copy of the completed agreement to keep.

How long will you be living away from your parents or guardian?

This kind of agreement is usually only for 7 days when it first starts. But it might be longer. It depends on your family's situation. Your CYPS case manager will talk to you about what's happening, especially if there are going to be any changes to your care.

Important names and numbers for you

If you have any questions or worries you can talk to your CYPS case manager or the Team Leader. You may have to leave a message and they will call you back.

Your CYPS case manager's name is:

Their telephone number is _____ email: _____

Your Team Leader's name is:

Their telephone number is _____ email: _____

If you want to talk to someone about legal things to do with the agreement you can contact **ACT Legal Aid 1300 654 314** - they can provide free legal advice.

If you think something is unfair you can talk to the **Children and Young People Commissioner 6205 2222**

Sometimes you might not want to talk to your carer or your CYPS case manager about a problem. You can always contact someone at:

Kids Help Line 1800 551 800

Lifeline 13 11 14





Information for parents about Emergency Action

This information sheet is for parents and carers who are involved with Child and Youth Protection Services (CYPS). It provides an outline of the emergency action, including parent rights.

What is Emergency Action?

Emergency action is a direct intervention in a child's life under s406 of the *Children and Young People Act 2008* to ensure their immediate safety. It involves transferring daily parental responsibility from a parent/s or person/s with long term or daily care responsibility to the Director-General, Community Services Directorate. It may include arranging for the child's care and protection by keeping them somewhere that is safe, such as a kinship care placement or a foster care placement.

Under the *Children and Young People Act 2008*, certain Child and Youth Protection Services (CYPS) case managers and all police officers are appointed as delegates of the Director-General to take emergency action.

What will happen next?

Once emergency action is taken, daily parental responsibility is conferred upon the Director-General for two (2) working days. During this time, staff will undertake further assessments to determine if your child is in need of care and protection.

The case manager who has taken emergency action must notify each person who has parental responsibility for your child. The case manager will also ensure that the ACT Public Advocate and the ACT Childrens Court are notified. Your child's matter must be brought before the ACT Childrens Court within two (2) working days. CYPS will make arrangements for this and you will be advised of the details.

CYPS will make arrangements for your child to be placed in an approved care placement and ensure that their daily routine is maintained as much as possible.

CYPS will make further enquires about your child's welfare, such as interviews with you, your child, family members and/or people who are significant in your child's life. This information will form part of a Care and Protection Appraisal. Your agreement to the appraisal will be sought. If you do not agree to the appraisal, CYPS will consider making an application to the Childrens Court for an Appraisal Order that will enable CYPS to undertake the appraisal without your agreement.

CYPS is also likely to commence an assessment of the broader circumstances that led to your child being removed. You will be encouraged to participate in this. Your agreement to the assessment will be sought. If you do not agree to the assessment, consideration may be given to an application being made to the Childrens Court for an Assessment Order.



What the Court can decide?

The Childrens Court Magistrate can return your child to your care if they are satisfied that the grounds for taking the emergency action were not met. The Magistrate can also decide to allow your child to remain in the care of CYPS until further assessments take place. In this case CYPS is likely to make an application to the Childrens Court for a Care and Protection Order.

At Court your child will be provided with independent legal representation who will act in your child's best interests (for younger children) or on their instructions (for older children and young people). In the first instance, the matter will go before a Registrar at the Childrens Court for a Case Management Conference. If agreement between the parties cannot be reached at the conference then the matter will be directed for a hearing before the Magistrate.

The Magistrate may make a decision about the matter, or may adjourn the matter if more information is required. The Magistrate may order that during the adjournment your child must do one or more of the following:

- live in a certain place and with certain people
- return to your care
- live with other family, kin or friends
- stay in the care of a foster carer
- be allowed contact with you or others at a particular time, day and for a particular length of time
- have supervised contact or not have contact with certain people
- attend certain assessments such as medical and dental assessments.

The Magistrate may order that, during the adjournment you must participate in an assessment or do, or refrain from doing, certain things.

What are your rights?

You have a right to receive formal notification of the emergency action and details relating to Court proceedings. As a parent, you are a party to the Court proceedings and you have a right to:

- participate and be heard in Court proceedings and be legally represented
- make your own Application to the Court.

Useful contacts

Legal Aid (for free legal advice)	6243 3411
Aboriginal Legal Service	6249 8488
Registrar for the Childrens Court	6217 4332
Public Advocate	6207 0707
Children & Young People Commissioner	6205 2222
Lifeline	131 114

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Court Processes in the ACT Children's Court

Introduction

The *Children and Young People Act 2008 (CYP Act)* provides the legislative framework for the conduct of proceedings regarding care and protection orders (**Orders**). This framework is subject to the *Court Procedures Act 2004*, the *Court Procedures Rules 2006 (the Rules)*, and any practice directions issued by the ACT Children's Court. Jurisdiction for care and protection matters rests with the ACT Children's Court by virtue of section 288 of the *Magistrates Court Act 1930*.

Evidence in care proceedings is generally by way of affidavit so as to allow full disclosure amongst the parties of the strength and bases of each side's argument. This avoids any party being "ambushed" at a hearing and promotes early resolution of matters where possible.

Applications for Care and Protection Orders

Applications for Orders are always commenced by way of originating applications which must be supported by an affidavit.¹ Applications to amend, extend or revoke are started in the same way. A copy of these documents must be served on all parties to the proceeding with five business days' notice. The applicant for Orders is responsible for filing the required documents with the Court and serving the sealed documents on the other parties.

The parties to proceedings regarding care and protection orders are dealt with in the CYP Act in section 700. This section sets out that the parties are: the applicant, the child, someone given a copy of the application who takes part in the proceeding, someone who is asked to be a party by the Court, and someone who is joined as a party. Applications can be made to remove parties from proceedings, or for other individuals to join proceedings. This provision allows other family members or adults to join the proceedings if they have a sufficient interest in the care arrangements of a child.

Given that the child is a party to the proceeding, CYPS is required to notify Legal Aid (ACT) once emergency action has been taken. CYPS also advises the Public Advocate and the Childrens Court² immediately following emergency action. Upon receiving that notification, Legal Aid briefs either an in-house solicitor or an external solicitor to represent the child throughout the course of the proceeding. This solicitor is required to act in the best interests of the child at all times and takes instructions if and when appropriate.³

¹ Applications made be made orally supported by sworn oral evidence: section 698 of the CYP Act.

² The same parties must also be notified by the applicant for any application to extend, amend or revoke orders.

³ See part 7A of the *Court Procedures Act 2004*.

Emergency Action

An exception to the requirement to serve documents with five days' notice of a Court appearance is after emergency action is taken or in other exceptional circumstances. Under section 410 of the CYP Act, after emergency action is taken, the Director-General can only hold parental responsibility for a child for up to two working days without an order of the Court. If an order of the Court confirming the transfer of parental responsibility to the Director-General is not made within those two business days, parental responsibility will revert back to the natural parents (or other person with parental responsibility)⁴ and the Director-General no longer holds any decision-making power regarding the child's arrangements.⁵ Accordingly, after emergency action is taken, the Director-General must have her application for interim orders filed and determined within two business days of emergency action being taken.

An application filed following emergency action must be in the form prescribed under the Rules and must include an application for interim orders and final orders,⁶ even though the provisions to be included or length of any potential final order is not yet known. CYPS has adopted a policy position of including in its applications immediately following emergency action an application for final orders which include a short-term parental responsibility provision,⁷ rather than a long-term parental responsibility provision. This reflects CYPS' commitment to ensuring the safety of children through the least intrusive means possible. It is also recognition of the impact of legal proceedings on parents, and the potential to overwhelm parents who are unfamiliar with the nature of child protection litigation.

Following emergency action, CYPS notifies the Childrens Court of the action and requests a listing date and time in the period prior to the expiry of the two business day timeframe permitted by the CYP Act. Once the Court has advised CYPS of the allocated time, CYPS staff advise the child's parents of the details and will encourage each parent to attend Court. Parents are provided with an information sheet once emergency action is taken which provides information about the emergency action process, as well as details for obtaining legal representation.

When a matter is first listed in Court following emergency action, the parties attend at the stated time at the Court for a case management conference (CMC). This is held before a Deputy Registrar and is attended by all parties and their legal representatives (if applicable). At a CMC, the applicant outlines the background and reasons for the application, and the other parties are permitted to ask questions and raise any concerns they may have. The applicant also speaks about the terms of the orders sought and any proposed adjournment period. At the CMC, a number of outcomes are possible:

⁴ See sections 414 and 415 of the CYP Act.

⁵ Unless other interim orders are made regarding specific aspects of the child's living circumstances.

⁶ Section 433(1) of the CYP Act.

⁷ 12 months for a child under the age of 2 years, or 2 years for a child over the age of 2 years.

- (a) The parties consent to the terms of any interim orders sought. The interim orders are then made (provided the Children’s Court magistrate is satisfied the order is necessary when reviewing the terms of the order in Chambers later that day), and the application is adjourned to an agreed date in the future for a further CMC; or
- (b) If one or more of the parties do not consent to the terms of any interim orders sought, the application must go before the Childrens Court magistrate the same day for adjudication. The applicant is required to prove his/her case to the requisite standard set out in section 433 of the CYP Act before the Magistrate can make any interim orders. If the Magistrate is satisfied of the relevant criteria, interim orders can be made and the application for final orders is adjourned to a future CMC. If interim orders are not made, the application for interim orders will be dismissed and the application for final orders will be adjourned to a future CMC.

The Deputy Registrar is empowered to make interim orders in accordance with an application by consent.⁸ Prior to doing so, the Deputy Registrar must be satisfied that the parties providing consent are capable of doing so in fully informed manner. If this is not apparent or there are doubts about a person’s capacity, the Deputy Registrar may refer a matter into Court for determination by a Magistrate who can assess a party’s understanding of providing consent and take any action deemed necessary, such as declining to accept that person’s consent and assessing the application for interim orders on its merits.

Once the application for interim orders is resolved either by consent before a Deputy Registrar or by a Magistrate, it is commonplace for the Director-General to propose that the substantive application be adjourned for a period of approximately two weeks to allow the parents⁹ and any other parties to seek legal advice regarding the application.

During the adjournment period, the delegates of the Director-General consider the application, the events leading to emergency action and the circumstances of the subject child/ren. It may be that it is determined that an external, independent assessment is required regarding matters outside the expertise of the Director-General’s staff, such as psychiatry, psychology, or drug/alcohol addiction and recovery. If the Director-General decides to take this course and seek an expert assessment, an application for a care and protection assessment order may be made to the Court. This application would be dealt with at the next Court attendance, usually at a CMC.

When the matter returns to the Court for the second CMC, the parties again appear before a Deputy Registrar. Any assessment order applications are generally dealt with on that occasion, and parties may consent or oppose the making of such an order. Again, if the parties do not consent to an assessment order application, the matter goes before a Magistrate for

⁸ Rule 6251 of the Rules.

⁹ Or any other party who might hold parental responsibility for a child

determination. If the Magistrate is satisfied that an external assessment is necessary to determine if a child is need of care and protection, an assessment order can be made. If the Magistrate decides the assessment is not required, the assessment order application will be dismissed.

The issue of interim orders is also dealt with at the second CMC; and parties may consent to, or oppose the continuation of the interim orders. If the parties are in agreement, the application will generally be adjourned for between 10 and 12 weeks to allow any expert assessments to be undertaken. This period of time also permits the Director-General's delegates to undertake further investigations and information gathering. The Deputy Registrar may also make directions for the filing of the Director-General's evidence. If the parties consent, the interim orders are continued for the adjournment period and the application is adjourned to a future CMC. If there is no consent to the interim orders continuing, the application for interim orders again goes before a Magistrate for determination. Regardless of whether interim orders are continued, the Director-General is still likely to seek the 10-12 week adjournment to permit any expert assessments to be undertaken and for the Director-General's delegates to undertake their own family assessment to ultimately make recommendations regarding the orders (if any) to be sought.

After 10-12 weeks, at the next CMC, the parties again convene before a Deputy Registrar. This CMC provides the parties with an opportunity to respond to the evidence in support of the Director-General's case. If, upon reviewing the Director-General's evidence the parties are agreeable to the orders sought by the Director-General, consent can be provided and the orders can be made without a hearing. If one or more of the parties do not consent to the final orders being made, filing directions will be made for the other parties to file their evidence and any cross-applications.¹⁰ Interim orders are dealt with in the same manner as previous CMCs. The application is then adjourned to a future CMC usually held the week after the last filing deadline is required to be complied with.

At the next CMC (which is often referred to as a "compliance check"), the Deputy Registrar seeks to establish whether all filing directions have been complied with, and that all parties have filed all evidence they seek to rely upon at a final hearing. Once this is achieved, the application (and any cross-applications) are listed for a "listing hearing" before a Magistrate. The listing hearing is usually scheduled within approximately two weeks of the compliance check CMC. Interim orders are dealt with in the same manner as previous CMCs.

Pursuant to the current Childrens Court Practice Direction, the Director-General is required to file and serve a "case management document" prior to the listing hearing which is a summary of the witnesses to be called, the evidence to be relied upon at the hearing, the likely duration of any hearing, and the issues in dispute.

At the listing hearing, the Magistrate may seek to further clarify the issues in dispute between the parties and understand the positions of each party. Hearing dates are then allocated and

¹⁰ An application for orders in different terms to those sought by the Applicant (usually the Director-General).

any further filing directions are made as needed. The Magistrate will ascertain the parties' positions on the continuation of the interim orders and decide whether the interim orders should be continued. Orders are then made accordingly.

The hearing then commences before the Magistrate on the allocated hearing dates. During the hearing, evidence is tendered and witnesses are called to give oral evidence. Any expert who has provided a report, and any person who makes an affidavit which is relied upon by a party to the proceedings, must be available for cross-examination by the other parties. Each party is permitted to make opening submissions at the start of the hearing and closing submissions at the conclusion. This gives the parties an opportunity to summarise the evidence and persuade the Court as to how the law should be applied to the evidence. The Magistrate will either hand down a decision at the conclusion of the hearing, or reserve its decision to a later date. In circumstances where a decision is reserved, the Magistrate will determine whether any interim orders should continue until the date of decision.

Information/documents will only be admitted into evidence in the proceeding if it is relevant to a fact in issue. In care proceedings in which the Director-General has filed an application for care and protection orders, the facts in issue are those linked to the criteria in section 464 of the CYP Act for the making of an order, namely:

- (a) the Court is satisfied that the child or young person is in need of care and protection;
and
- (b) has considered the care plan prepared by the director-general for the child or young person; and
- (c) is satisfied that—
 - (i) the provisions included in the order are necessary to ensure the care and protection of the child or young person; and
 - (ii) making the order is in the best interests of the child or young person.

Therefore, only evidence which relates to these issues may be placed before the Court and taken into account by the Court in coming to its decision. When a decision is provided by the Court, it can take one of a number of forms:

- (a) Orders may be made in accordance with either the Director-General's application or one of the other parties' cross-applications. Any other applications are subsequently dismissed.
- (b) No orders are made and all applications/cross-applications are dismissed.
- (c) An order is made which is not aligned with any of the applications before the Court but is rather in terms which the Court believes is in the child's best interests.

Once the order is finalised and pronounced by the Court, it takes effect immediately.

Applications to extend, amend, or revoke

Under section 466 of the CYP Act, applications to extend, amend or revoke an order for a child may be made once every 12 months.¹¹ Examples of the types of applications which might be made under this section include:

- (a) An application to extend an order which includes a short-term parental responsibility provision¹² to when the child reaches 18 years of age;
- (b) An application to revoke an order entirely and return a child to his/her parent(s) care or to a former caregiver;
- (c) An application to amend an order to substitute an enduring parental responsibility provision¹³ instead of a long-term parental responsibility provision; or
- (d) An application to amend an order by including a contact provision with a specified amount of contact (for example, a child is to have contact with a parent no less than 2 hours each month).

The conduct of these proceedings generally follows the same pattern outlined above following emergency action. The applicant is required to file his/her evidence first, the other parties then have an opportunity file evidence in response, and the applicant may then file evidence in reply. Parties convene before a Deputy Registrar to progress the matter, and once a compliance check CMC has established that all evidence has been filed, the matter progresses to a listing hearing. The same procedure is adopted for hearings and decisions of the Court.

If an application to amend, extend or revoke is made, it is generally not necessary to deal with the issue of interim orders, as there is often a care and protection order of some kind already in place. However, in circumstances where a final order is already in place and additional provisions are being sought by way of amendment, final orders can run alongside interim orders.

Appeals

Parties to a care and protection proceeding may appeal certain orders made by the Children's Court to the ACT Supreme Court.¹⁴

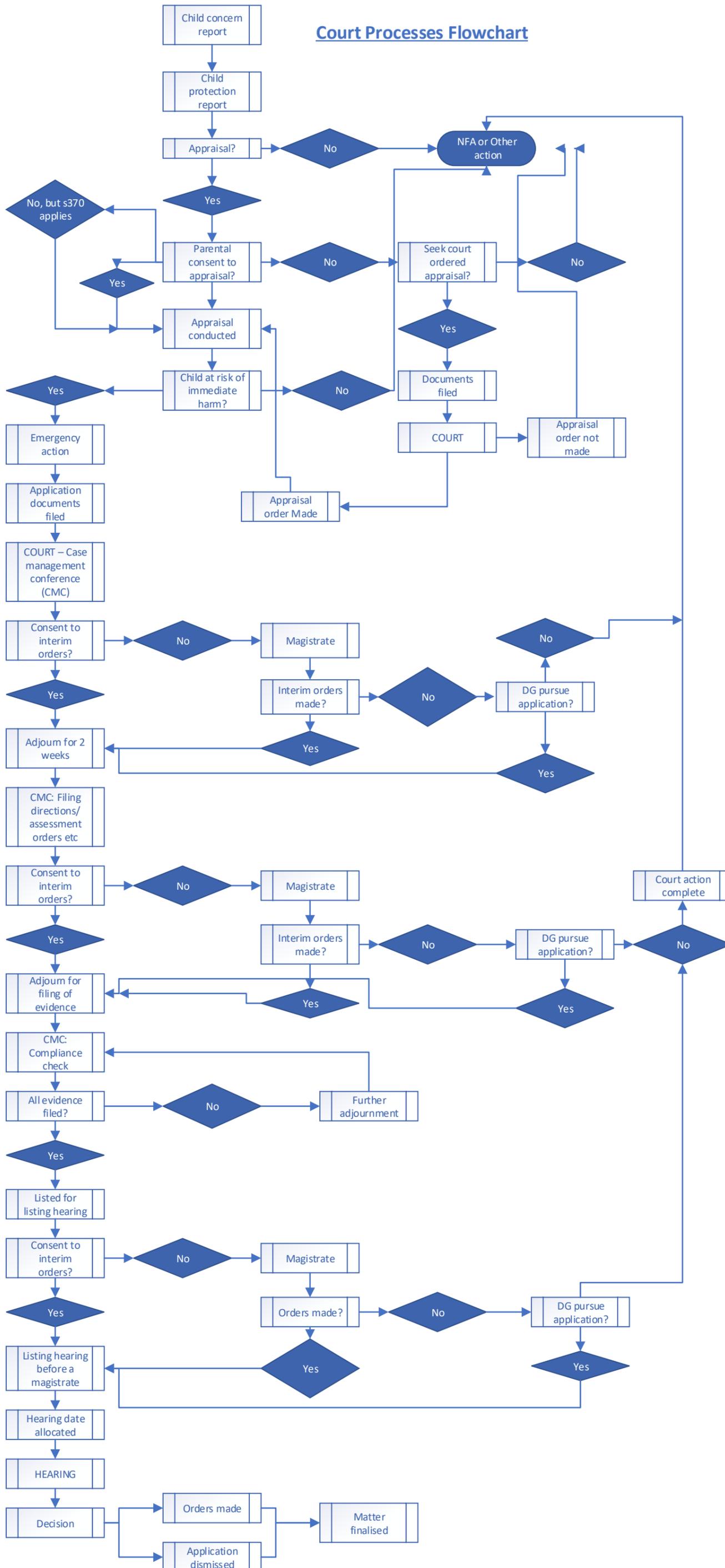
¹¹ Section 466(3) of the CYP Act. Applications may be made more than once in a 12 month period if the Court can be satisfied that there has been a significant change in relevant circumstances since the last care and protection order was made or last extended or amended.

¹² 2 years or less.

¹³ A provision which transfers all parental responsibility for a child to a stated person who is not the Director-General: see section 481 of the CYP Act

¹⁴ Section 836(1) of the CYP Act.

Court Processes Flowchart



ACT Legislation overview

There is a range of legislation that affects information sharing and privacy provisions in the ACT relating to child protection, outlined below. Most recent versions of ACT legislation are available at www.legislation.act.gov.au.

Children and Young People Act 2008

The Children and Young People Act 2008 is the primary authority governing the sharing of information about the safety and wellbeing of children and young people.

- Chapter 25 is the primary information sharing chapter;
- Chapter 11 section 362 provides guidelines for sharing pre-natal information;
- Chapter 15 section 529 outlines the legislative obligations of care entities to provide information to children and young people on the direction of the director-general; and
- Chapter 6 section 186 provides that the Director-General or delegate may seek health information for a young person known to youth detention.

When requesting, receiving, sharing or recording protected and sensitive information obtained under the Act, the interaction with other relevant legislation must be considered. These include:

Information Privacy Act 2014

The Territory Privacy Principles, set out in Part 3 of the Act, cover the collection, use, storage and disclosure of personal information, and an individual's access to and correction of that information. The principles are:

TPP 1—open and transparent management of personal information

TPP 2—anonymity and pseudonymity

TPP 3—collection of solicited personal information

TPP 4—dealing with unsolicited personal information

TPP 5—notification of the collection of personal information

TPP 6—use or disclosure of personal information

TPP 8—cross-border disclosure of personal information

TPP 10—quality of personal information

TPP 11—security of personal information

TPP 12—access to personal information

TPP 13—correction of personal information.

Privacy Act 1988 (Cth)

The Australian Privacy Principles in the Act refer specifically to the appropriate manner and purpose of collection, storage and disclosure of information. All government agencies must take steps to inform individuals why they are collecting personal information, the authority they have to collect it and to whom it may be disclosed. Information must be stored securely and only disclosed for health or safety reasons or as required or authorised by law. The provisions of the Children and Young People Act 2008 enable the lawful sharing of personal information, which is not contrary to the legal requirements of the Privacy Act 1988. The Children and Young People Act 2008 provides that information may be shared when it is in the best interests of the child or young person.

Human Rights Act 2004

Section 12(a) of the Act provides that everyone has the right not to have his or her privacy, family, home or correspondence interfered with unlawfully or arbitrarily. The information sharing provisions in the Children and Young People Act 2008 allow for limited and necessary infringement of this right to privacy. This allowance only exists when the sharing of information is authorised under the Children and Young People Act 2008 – that is, when sharing information is in the best interests of a child or young person.

Health Records (Privacy and Access) Act 1997

The Act ensures the integrity, safe keeping and appropriate use of personal health information. The Act provides a consumer (the person to whom a health record relates) the right to access their record. When access is provided under the Act, only the consumer (which may include the parent of a child or young person) may exercise the right of access to the information. Access to information under the Act must also comply with the information sharing provisions of the Children and Young People Act 2008. The sharing of personal health information, as with any personal information, must only occur when the consumer provides consent or the sharing of information is authorised under the Children and Young People Act 2008.

Freedom of Information Act 2016

The Act provides members of the community with a right to access Government records. The Act provides a right of access to information held by the Government wherever it is not contrary to the public interest for that information to be disclosed and sets up a clear framework for determining the public interest in the disclosure or non-disclosure of government information. The Act facilitates the provision of personal information by a Government agency to individuals including children, young people, parents, extended family or carers. Individuals do not need to make an application for information under the Act if the Children and Young People Act 2008 enables them to obtain information directly from a delegated staff member.

Crimes (Sentencing) Act 2005

Section 136 of the Act allows for information to be shared between delegates of the Director-General of the Community Services Directorate and criminal justice agencies, including the Magistrates Court, the Supreme Court, the Director-General of the Justice and Community Safety Directorate, the Sentence Administration Board, the Director of Public Prosecutions, the Chief Police Officer and the Victims of Crime Coordinator. Information may be shared in relation to offences or alleged offences, including information about a person charged with an offence, victims of an offence and a person convicted or found guilty of the offence.

Crimes (Sentence Administration) Act 2005

Sections 215A and 216A of the Act allow the Director-General or delegate to release non-identifying information about a sentenced young offender to a registered victim of the young offender.

Criminal Code 2002

The Act provides for an offence if a person publishes information that identifies a child or young person who is or was the subject of children's proceedings, information that identifies a family member of the child or young person or information that would allow the identity of such a child or young person to be determined. This includes any proceedings under the Children and Young People Act 2008 (for example, care and protection proceedings) or criminal proceedings and applies to any Court determining the proceeding.

The term 'children's proceeding' is not limited to Court proceedings. It includes situations where the Director-General has or had parental responsibility for a child or young person (including pursuant to a voluntary care agreement) and when a child or young person has been the subject of a child concern report and no further Court proceedings were commenced. The term 'publish' is defined as communicating or disseminating information in a way that makes it available to or is likely to make it available to anyone else not entitled to the information.

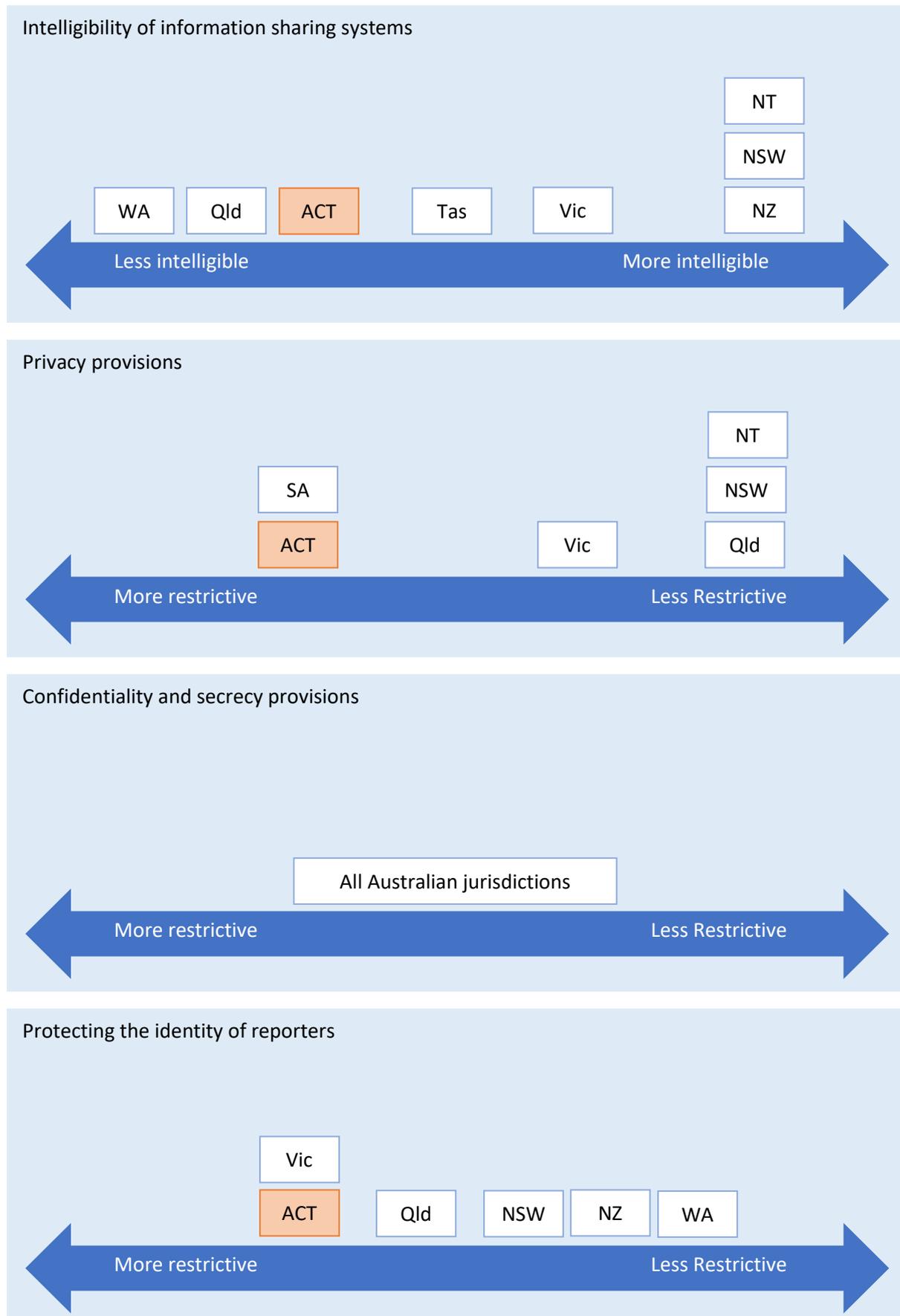
Territory Records Act 2002

The Act requires that full and accurate records are kept of events involving ACT Government agencies, by both the agencies themselves and those contracted to provide services to those agencies. Electronic and paper records must be up to date and reflect an objective account of what has happened in the provision of services to children, young people and families.

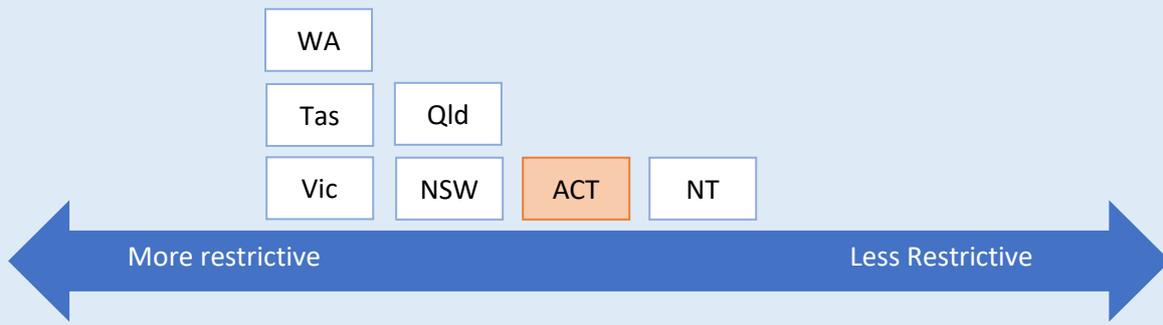
Public Sector Management Act 1994

Section 9(2) of the Act imposes an obligation on all public employees not to disclose confidential information acquired as a consequence of their employment without lawful authority to do so, nor to seek or take improper advantage of any information acquired as a consequence of this employment.

High-level comparison with other jurisdictions



Access to child protection report information (FOI)



Scope of information sharing schemes



Restrictions on the publication of child-related proceedings

