

*Policy Determination 5.2:  
Mandatory Reporting*

REFERENCE	61:F2018/286-24	
POLICY APPROVER	Name Title	Jeanette Kerr Deputy Chief Executive Officer Operations
	Date	5 January 2018
POLICY OWNER	Executive Director Youth Justice	
POLICY RESPONSIBILITY	Senior Director Youth Justice Programs	
IMPLEMENTATION RESPONSIBILITY	Manager Youth Programs - Superintendent	

*Document Control*

VERSION HISTORY	EFFECTIVE DATE	REASON FOR UPDATE
Version 1.01	January 2018	Update to position titles
Version 1.0	January 2018	Deputy Chief Executive Officer Operations approval

  

NEXT REVIEW DATE	January 2020, or as directed prior to the scheduled review date.
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## Policy Purpose

To provide guidance on the mandatory reporting obligations under Section 26 of the *Care and Protection of Children Act* and Section 124A of the *Domestic and Family Violence Act*.

## Authority / Responsibility

The Executive Leadership Group and Senior Managers have responsibility for ensuring that supervisors and employees understand and comply with this policy.

This policy determination applies to all Territory Families staff, contractors, visitors and young people admitted into a detention centre.

## Policy Statement

Section 26 of the *Care and Protection of Children Act* sets out the reporting obligations that apply to all persons in the Northern Territory who have concerns for the wellbeing of a child or young person.

Section 124A of the *Domestic and Family Violence Act* sets out the reporting obligations that apply to adults in the Northern Territory who have concerns about a person in a domestic relationship who may be the victim of serious physical harm caused by their partner.

The reporting obligations are commonly referred to as 'mandatory reporting'.

### *Reporting Harm and Exploitation of Children and Young People*

#### **If in doubt – make a report.**

If a person is in any doubt or has concerns about whether they should make a mandatory report, they should call the 24-hour Child Protection Hotline on **1800 700 250** for advice and guidance.

**A person must make a report if they believe on reasonable grounds that a child or young person has been, or is likely to suffer harm or exploitation, or may be a victim of a sexual offence.** A person does not have to be absolutely sure, or have proof, in order to form a belief, on reasonable grounds, that a child or young person is at risk.

A person may form a belief on reasonable grounds may be based on factors like:

- A disclosure made by a child or young person;
- Allegations by a third party, such as a report by one child or young person in relation to another child or young person;
- Indicators such as physical injuries or expressions of fear;
- Observation of age-inappropriate behaviours, including sexualised behaviour or talk;
- Delays in emotional or mental development; or
- Chronic school non-attendance.

If a child makes a disclosure, you must avoid jeopardising any subsequent investigation. This means that it is important that you do not undertake any investigation or question the child to gather more information.

**All investigations will be conducted by Child Protection Officers from Territory Families and/or Northern Territory Police.**

### CARE AND PROTECTION ACT DEFINITIONS

**Child:** is a person less than 18 years of age; or a person apparently less than 18 years of age if the person's age cannot be proved.

**Harm to a child:** is any significant detrimental effect caused by any act, omission or circumstance on the physical, psychological or emotional wellbeing or development of the child;

**Causes of harm:** without limiting the above definition, harm can be caused by the physical, psychological or emotional abuse or neglect of the child; sexual abuse or other exploitation of the child; or exposure of the child to physical violence.

**Exploitation of a child:** includes sexual exploitation and any other forms of exploitation of the child including sexual abuse; involving the child as a participant or spectator in an act of a sexual nature; prostitution; or a pornographic performance

**Sexual offence:** is defined in section 3 of the *Sexual Offences (Evidence and Procedure) Act* as an indictable offence involving (among a range of things) sexual intercourse or penetration, oral sex, indecent touching or indecent assault; any indecent act directed against a person or committed in the presence of a child, sexual servitude or any other form of sexual exploitation.

**Indictable offences:** that are sexual offences involving children are described in sections 127- 132 of the *Criminal Code Act*. There are a range of offences, and the penalties scale in accordance with the age of the child and circumstances. The following is not an exhaustive list but in summary the offences include: when a person (regardless of age) has sexual intercourse or commits an act of gross indecency involving a child under the age of 16; an adult who has sexual intercourse or commits an act of gross indecency with a child over 16 when the offender has a special care relationship with the child (e.g. a teacher, health care worker, sports instructor, step parent or guardian); any person who has sexual intercourse with or commits an act of gross indecency upon a person to whom they provide disability support services; attempts to procure a child under 16; and an adult who maintains a sexual relationship with a child.

#### IDENTIFYING HARM

Adults may cause harm through their actions towards a child or young person that may be verbal and/or physical in nature. They may harm children or young people through neglect – failing to provide proper care. Rarely does a child experience only one form of harm.

#### Cumulative Harm

Cumulative harm is compounded experiences of multiple adverse circumstances and events in a child or young person's life. The experiences of these prolonged and repeated events on a child or young person can be profound and cumulative, diminishing the child or young person's sense of safety, stability and wellbeing.

#### Emotional Harm

Emotional harm occurs when a child's social, emotional or cognitive development is impaired or is at significant risk as a direct result of their parents' or carers' persistent failure to meet the child's emotional need for love and security, or their psychological needs for stimulation and nurturing.

#### Physical Harm

Physical harm includes all non-accidental physical injuries or impairments, and situations where there is significant risk of injuries occurring.

Physical harm to a child or young person can be caused by actions such as the child or young person being punched, kicked, slapped, shaken, bitten, burnt and/or hit/injured by an object.

#### Neglect

Neglect is the repeated failure to meet a child's basic physical and emotional necessities of life, including appropriate supervision, shelter, nutrition, clothing, education, personal hygiene and medical care.

#### Sexual Harm

Sexual harm occurs when any sexual activity or sexual threat is imposed on a child and includes the inducement or coercion of the child to engage in, or to witness, sexually explicit conduct or sexually explicit material, whether or not for the sexual gratification of the person responsible.

#### TIMEFRAME FOR REPORTING

A report must be made as soon as possible after forming a belief that a child or young person is at risk of harm or exploitation.

**Failure to do so may constitute an offence under Section 26 of the *Care and Protection of Children Act*.**

**The person who has formed a reasonable belief that a child is being harmed or exploited is obligated under the law to make a report.** This is to ensure that the most accurate and reliable information is being reported. There are certain circumstances where you can have a legitimate reason not to make a report, for example you believe that a report has already been made. If in doubt, it is best to contact the child report hotline to discuss the issue.

#### MAKING A REPORT

**Contact Territory Families' Child Protection Hotline on 1800 700 444.**

The following information will be requested when making a report:

- The child's name, age, address and present location;
- The nature of the suspected abuse or neglect;
- What has been heard or observed;
- Information about any immediate danger to the child;
- Any other information that may help e.g. whether any other agencies are involved with the family; and
- The reporter's contact details and preferred contact time.

If you don't have **all** of this information you should still make the report and provide the information that you do have.

#### *Reporting Domestic and Family Violence*

The Northern Territory law requires all adults to report domestic violence to a police officer, verbally or in writing.

The *Domestic and Family Violence Act* requires a report to be made to the police if you believe on reasonable grounds that someone **has caused or is likely to cause harm** to someone with whom they are in a domestic relationship, and/or the life or safety of another person is under serious or imminent threat because domestic violence **has been, is being, is about to be committed**.

This can include children who may have witnessed or been otherwise affected by domestic or family violence.

#### DOMESTIC AND FAMILY VIOLENCE ACT DEFINITIONS

**Harm:** Under the *Domestic and Family Violence Act* 'harm' is defined as 'physical harm that is serious harm' as defined in Section 1 of the Criminal Code Act (the Criminal Code).

**Serious harm:** Section 1 of the Criminal Code defines Serious Harm as any harm (including the cumulative effect of more than one harm) that endangers, or is likely to endanger, a person's life; or is or is likely to be significant and longstanding.

**Physical harm:** includes unconsciousness, pain, disfigurement, infection with a disease and any physical contact with a person that a person might reasonably object to in the circumstances, whether or not the person was aware of it at the time.

#### MAKING A REPORT

Call 000 a person is in immediate danger.

If it is not an emergency, call police on 131 444.

The following information will be requested when making a report:

- The location of the violence or abuse;
- If the person needs medical help;
- If there are any children nearby;
- If there are any weapons involved;

- The name of the victim or the other person if you know; and
- The relationship between the victim and the other person.

If you don't have all of this information you should still make the report and provide the information that you do have.

### *Recording Mandatory Reports*

Once the report is made, the staff member must complete the 'Record of Mandatory Report' template and provide the record in hard copy to the Manager Youth Programs - Superintendent or delegate for action.

Upon receipt of the Record of Mandatory Report, the Manager Youth Programs - Superintendent must:

- Review the report to ensure it has been appropriately completed;
- Update the Mandatory Reporting Register; and
- Provide the report to the Manager of the Case Management and Assessment Team.

### *Support for Reporters*

The Manager Youth Programs - Superintendent, or delegate, must ensure that the staff member is offered wellbeing support. This should include offering the staff member the opportunity to debrief and providing the staff member with the contact details for the Employee Assistance Program.

The Employee Assistance Program provides free and confidential counselling and support services to all employees and their immediate families.

### *Protections for Reporters*

A reporter is any person who informs Territory Families or the Police about their belief that a child has been, or is likely to be, harmed, exploited or a victim of a sexual offence, or informs Police that a person may be victim of serious harm by their domestic partner.

A person making a report and providing information in good faith is not civilly or criminally liable. This indemnity only applies to the making of a report and does not protect a person who discloses information inappropriately to another person.

For confidentiality reasons, a reporter will not usually be advised of the outcome of their notification except where the reporter is a relevant professional such as a teacher or health practitioner. The reporter's identity is kept confidential unless the Court directs that this information be provided.