

PROTECTING AND SUPPORTING CHILDREN AND YOUNG PEOPLE

GUIDELINES FOR CATHOLIC SCHOOL PERSONNEL

NOVEMBER 2005

Disclaimer

The Catholic Education Commission NSW (“CEC”) and the Catholic Commission for Employment Relations NSW (“CCER”) advise that the information and procedures referred to in this publication are not to be relied upon as formal legal advice. They are presented primarily as a general guide for school personnel in approaching the duties placed upon them by the:

- **Children and Young Persons (Care and Protection) Act 1998**

and related duties under the :

- **Commission for Children and Young People Act 1998** – Part 7, child-related employment screening;
- **Child Protection (Prohibited Employment) Act 1998**; and
- **Ombudsman Act 1974** – Part 3A

The Guidelines are not intended to be a substitute for other relevant materials and should be read in conjunction with the:

- NSW Interagency Guidelines for Child Protection Intervention, 2000 edition, revised 2005;
- NSW Ombudsman Guidelines: “Child Protection in the Workplace: Responding to Allegations Against Employees”, June 2004;
- NSW Commission for Children and Young People: “Working with Children Check” Guidelines, April 2004;
- Towards Healing: Principles and Procedures in Responding to Complaints of Abuse Against Personnel of the Catholic Church in Australia, March 2001 and amended May/June 2003;
- Integrity in Ministry: A Document of Principles and Standards for Catholic Clergy and Religious in Australia, June 2004; and
- CCER Manual: “Make it work (for kids) A Child Protection Kit to assist Catholic Heads of Agency”, June 2005.

Protecting and Supporting Children and Young People – Guidelines for Catholic School Personnel, revised 2005

Protecting and Supporting Children and Young People – Guidelines for Catholic School Personnel, revised 2005 is the key document produced by the CEC NSW for providing information and advice on procedures to be followed by Catholic School authorities in order to protect children and young people at risk of harm, in accordance with the **Children and Young Persons (Care and Protection) Act 1998 (“CYP(CP)Act”)**.

The previous (2001) edition of these Guidelines has been updated for currency purposes.

The more significant updating has been in the following areas:

Update	Details
Reporting procedures for School personnel who suspect that a child is at risk of harm	<ul style="list-style-type: none"> • Procedures for reporting suspected risk of harm have changed as a result of a recent agreement reflected in a Memorandum of Understanding (“MoU”) between the NSW Department of Community Services (“DoCS”), the NSW Department of Education and Training, the CEC NSW and The Association of Independent Schools of NSW Ltd. The Guidelines incorporate this change • A report must now be made to DoCS using either one of the following procedures: <ul style="list-style-type: none"> – centralised reporting to DoCS, which is endorsed in the MoU and is an administrative process that supports compliance with section 27 of the CYP(CP)Act, or – direct reporting to DoCS. • Where adopting centralised reporting, School personnel report their concerns to the School Principal, and the Principal then must report to the DoCS Helpline. • Centralised reporting is the preferred and recommended reporting procedure. • However, the MoU does not preclude any School personnel from reporting the matter directly to DoCS.
Recent amendments to the Ombudsman Act 1974 and the Commission for Children and Young People Act 1998 by virtue of the Child Protection Legislation Amendment Act 2003 (“CPLAAct”)	<ul style="list-style-type: none"> • The CPLAAct amendments in 2003, which commenced on 23 April 2004, affected child protection legislation impacting on child-related employment. • In this regard, the Guidelines incorporate the new concepts of “reportable conduct” allegations and “relevant employment proceedings”, which replace the previous concepts of “child abuse” allegations and “relevant disciplinary proceedings” respectively, in the context of employees.
Head of Agency arrangements under the Ombudsman Act 1974	<ul style="list-style-type: none"> • Head of Agency arrangements in NSW changed from 1 July 2005. • This change, which is reflected in the Guidelines, involves the Catholic Commission for Employment Relations NSW no longer serving in the capacity as Head of Agency for Catholic employers.
Age of consent	<ul style="list-style-type: none"> • Amendments to the Crimes Act 1900 (“Crimes Act”) in 2003 reduced the age of consent to 16 years for both heterosexual and homosexual relationships. The Guidelines incorporate this change. • Additional information has been included to emphasise that: <ul style="list-style-type: none"> – under the Crimes Act it is an offence for a person in a “special care relationship” with another person to have sexual intercourse with that person if that person is under 18 years of age; – it is also an offence under the Crimes Act to have sexual intercourse with any person under 16 years of age as the law does not recognise those persons as being able to give consent;

	<ul style="list-style-type: none"> – in cases involving peer sexual activity, it is important for School personnel to understand that the existence of sexual activity between two people where one or both is under the age of consent, could make that relationship a criminal offence under the Crimes Act. When it's unclear whether a particular situation involves a consenting peer relationship or child sexual assault, advice should be sought from DoCS.
Homelessness of children and young persons	Information has been provided in the Guidelines on the subject of homelessness to alert School personnel to report such situations to DoCS where they become aware of them.
Out-of-home care	Information on out-of-home care matters has also been included to alert School personnel that they could be approached for a possible role in such situations.
Preliminary conferencing (prior to hearings)	<ul style="list-style-type: none"> • A “preliminary conference” is an informal, court-ordered meeting between representatives of DoCS and the other parties in a Children’s Court care matter. The purpose of these conferences is to identify areas of agreement and disagreement between the parties and to try and reach a solution which resolves all or some of the issues. • The Guidelines provide information on preliminary conferencing to alert School personnel that they may be required to attend such conferences.
Giving evidence in relation to care and other child-related Court proceedings	<ul style="list-style-type: none"> • School personnel may sometimes be requested to give evidence either by DoCS or one of the other parties in Children’s Court care proceedings. • Guidance on this subject has been offered in the Guidelines to alert schools and School personnel to issues involved in giving evidence under subpoenas and alternatively, when voluntarily giving evidence.
DoCS Early Intervention Strategy – developing	<ul style="list-style-type: none"> • In late 2004/early 2005, DoCS began trialling an early intervention strategy for responding to reports of children or young persons suspected of being at risk of harm. • The strategy involves a combined interagency approach to coordinate and provide services, aimed at intervening early to prevent cases where lower levels of risk of harm are present, from developing into cases involving more serious levels of risk of harm to the affected child or young person. • The implementation of the early intervention strategy may involve School personnel more directly in assisting children and young persons, their parents or caregivers and DoCS in dealing with those issues which have led to the particular case being reported to DoCS. • Information has been included in the Guidelines to alert School personnel to this development and its potential implications for them.

Of the updating conducted, schools are advised to give special attention to familiarising themselves with that relating to reporting procedures and the age of consent.

The editing process has also taken into account the newly revised “NSW Interagency Guidelines for Child Protection Intervention, 2005”.

Should a school have any queries about the revised Guidelines, these should be directed initially to their Diocesan Education office if a Systemic school or to CEC or CCER if a Congregational School. Your Head of Agency should also be consulted.

Ian Baker
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Glossary and Definitions

Caregiver	A person who, while not a parent of the child, has actual custody of the child. A caregiver may provide the care with or without fee or reward and can include relatives, friends or acquaintances of a parent, residential care workers, child care workers, youth workers, nursing staff and foster parents.
Child	<p>A person who is under the age of 16 years, except where otherwise stated.</p> <p>For the purposes of the Ombudsman Act 1974, however, a child means a child or young person under the age of 18 years.</p>
Class of children or young persons	More than one child or young person who may be at risk of harm because of association with a person or a situation causing risk of harm from abuse and neglect.
Employment proceedings, relevant	<p>Disciplinary proceedings completed in NSW or elsewhere, where an employer (or professional or other body that supervises the professional conduct of the employee) has found:</p> <ul style="list-style-type: none">• reportable conduct; or• that an act of violence committed by an employee in the course of employment and in the presence of a child has occurred, or there is some evidence it occurred, however the finding is inconclusive.
Mandatory reporting	The act of a person mandated under section 27 of the Children and Young Persons (Care and Protection) Act 1998 (“ CYP(CP)Act ”) reporting that they suspect a child is at risk of harm.
Out-of-home-care	Residential care and control of a child or young person at a place other than their usual home and by a person who is not the child or young person’s parent or relative. It can include staying with friends and acquaintances, foster care, residential care, shared family care and other forms of substitute care.
Parent	Any person having parental responsibility for a child or young person.
Reasonable grounds	Grounds which would cause a reasonable person to form a judgement of risk of harm, having regard to the circumstances of the individual case including the nature and seriousness of the allegations made, the age and physical condition of the child, any corroborative evidence which exists, and other relevant information.
Report	Information provided, in accordance with sections 24, 25 or 27 of the CYP(CP)Act , by a person who forms the belief on reasonable grounds that there are current concerns for a child, young person or a class of children or young persons due to risk of harm from abuse or neglect.
Reportable allegation	<p>An allegation of reportable conduct against a person or an allegation of misconduct that may involve reportable conduct.</p> <p>Unless otherwise indicated, a reference to a reportable allegation is also a reference to a reportable conviction.</p>

Reportable conduct	<p>Means:</p> <ul style="list-style-type: none"> (a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence); or (b) any assault, ill treatment or neglect of a child; or (c) any behaviour that causes psychological harm to a child; <p>whether or not, in any case, with the consent of the child.</p> <p>Reportable conduct does not extend to:</p> <ul style="list-style-type: none"> (a) conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant codes of conduct or professional standards; or (b) the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures; or (c) conduct of a class or kind exempted from being reportable conduct by the Ombudsman under section 25 CA of the Ombudsman Act 1974.
Reportable conviction	A conviction (including a finding of guilt without the court proceeding to a conviction), in NSW or elsewhere, of an offence involving reportable conduct.
Risk of harm	Agencies and practitioners are required to make judgements about risk of harm to a child or young person from child abuse or neglect. The assessment requires and evaluation of both the degree of harm and its probability and must take into account the age and vulnerability of the child or young person.
Young person	Any person who is aged 16 years or above but who is under 18 years of age.
School employee	<p>Any person employed by a School authority whether or not in connection with any work or activities of the School authority that relates to children, or any person employed or engaged by the School authority to provide services to children.</p> <p>This includes, but is not limited to employment in the following ways: paid employees, subcontractors, volunteers, ministers of religion, members of a religious congregation, or undertaking practical training as part of an educational or vocational course.</p>
School personnel	All persons with mandatory reporting obligations as specified in section 27 of the CYP(CP)Act .

Introducing the Guidelines

1.1 Background to the Guidelines

Following the recommendations of the Wood Royal Commission the child protection reform legislation package was enacted in December 1998, with the legislation implemented progressively since May 1999.

As a consequence, policies and procedures have been implemented and later revised by various government and non-government agencies in NSW to respond to the issue of abuse of children and young persons. Such measures have necessitated the ongoing review of child protection policies and procedures within the Catholic Schools sector.

It is in this context that the Catholic Education Commission NSW (“**CEC**”) and Catholic Commission for Employment Relations NSW (“**CCER**”) issued previous editions of the Guidelines, viz:

- Identifying and Notifying Child Abuse; and
- Protecting and Supporting Children and Young People (2001).

1.2 Scope of the Guidelines

The Guidelines are designed to provide Diocesan Advisers and School Principals with:

- a synopsis of the relevant principles, key responsibilities, legislative requirements, policy issues and general strategies to be considered in relation to child protection in Catholic Schools;
- an outline of the procedures to be followed when School personnel, in the course of their work, develop concerns about suspected risk of harm to a child or young person; and
- an explanation of the procedures to be followed when reporting such concerns to the NSW Department of Community Services (“**DoCS**”).

For ease of reference, the Guidelines have been issued in 3 parts:

Part I: Summary of Key Issues

Part II: Guidelines and Procedures for Catholic Schools

Part III: Abuse of Children and Young Persons

1.3 NSW Government Guidelines on child protection

The Guidelines should be read in conjunction with the following guidelines:

- NSW Interagency Guidelines for Child Protection Intervention (“**Interagency Guidelines**”); www.kids.nsw.gov.au/publications/safety_protection.html

- Working with Children Check Guidelines;
www.kids.nsw.gov.au/check/employer.html
- “Child Protection in the Workplace: Responding to Allegations Against Employees” Guidelines (“**NSW Ombudsman Guidelines**”).
www.nswombudsman.nsw.gov.au

1.4 Context of Church policy, principles and standards

The Guidelines should further be considered in the context of official Church policy and procedures for responding to abuse as outlined in the following documents:

- Towards Healing: Principles and Procedures in Responding to Complaints of Abuse Against Personnel of the Catholic Church in Australia (“**Towards Healing**”); and
www.acbc.catholic.org.au/bc/profstan/2001030111.htm
- Integrity in Ministry: A Document of Principles and Standards for Catholic Clergy and Religious in Australia.
www.acbc.catholic.org.au/bc/profstan/20005090311.htm

1.5 Acknowledgements

The Guidelines have been revised by Craig Ashe (Consultant), Stephen Wilson (Barrister-at-law), and Ian Baker (of the CEC), with the assistance of the NSW Catholic Education and Social Welfare Coordination Committee of the CEC.

The CEC and CCER acknowledge the work of Mary Gow, Robyn Tranter and Anne Miller in the development of the earlier editions of the Guidelines, and the contribution of personnel in the following organizations in their development:

- (The former) NSW Child Protection Council;
- NSW Department of Education and Training;
- DoCS;
- NSW Health Department;
- The Association of Independent Schools of NSW Ltd;
- Catholic Education Office, Sydney; and
- NSW Commission for Children and Young People.

Part I: Summary of Key Issues

2. Principles for reporting children and young persons at risk of harm

Within Catholic Schools, procedures for addressing “suspected risk of harm” to children and young persons, and for reporting such concerns should be based on the following principles:

- All adults have a responsibility to care for children and young persons and to protect them from any kind of risk or abuse as well as to promote their safety, welfare and well-being in a positive manner;
- In protecting children and young persons and any taking any action in this regard, the best interests of the child or young person is of paramount consideration;
- The School should do its best to provide both a safe environment for children and young persons and services which foster their health, developmental needs, spirituality, self respect and dignity;
- All reasonable care and action should be taken to protect children and young persons from all forms of violence, injury, neglect or exploitation;
- The value of the family unit is to be respected but not to the detriment of the well-being of the child or young person;
- All persons, involved in situations where abuse of a child or young person is suspected or disclosed, must be treated with sensitivity, dignity and respect.

3. What does “suspected risk of harm” mean?

The term “suspected risk of harm” is referred to in section 24 of the **Children and Young Persons (Care and Protection) Act 1998 (“CYP(CP)Act”)** as the basis for reporting a child or young person to the NSW Department of Community Services (“**DoCS**”).

A child is defined in the **CYP(CP)Act** as a person who is under the age of 16 years.

A young person is defined in the **CYP(CP)Act** as any person who is aged 16 years or above but who is under 18 years of age.

Section 23 of the **CYP(CP)Act** provides that a child or young person is at risk of harm if current concerns exist for the safety, welfare or well-being of the child or young person because of the presence of any one or more of five listed sets of circumstances:

- (a) the child’s or young person’s basic physical or psychological needs are not being met or are at risk of not being met;
- (b) the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care;
- (c) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated;

- (d) the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm;
- (e) a parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm.

It follows from the foregoing provisions that a child or young person does not have to have actually sustained abuse, harm or injury, in order to be reported to DoCS. **It is sufficient that on the evidence available that they are potentially liable to suffer any harm of the kind specified in section 23 of the CYP(CP)Act.**

4. Who is mandated to report children (under 16 years of age) suspected of being at risk of harm?

The mandatory reporting requirements of the **CYP(CP)Act** are outlined in section 27 of that Act, as applying to the following persons:

- (a) a person, who in the course of their professional work or other paid employment delivers health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children; and
- (b) a person who holds a management position in an organisation the duties of which include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children.

The provisions apply to people whether or not they are employees, self-employed, or service providers contracted to provide services by or on behalf of other organizations, eg: Centacare. Such persons include: School Principals, Teachers, School Counsellors, Psychologists and Social Workers.

Clergy and religious engaged by a School to provide religious education or to assist in pastoral care services would also come within the terms of the mandatory reporting requirements.

Throughout the Guidelines, persons with mandatory reporting requirements shall be referred to as "**School personnel**".

Failure to comply with mandatory reporting requirements is an offence under the **CYP(CP)Act**. **The maximum penalty for failing to comply with the mandatory reporting requirements is \$22,000.00.**

5. The criteria for mandatory reporting to DoCS

Under section 27(2) of the **CYP(CP)Act**, School personnel must make a report to DoCS, where they have “reasonable grounds” to suspect that a child is at risk of harm, and those grounds arise during the course of, or from the person’s work.

Reasonable grounds to suspect that a child may be at risk of harm, may arise in the following circumstances:

- when School personnel witness an incident which may generate suspicion that a child could be at risk of harm;
- when School personnel observe a particular child’s behaviour, physical appearance, condition or demeanour – and their knowledge of children and indicators of abuse generally leads them to suspect risk of harm.
- when a student speaks about being harmed or assaulted – about what has happened, about how they feel;
- when someone else (perhaps a relative, friend or acquaintance or sibling of the child) informs School personnel that they suspect risk of harm and gives some indication as to what concerns them;
- where a child tells School personnel that they know someone who has been physically, emotionally or sexually harmed (the child may be referring to him/herself).

For a reporter to be acting on reasonable grounds, their actions must not be motivated by ignorance, malice or vindictiveness.

6. Voluntary reporting of young persons (16 and 17 years of age) suspected of being at risk of harm to DoCS

The same matters as above should be considered when deciding whether or not a young person (defined in the **CYP(CP)Act** as being persons 16 and 17 years of age) is at risk of harm.

Under the terms of the **CYP(CP)Act**, reporting a young person to DoCS, who is suspected of being at risk of harm, is not mandatory.

Under section 24 of the **CYP(CP)Act** though, a person who has reasonable grounds to suspect that a young person aged 16 or 17 years of age is at risk of harm, may voluntarily report the young person to DoCS.

However, consideration may need to be given to any possible legal duty to report knowledge of a crime to the NSW Police Service (“**NSW Police**”) under section 316 of the **Crimes Act 1900** (“**Crimes Act**”). According to this provision, a person is required without reasonable excuse, to make a report to the NSW Police where someone has committed a serious indictable offence, and the person knows or believes that the offence has been committed and they have information which might be of material assistance in securing the apprehension of the offender or the prosecution or conviction of the offender.

When considering reporting young persons to DoCS, School personnel need to consider the young person's wishes, their level of maturity and their personal situation as well as ensuring that the decision about the young person's safety in such circumstances is not left entirely to them. Therefore, it is strongly recommended that where School personnel are concerned that a young person is at risk of harm from abuse or neglect, they should make a report. The young person should be involved in the decision to report and the process of reporting, unless there are exceptional reasons for excluding them. If the young person is against the report being made, this information must be conveyed to DoCS, which must consider the young person's wishes in any assessments and investigations.

7. Can you make a report concerning students 18 years of age and over to DoCS?

No. A student who has turned 18 years of age is legally an adult and, therefore, is not covered by the provisions of the **CYP(CP) Act**. DoCS has no authority to receive reports about the safety, welfare or well-being of this category of student.

If the student (aged 18 years of age and over) has been physically or sexually abused, it is possible that a crime has been committed, in which case it may be desirable or necessary to report this to the NSW Police.

The student should be informed of this and of the various other services available such as counselling and/or emergency accommodation if it is required.

Any School personnel who have reasonable grounds to suspect that a student enrolled at the School has been sexually or indecently assaulted should immediately inform the School Principal of their suspicion regardless of the age of the student. If the School personnel and/or the Principal believe that a criminal offence has been committed which involves a student 18 years of age or older, then the NSW Police must be informed.

If any alleged sexual or indecent assault has occurred at School or during any School-related activity, the Principal has an obligation to report the matter to the NSW Police. The Principal should inform the student of this obligation.

8. Procedures for mandatory reporting to DoCS

All the following steps are to be followed in making a mandatory report to DoCS.

Section 8 must be read as a whole; subsection 8.1, or any other subsections, cannot be read alone.

8.1 Initial reference to the School Principal

School personnel who suspect on reasonable grounds that a child is at risk of harm, may be directed by their employer to advise this concern to the School Principal as soon as practicable. They also have a legal obligation to ensure that a report of risk of harm is made to DoCS.

8.2 Ascertaining the matters to be reported to DoCS

Under section 27 of the **CYP(CP) Act**, School personnel and the School Principal have separate, distinct duties to report relevant cases to DoCS in accordance with the aforementioned provision.

In accordance with section 27 of the **CYP(CP)Act**, the personnel and the Principal must report the following information to DoCS as soon as practicable:

- the name and a description of the child involved
- the age of the child or young person
- the grounds for suspecting that the child is at risk of harm
- the name and address of person/s alleged to have abused the child or young person

In the event that the Principal does not concur with the personnel that the child is at risk of harm, the Principal must advise the person that if they have formed the opinion that the student is at risk of harm then they are mandated to report direct to DoCS. All school personnel retain the legal right and duty to report risk of harm direct to DoCS.

8.3 Choosing and completing the reporting procedure to be followed

A report must then be made to DoCS using either one of the following procedures:

- centralised reporting to DoCS (refer Appendix 1), or
- direct reporting to DoCS.

Centralised reporting to DoCS

Centralised reporting to DoCS is endorsed in a Memorandum of Understanding between DoCS, the NSW Department of Education and Training, the CEC and The Association of Independent Schools of NSW Ltd. It is an administrative process that supports compliance with section 27 of the **CYP(CP)Act**.

A copy of the Memorandum of Understanding is provided at Appendix 1 to the Guidelines.

Adopting this procedure, School personnel report their concerns to the School Principal, and the Principal then reports to the DoCS Helpline by telephone (if possible).

On receipt of the report, DoCS will allocate a Case Reference Number, which is to be noted on relevant School records of the report.

The reporting to the DoCS Helpline is to be documented in writing on **Form A**, completed by the Principal in consultation with the personnel concerned.

A copy of **Form A** is provided at Appendix 2 to the Guidelines.

A copy of this form is to be sent to the School authority and also retained for the School's records.

Centralised reporting is the preferred and recommended reporting procedure.

However, the Memorandum of Understanding does not preclude any School personnel from reporting the matter directly to DoCS.

Direct reporting to DoCS

Adopting this procedure, School personnel directly report the matter to the DoCS Helpline by telephone (if possible).

Should the personnel take this option, the School Principal is still required to meet their reporting obligation under section 27 of the **CYP(CP) Act** to report relevant cases to DoCS.

The personnel making the report to DoCS records the Case Reference Number, and then advises the Principal that they have made the report and of the Case Reference Number allocated by DoCS.

The Principal refers to this Case Reference Number in also reporting the matter to DoCS.

The initial report to the DoCS Helpline is to be documented in writing on **Form A**, separately completed by the personnel concerned and the Principal.

Copies of the forms completed by the personnel and the Principal are to be sent to the School authority and retained for the School's records.

Preferred form of reporting to DoCS

DoCS' preferred form of reporting to the DoCS Helpline is by telephone.

However, if telephone contact with DoCS is unsuccessful, only then may the initial report be made by fax on **Form A** to the Helpline. In this situation, a fax receipting system will provide immediate confirmation from DoCS that the faxed report has been received at the Helpline. The receipt is generated automatically, and therefore does not provide information about the outcome of the Helpline's assessment.

A copy of a sample fax receipt issued by DoCS is provided at Appendix 3 to the Guidelines.

Information from DoCS on the assessment of the report is later sent in the form of a feedback letter.

A copy of a sample feedback letter issued by DoCS is provided at Appendix 4 to the Guidelines.

8.4 Procedure for reporting young persons to DoCS

The procedures outlined in this section of the Guidelines for reporting a child suspected of being at risk of harm to DoCS, are also to be used for reporting a young person at risk of harm to DoCS.

Reports to DoCS are to be made on the DoCS Helpline:

The telephone number for mandatory reporters is: 133627 (or 13DoCS).

The telephone number for voluntary reporters is: 132111.

The Helpline fax number is: (02) 9633 7666.

8.5 Procedure where the School Principal is the alleged perpetrator

In a case where the alleged offender or perpetrator is the School Principal, the person making the report to DoCS is to report their suspicion to the School authority and the School authority must also immediately make a report to DoCS. These reports are to be made as soon as practicable.

8.6 Procedure where an allegation concerns a School employee

A “**School employee**” is any person employed by a School authority whether or not in connection with any work or activities of the School authority that relates to children, or any person employed or engaged by the School authority to provide services to children. This includes, but is not limited to employment in the following ways: paid employees, subcontractors, volunteers, ministers of religion, members of a religious congregation, or undertaking practical training as part of an educational or vocational course.

Where an allegation involves a School employee, the School authority must first decide if the allegation is one which must be reported to either or both of the following agencies:

- DoCS; or
- NSW Ombudsman.

In making this decision, the School authority needs to decide if the allegation fits the criteria for the particular types of reporting which are required by the respective agencies:

- DoCS

The allegation must be reported to DoCS if what is alleged constitutes a risk of harm to a child. A child is at risk of harm if current concerns exist for the safety, welfare or well-being of a child because of the presence of any one or more of the grounds listed in section 23 of the **CYP(CP)Act**.

- NSW Ombudsman

If the allegation involves a reportable allegation or reportable conviction as defined under the **Ombudsman Act 1974**, then this will need to be reported through the School authority's Head of Agency to the NSW Ombudsman, ie: what is alleged fits the criteria of either reportable conduct or an allegation of misconduct that may involve reportable conduct.

Section 25 A of the **Ombudsman Act 1974** defines reportable conduct as follows:

- (a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence), or
- (b) any assault, ill-treatment or neglect of a child; or
- (c) any behaviour that causes psychological harm to a child,

whether or not, in any case, with the consent of the child. Reportable conduct does not extend to:

- (a) conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant codes of conduct or professional standards; or
- (b) the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures; or
- (c) conduct of a class or kind exempted from being reportable conduct by the Ombudsman under section 25 CA (of the **Ombudsman Act 1974**).

If the allegation involves a reportable allegation, the School authority must undertake an investigation and make a report on the outcome of that investigation to the NSW Ombudsman.

For further information about the timing and conduct of investigations reportable to the NSW Ombudsman, refer to the School authority's Head of Agency guidelines.

Where upon investigation of a reportable allegation by the School authority, the finding of the investigation is that the conduct:

- involves reportable conduct as defined above, or an act of violence committed in the performance of work in the presence of a child; and
- the School authority then conducts an employment proceeding against the person against whom the allegation is made;

the outcome of the employment proceeding must be communicated to the NSW Commission for Children and Young People ("**CCYP**").

Employment proceedings, as defined under the **Commission for Children and Young People Act 1998**, is quite extensive. Such proceedings are not restricted to employment proceedings against mere employees, but also include investigative proceedings against sub-contractors, volunteers, ministers of religion, other members of a religious congregation, or persons undertaking practical training as part of an educational or vocational course.

Where a notification is made to the NSW Ombudsman and a report is also made to DoCS, the procedures set out in the **Interagency Guidelines** and the **NSW Ombudsman Guidelines** should be followed.

9. Do allegations of peer assault or abuse have to be reported to DoCS or the NSW Police?

Where a report has been made concerning alleged peer assault or abuse and the School Principal has reasonable grounds to suspect that it is appropriate to report the matter to DoCS or the NSW Police, the Principal should comply with the above reporting procedures.

Initially, the Principal should take whatever action is necessary to ensure the safety, welfare and well-being of all children and young persons involved.

If an incident involves a child and the Principal and/or School personnel suspect on reasonable grounds that the child is at risk of harm, then a report concerning the child should be made to DoCS.

If an incident involves concern for a young person, reporting to DoCS is a voluntary matter.

If the Principal or School personnel consider that a crime may have been committed, then the matter should be reported to the NSW Police.

The subject of peer assault or abuse involves a range of issues, including reporting to DoCS, the criminal law, privacy concerns, as well as the School's risk management and student discipline policy and procedures. Should a situation of peer assault or abuse arise, the School should seek advice from the School authority with respect to its response which may need to consider the most appropriate means of managing the matter internally within the School.

In this type of case, special care relationship and age of consent issues are relevant and will need to be taken into account (refer to sections 21.3.2 and 42 of the Guidelines).

10. What legal protections do reporters have?

The **CYP(CP)Act** includes the following ***safeguards for mandatory reporters, who make a report to DoCS in good faith and with reasonable care:***

- the making of the report shall not be held to be a breach of professional etiquette or ethics or a departure from acceptable standards of professional conduct;
- no liability for defamation is incurred for the person making the report;
- the report shall not constitute grounds for civil proceedings for malicious prosecution or for conspiracy;
- except in the interests of justice or the public interest, the report shall not be admissible in any Court, tribunal or committee proceedings;
- a person cannot be compelled by a Court to produce the report or give evidence as to its contents.

The above protective provisions apply only to the report.

Discussions, interviews and proceedings which precede or follow a report may fall outside the scope of the above protections (refer to sections 21.2.10 to 21.2.13 of the Guidelines for further information on this point).

11. Advising parents or caregivers that a report has been made to DoCS

If a child or young person discloses risk of harm while at School, the School Principal should make sure that the child or young person is supported and cared for at School until DoCS advises the Principal on the course of action to be taken.

It is the role of DoCS to assess and investigate reports and to, where appropriate, inform parents or caregivers that a report has been made. The Principal must not make any contact with parents or caregivers regarding the report.

Following any report to DoCS, the Principal must clarify the following matters with DoCS:

- who will take responsibility for informing the child or young person's parents or caregivers that an interview with the child or young person will take place or has taken place;
- what contact the School is to make with the family;
- how will any interview with the child or young person be conducted.

The ensuing action will depend on whether or not there is family or close friend of the family involved in the suspected harm to the child or young person.

Where there is no family or close friend of the family involved

Where there is no family or close friend of the family suspected of being involved in the suspected risk of harm and DoCS plans to interview the child or young person at School, where appropriate, DoCS will inform the parent or caregiver that a report has been made. The Principal must seek confirmation from DoCS that this has occurred and clarify if the parent or caregiver or their nominee will be attending the interview.

Where a reportable allegation is made against a School employee, a child or young person should not be interviewed as part of a NSW Ombudsman investigation without the consent of their parents. The School authority should refer to its Head of Agency for advice on the process to be followed in this situation.

Where there is family or close family friend involvement

Where it is suspected that a family member or a friend of the family is involved in the suspected risk of harm, or if the identity of the alleged perpetrator is not known, then the **parents or caregivers are not to be informed by the School** that either a report has been made or that an interview is to take place. This is to permit the interview to take place free of family involvement.

It is the obligation of DoCS to inform parents or caregivers when such an interview has taken place. This advice from DoCS should be given as soon as possible after the interview. The Principal must confirm that the parents or caregivers have been advised by DoCS of the action arising from the report.

12. Checklist for mandatory reporting to DoCS and related reporting to a School authority's Head of Agency, as well as to the Professional Standards Office

Information to be collected to complete this checklist is to be treated as confidential to the School Principal:

- Has a report of a child or young person suspected of being at risk of harm, been made to DoCS?

(This report may involve the homelessness of the child or young person.)

Note: DoCS' preferred form of reporting is via telephone to the DoCS Helpline.

- Has the School personnel who originally advised the Principal that the child or young person was suspected of being at risk of harm been –
 - informed of the report made by the Principal to DoCS? and
 - provided with feedback from DoCS about the report?
- Has **Form A** for documenting in writing the report made to DoCS been completed?

Note: **Form A** should only be sent (by fax) to DoCS if an attempt to report to the DoCS Helpline by telephone was unsuccessful.
- Has the School authority been advised of the report to DoCS and been sent a copy of **Form A** (and the fax receipt if the report was made by fax)?
- Has DoCS advised the reporter of the Case Reference Number assigned to the case and its response?
- Has a School copy of **Form A** and any related documents been filed in a secure and confidential place?
- Is the matter one alleging reportable conduct by a School employee, and thus one to be notified to the School authority's Head of Agency and the NSW Ombudsman, as well as DoCS?

Head of Agency and the NSW Ombudsman

Where the allegation concerns a School employee, a **Child Protection Notification Form** should be forwarded by the School authority to its Head of Agency within 24 hours of receipt of the allegation by the School or as soon as practicable.

- Is the matter one which should also be brought to the attention of the Professional Standards Office?

Professional Standards office

Where any report to DoCS involves alleged sexual, physical or emotional abuse by clergy, religious, employees or volunteers working for the Catholic Church, then such allegations must be brought to the attention of the Professional Standards Office in NSW (Phone: (02) 9287 1542).

Part II: Guidelines and Procedures for Catholic Schools

13. Guiding principles

Within Catholic Schools, procedures for addressing and reporting current concerns about suspected risk of harm to children and young persons, should be based on the principles outlined below.

13.1 Philosophical considerations and principles

- All adults have a responsibility to care for children and young persons and to protect them from any kind of abuse/harm as well as to promote their safety, welfare and well-being in a positive manner.
- In the protection of children and young persons and any action taken in this regard, **the best interests of the child or young person is of paramount consideration.**
- The School should do its best to provide both a safe environment for children and young persons and services which foster their health, developmental needs, spirituality, self respect and dignity.
- All reasonable care and action should be taken to protect children and young persons from all forms of violence, injury, neglect or exploitation.
- The value of the family unit is to be respected but not to the detriment of the well-being of the child or young person.
- All persons, involved in situations where abuse of a child or young person is suspected or disclosed, must be treated with sensitivity, dignity and respect.

13.2 Operational principles

- The School Principal is responsible for the administration and conduct of the School and all that relates to it. Therefore, the Principal is to be informed about all serious matters concerning the welfare of children or young persons, including concerns about suspected risk of harm to a child or young person and suspected or disclosed incidents of abuse to children and young persons.
- The Principal has a duty to ensure that concerns about the suspected risk of harm to a child or young person are reported, as required, to the NSW Department of Community Services (“DoCS”) and where appropriate, to the School authority’s Head of Agency and the NSW Ombudsman.
- Where the Principal is suspected of abusing a child or young person, or other improper conduct involving a child or young person, the School authority is to be advised of these suspicions as soon as practicable.
- The Principal is to ensure that the pastoral care services of the School address the issue of children and young persons at risk of harm, making appropriate provision for the support of children, young persons, the families and School Personnel directly involved with this issue.

- School personnel who have access to information regarding concerns about suspected risk of harm to a child or young person (including suspected or disclosed abuse) or reportable allegations or reportable convictions involving a School employee have a clear obligation to observe appropriate confidentiality in relation to the entire matter.
- In proceeding to take action under the **Children and Young Persons (Care and Protection) Act 1998 (“CYP(CP)Act”)**, School personnel must satisfy themselves that they are acting on reasonable grounds.
- School personnel must avoid any false, exaggerated or unjustified assertions that may damage the good name of another person.

14. Rationale and purpose

14.1 Total care and concern in Catholic Schools for children and young persons

Catholic Schools have at their centre the total care of the whole person – physically, emotionally, intellectually and spiritually. Children and young persons in the community generally, but especially within the Catholic community, have a right to expect that they will be protected by personal effort, as well as with community support.

In this context, the issue of child protection is one which must be paramount in the thinking of educators.

14.2 Why child protection is important

Child protection and the abuse of children and young persons, are complex and sensitive issues that our society is endeavouring to address.

There is a continuing need for those who care for children and young persons to become better informed of the facts about abuse of children and young persons. There is a need for School personnel to examine the most appropriate responses that can be made to reasonably ensure the protection of children and young persons. School personnel are also required to become well-informed about the legislative framework for child protection and the duties and responsibilities placed upon them by that legislation.

When dealing with the abuse of children and young persons the most appropriate response to a particular situation will depend on the many factors involved in that situation and whether the abuse is suspected or disclosed. When School personnel are concerned that a child or young person is suspected of being at risk of harm due to abuse, neglect or ill-treatment, they are encouraged to consult with those persons in the community who can assist them in determining the most appropriate course of action.

14.3 The crucial role of schools

Research has shown that the abuse of children and young persons is far more pervasive and damaging than originally thought. It is important to recognize that children and young persons may be subjected to abuse or neglect or be at risk of harm, in a broad range of circumstances. School communities have an important role to play in working collaboratively with other key agencies to provide responsive and comprehensive child protection measures.

It is important for schools to become familiar with the services offered by government and non-government agencies in their area. It is sound practice to know the personnel in those agencies and to build up a local interagency network. This will form a valuable part of the School's pastoral care program.

As well as properly focusing on the welfare of any child or young person who is suspected of being at risk of harm, it is important that School personnel remember that an allegation of abuse of a child or young person, is a statement or assertion, which is initially unproven. School personnel must safeguard the reputations of all those (including the person suspected of being an offender or perpetrator) who may be involved in such an allegation, either directly or indirectly, by observing appropriate confidentiality with regard to the matter.

School personnel need to be especially sensitive to the fact that false, exaggerated or unjustified assertions about individuals can themselves be serious offences against justice and charity, regardless of whether these assertions are themselves breaches of the civil law.

15. Effects of abuse on children and young persons

15.1 Barriers to developing skills and abilities

The experience of abuse and neglect acts as a barrier to the development of sound foundations, skills and abilities which occur during the early years of childhood and adolescence. These features of child growth are crucial for general health and well-being throughout life. Abuse and neglect may result in a legacy of physical and/or psychological disabilities, which carries through to adult life (Finkelhor, 1992, ix).

15.2 Impeding coping skills

Whatever form it takes, abuse or neglect experienced in childhood can have a severe impact because of the vulnerability and dependency of children and young persons. Whilst the family setting nurtures and provides security to most children and young persons, the abused, neglected or ill-treated child is trapped in an impossible position "...during the most critical period of their lives: when assumptions about self, others, and their world are being formed; when their relations to their own internal states are being established; and when coping and affiliative skills are first acquired" (Briere, 1992, 17).

15.3 Long-term social problems

Many of the difficulties reported by adult survivors of childhood abuse, neglect or ill-treatment can be understood as the outcome of the child's or young person's attempts to cope in a situation of helplessness and fear. In addition to the suffering caused to those affected, there is increasing evidence that abuse of children and young persons is inextricably linked with many social problems confronting the community.

16. Domestic violence and abuse of children and young persons

16.1 Links with domestic violence and abuse of children and young persons

There is a growing weight of evidence demonstrating clear links between domestic violence and the abuse of children and young persons (Tomison, 1995). There is also much evidence that children and young persons may be psychologically harmed by living in households where there is domestic violence.

For instance, it is estimated that physical abuse of children and young persons is 15 times more likely in families where domestic violence is occurring. While both men and women physically abuse children in this context, it has been found that where domestic violence is present, children are three times more likely to be abused by their fathers (McKay, 1994). In cases of physical or sexual abuse, where the perpetrator is the father or father figure, physical violence towards the child victim and other family members is a way in which a significant proportion of offenders perpetrate sexual abuse and enforce silence (Goddard and Tomison, 1993).

16.2 Response to domestic violence and abuse of children and young persons

Because of these links and the growing weight of evidence about the effects of domestic violence on children and young persons (Jaffe, Wolfe, Wilson, 1990), responses to child protection must be informed by knowledge of the links with domestic violence.

Section 23(d) of the **CYP(CP)Act** states that a child or young person may be at risk of harm if they are living in a household in which there are incidents of domestic violence. As a result the child or young person is at risk of serious psychological harm.

17. Primary protection through education

17.1 Prevention through educating children and young persons

Primary prevention of child abuse is aimed at all members of the community. In Australia and overseas, child abuse preventive education strategies have typically targeted all children. Primary prevention has the twin aims of assisting all children to reach their full potential while also assisting families in child rearing. Public awareness programs and personal safety programs for children, are the primary means of achieving this kind of prevention.

A major role in primary prevention has been played by the education system, through developing curricula that provide children and young persons with information about child sexual abuse, how to talk about it if it is happening to them and how to seek help. The key learning area of Personal Development, Health and Physical Education ("**PDHPE**") provides an appropriate context, although not exclusively, for child protection education. Child protection education needs to include teaching and learning activities related to recognizing abuse, bullying, power in relationships, and protection strategies. A focus on non-violent ways of communicating and relating and strategies for the peaceful resolution of conflict is also essential.

The NSW Board of Studies syllabuses for PDHPE contain useful advice on reference materials. Schools should also consult the Catholic Education Commission NSW ("**CEC**") publications **Towards Wholeness K-6 and 7-10**.

Another useful reference is the "DET Child Protection Education - Curriculum materials to support teaching and learning in PDHPE Stages 1-5" resource.

Also, personal safety programs such as “Protective Behaviours” which help children to recognize appropriate and inappropriate behaviours while also teaching problem solving skills, play a very important role in providing children and young persons with a better knowledge and understanding of appropriate relationships.

17.2 Prevention through School personnel training and development

Training and development for Teachers and support staff are critical to the success of child protection education. It is the responsibility of all School personnel to be aware of all guidelines as well as local protocols and procedures.

It is the responsibility of School authorities to provide clear policies and procedures and regular in service training/briefings in relation to child protection issues.

17.3 Improving communication in families

In addition, any modelling or programs which can assist children, young persons and their families to develop open lines of communication, can play a role in counteracting the divisiveness which perpetrators of physical, psychological or sexual abuse may foster between children and young persons, and their non-offending parents, carers, or friends.

18. Key areas of responsibility in child protection intervention

A prime concern of Catholic educators is to ensure the safety, welfare and well-being of all children and young persons within the Catholic School community. The protection of children and young persons is a responsibility shared with **parents, professionals in other agencies and the wider community**. The main responsibilities of each are outlined below.

Within Catholic Independent Schools, the School Board of Management or the Trustees are required to observe and promote similar principles to those detailed below. Their particular application to each Catholic Independent School should be clarified and promoted with the School.

18.1 Key responsibilities of Catholic School systems

The key responsibilities of the Catholic School systems are as follows:

- to encourage and create both a school culture of awareness and a school climate of safety;
- to develop, document, disseminate and make accessible to all School personnel, appropriate policies and processes for the protection of children and young persons within Catholic Schools, including procedures for reporting a child or young person suspected of being at risk of harm;
- to consult at an appropriate level with relevant parties and agencies, both within and external to the system, in the development of child protection guidelines;
- to monitor implementation and adherence to child protection policies and procedures in Schools;
- to regularly review policy and procedures to ensure effectiveness and compliance with statutory and legal provisions;

- to facilitate appropriate in-servicing for School personnel dealing with –
 - the identification of abuse or risk of harm to children and young persons;
 - statutory obligations and systemic policy and procedures for reporting children and young persons suspected of being at risk of harm;
 - statutory obligations and systemic policy and procedures for handling reportable allegations and convictions involving School employees;
 - the implementation of the child protection curriculum;
- to implement the **Working with Children Check** procedures and comprehensive staff recruitment, selection and screening processes (including thorough referee checks) to determine an applicant's suitability to work with children;
- to establish and promote fair, clearly documented and accessible procedures for dealing with reportable allegations or convictions involving School employees (notifiable to the NSW Ombudsman and, depending on the findings of an investigation, the NSW Commission for Children and Young People ("**CCYP**") which –
 - establish time lines for pursuing such matters;
 - ensure confidentiality by all involved;
 - give clear guidance on standard investigation procedures documentation and record keeping;
- to work with other agencies, within agreed guidelines, to plan and provide services for child protection and family support;
- to provide appropriate prevention programs within the School curriculum which inform students of their rights, assist them to seek help effectively, and which teach them appropriate child protection behaviours;
- to make available to parents information about child protection legislation, policies, procedures and educational programs in Catholic Schools.

18.2 Key responsibilities of persons advising Schools

The key responsibilities of persons advising Schools are as follows:

- to have a working knowledge and understanding of the range of statutory obligations and systemic requirements of staff in the area of child protection;
- to provide assistance to School Principals and School personnel on a needs basis regarding the management and if appropriate, investigation of child protection incidents and issues;

- to keep the School authority informed of any report made to DoCS and/or the NSW Police Service (“**NSW Police**”), involving any student enrolled in a School administered by the School authority;
- to report any concerns raised by a Principal – which arise from action taken by DoCS in response to a report that a child or young person is suspected of being at risk of harm – to the DoCS Area Manager or DoCS Complaints Unit;
- with respect to a School employee, to immediately inform the School authority of any reportable allegation or reportable conviction involving that person which is required to be reported through the School authority’s Head of Agency to the NSW Ombudsman (and, depending on the finding of an investigation, to CCYP), whether or not the child or young person is enrolled at the School;
- to assist the employing School authority to respond to reportable allegations or convictions made against any School employee in accordance with agreed procedures;
- to keep in secure, locked storage, with restricted access, documentation forwarded by a Principal relating to reports made to DoCS or notifications to the NSW Ombudsman or CCYP;
- to report to the School authority any suspicions that a Principal has abused a child or young person, or that they have failed to comply with the statutory reporting requirements to DoCS.

18.3 Key responsibilities of School Principals

The key responsibilities of School Principals are as follows:

- to manage child protection incidents and issues in accordance with the policy and procedures outlined in these and other relevant guidelines;
- to report to DoCS in the course of their work, any child or young person reasonably suspected of being at risk of harm;
- to report to their School authority, and where appropriate, investigate in accordance with agreed procedures any reportable allegation or conviction involving a School employee which is required to be reported through the School authority’s Head of Agency to the NSW Ombudsman (and, depending on the finding of an investigation, to CCYP);
- to have a working knowledge and understanding of all statutory obligations and employer requirements relevant to the promotion of child protection;
- to be open in consulting with and seeking advice from appropriate professionals in the area of child abuse;
- to provide for appropriate in-service for all School personnel so as to ensure that they are thoroughly conversant with all relevant child protection and investigation policies and procedures;

- to require all School personnel to re-examine required School procedures each year;
- to comply with the School authority's policy and procedures pertaining to staff recruitment and induction and to ensure, as far as possible, that those who are appointed to positions within Schools are fit and proper persons to occupy those positions and that they understand their child protection responsibilities;
- to provide in summary form details of the child protection policy and procedures to School personnel employed or engaged on a casual basis;
- to ensure that the School's pastoral care policy and structures address the issue of child protection, making appropriate provision in consultation with DoCS, for the ongoing care and support of students, families and staff directly involved with this issue;
- to effectively implement suitable child protection curriculum;
- to inform parents of child protection legislation, policy, procedures and curriculum as implemented at the School.

18.4 Key responsibilities for Teachers and School Counsellors

The key responsibilities of Teachers and School Counsellors are as follows:

- to promptly comply with the requirements for the mandatory reporting to DoCS, where there are reasonable grounds to suspect that a child under 16 years of age, is at risk of harm;
- to report to the School Principal all instances of any student enrolled by the School, suspected on reasonable grounds of being at risk of harm;
- to report to the Principal any information regarding a reportable allegation or reportable conviction involving a School employee which is required to be reported through the School authority's Head of Agency to the NSW Ombudsman (and, depending on the finding of an investigation, to CCYP), whether or not the child or young person is enrolled at the School;
- to comply with the child protection policy and procedures as outlined in the Guidelines and other relevant procedures as advised by the School authority;
- to provide information required by the Principal in order to assist DoCS in the assessment of the safety, welfare and well-being of a child or young person;
- to provide ongoing support and care to children and young persons who experience abuse, in accordance with the School's pastoral care policy and within the range of normal School duties;
- to participate, at the direction of the Principal, in interagency child protection planning and case review meetings;
- to respond to lawful requests in respect of the provision of child protection information;
- to keep confidential, except as otherwise required, every aspect of an incident or allegation of suspected child abuse, or any case of a child or young person suspected of being at risk of harm.

Teachers play a vital role in both providing appropriate child protection programs for their students and recognising indications of children and young persons at risk of harm. No other professionals have such close, continuous daily contact with child abuse victims on a long term basis or have such extensive knowledge of the children and young persons in their care. Their knowledge of families has sometimes built up over many years and no other professionals are exposed on so regular a basis to the warning signals given by children, young persons and their parents or caregivers.

Professional educators must never excuse or ignore evidence of children and young persons at risk of harm on purportedly "cultural grounds". Physical abuse, neglect and ill-treatment are sometimes discounted as cultural practice which may result in the child or young person being at high risk of harm. Intervention on the grounds of suspected risk of harm should never be inhibited or delayed by cultural considerations.

18.5 Key responsibilities for support staff and other personnel

18.5.1 Being aware about abuse or risk of harm to children and young persons

Protecting the health and welfare of children and young persons is the role of every person who comes in contact with them. It is important that every person whose work brings them into contact with children and young persons is able to recognize abuse or risk of harm, and is aware of how to take action to ensure that children and young persons are protected.

18.5.2 Reporting concerns to the School Principal

Any School personnel who, in the course of their professional work or other paid employment, deliver education, health care or children's services to children, who have reasonable grounds to suspect that a child or young person is at risk of harm, must promptly report this belief to the School Principal or cause the Principal to be informed of this belief.

Further, in accordance with the Principal's direction, other School personnel may be required to advise their supervisor or a nominated senior staff member who must then promptly inform the Principal of the grounds for such concern.

18.6 Reporting concerns to DoCS

Information on mandatory reporting to DoCS is provided in section 21 of the Guidelines and the procedures for such reporting are outlined in section 23 of the Guidelines.

Unique protective role of School personnel

School personnel, because of their extended contact with children and young persons, are uniquely placed to recognize and intervene to protect those who may be experiencing abuse, neglect or ill-treatment. In accurately recognizing and documenting cases of suspected or actual abuse/harm to children and young persons, School personnel play a vital role in supporting them and putting in place a process whereby the concerns raised can be addressed.

19. Interagency approach to child protection

19.1 Child protection is a shared responsibility

The protection of children and young people persons from harm is a shared responsibility. The complexity of the problem of child abuse and neglect means that effective intervention requires co-operative and co-ordinated action across agencies, across the whole community.

In order to contribute to the protection of children and young persons, School personnel require an understanding of the roles and responsibilities of the agencies that respond to children and young persons at risk of harm. The Guidelines have been written to ensure consistency with the **NSW Interagency Guidelines for Child Protection Intervention** (“**Interagency Guidelines**”) and DoCS’ Child and Family Handbook “**Keeping Kids Safe**”.

The two principal agencies that Schools will have the most involvement with when handling incidents of children or young persons suspected of being at risk of harm are DoCS and the NSW Police.

Where a reportable allegation or conviction involves a School employee, the School authority is also required to notify the NSW Ombudsman through its Head of Agency.

In this situation, the investigation of all allegations must be co-ordinated with DoCS, and the NSW Police and the Head of Agency to avoid interfering with the investigation by any one of those agencies and any duplication of interviews, particularly with children.

19.2 Overview of the role of DoCS

DoCS has wide-ranging statutory powers to enable it to carry out its role in protecting children and young persons from abuse and neglect on behalf of the community. While other agencies have key roles in child protection, DoCS has the mandate to co-ordinate responses and to ask other agencies to provide appropriate care and support to children, young persons and their families. DoCS has the “lead responsibility” in providing and co-ordinating the community response where intervention is necessary for the care and protection of children and young persons.

19.3 DoCS’ statutory role

The role of DoCS in child protection is prescribed by the **CYP(CP)Act**.

DoCS’ statutory role includes the following:

- providing or arranging services to children, young persons and parents or caregivers when a request for assistance is received;
- receiving and assessing reports of a child or young person suspected of being at risk of harm, including suspected child abuse and neglect;
- investigating those reports where DoCS believes there is a likelihood of risk of harm to the child or young person;
- arranging out-of-home care on a temporary basis to enhance family functioning.
- referring cases of suspected criminal offences involving child abuse to the NSW Police;

- acting to maintain the safety of children and young persons;
- monitoring the safety of the child or young person where serious abuse or harm has been identified;
- developing case plans;
- ensuring the provision of quality out-of-home care and support services for children and young persons unable to live with their family;
- initiating action to protect children through alternative dispute resolution or care proceedings in the NSW Children's Court ("**Children's Court**");
- providing and arranging support services to children, young persons and their families;
- meeting, in co-operation with other agencies, the ongoing needs of children and young persons for care and nurturing, as well as the needs of their families for assistance and support in conjunction with other agencies;
- informing the reporting agency of the progress and outcome of assessments and investigations.

19.4 DoCS' response to reports

19.4.1 Centralised reporting to the DoCS Helpline

All contacts and reports relating to children or young persons suspected of being at risk of harm are made through a state-wide centralized intake system called the **DoCS Helpline**.

For contacts and reports by telephone, Customer Service Officers ("**CSOs**") screen information from members of the public and distressed callers to determine whether or not to refer a phone call to a Child Protection Caseworker ("**Caseworker**").

Caseworkers at the Helpline only deal with matters concerning children, young persons and families, and determine whether or not a risk of harm situation exists.

(All other matters are dealt with by CSOs at the Helpline or diverted to other sections of DoCS or other organizations.)

19.4.2 Recording information and giving feedback

DoCS records information about each contact on the DoCS Client System. Any information disseminated, referrals made, or support given is also recorded.

All the Helpline assessment processes are supported by the Client System, with prompts and practice guidelines for each step.

DoCS stated policy is to provide feedback to mandatory reporters about DoCS' response to their reports and information. Appendices 3 and 4 provide samples of such feedback.

19.4.3 Initial assessment, planning and feedback

Caseworkers assess all contacts and reports to determine firstly whether a child is at risk of harm, and secondly, to decide how urgently DoCS needs to respond.

The objectives of the initial assessment are as follows:

- to gather information to help make informed decisions about the safety of and risk to children and young persons, and the needs of children, young persons and families;
- to conduct an initial assessment of the information received;
- to devise initial action plans;
- to provide callers with information and support.

19.4.4 Levels of response to reports to the DoCS Helpline

The Helpline uses several screening mechanisms to determine how and when an initial assessment should be conducted. Caseworkers use triaging and prioritising practices to identify and expedite the assessment of information where the reporter has clearly identified serious risk and danger.

Following the screening of phone calls by CSOs, Caseworkers complete the initial assessment of all reports regardless of content.

On assessment, DoCS will allocate one of four responses to a report made to the Helpline:

- **Immediate response.** This may involve a planned immediate protective response within 24 hours by a DoCS Community Service Centre (“**CSC**”), a Joint Investigative Team (“**JIT**”), Joint Investigative Response Team (“**JIRT**”) or after-hours team. This option is used in cases if harm probability is highly likely or likely. If appropriate, DoCS may in such cases request the NSW Police, ambulance or mental health authorities to provide a service.
- **Response within 72 hours for serious safety concerns.** The Helpline develops a plan for responding to the report.
- **Response within 10 days if involving a moderate to low risk of harm.** The Helpline develops a plan for responding to the report.
- **Response that may include providing information about appropriate services.** The Helpline provides the caller with information about services, which are appropriate to meet the needs identified.

19.5 Overview of the role of the NSW Police

The role of the NSW Police in child protection is to recognize, report and investigate child abuse and neglect, and initiate legal proceedings for child abuse and neglect offences under the **Crimes Act 1900** (“**Crimes Act**”) and the **CYP(CP)Act**.

The NSW Police, with DoCS, is a designated statutory authority responsible for the care and protection of children and young persons, under the **CYP(CP)Act**.

In addition, the NSW Police are the designated authority for applying for apprehended violence orders on behalf of children and young persons as required under section 562C(3) of the **Crimes Act**.

The NSW Police assist with ensuring the safety and security of children and young persons, their families and the workers in agencies involved in child protection intervention.

19.6 Overview of the role of the NSW Ombudsman

The NSW Ombudsman is required to keep under scrutiny –

- the systems (policies and procedures) for preventing reportable conduct by School employees (and employees of other designated agencies); and
- the systems for handling and responding to reportable allegations (including allegations which are exempt from notification) and reportable convictions involving such employees, including the conduct of investigations of allegations and the actions that have been taken as a result of the investigation.

For the purpose of the **Ombudsman Act 1974**, each NSW Catholic (Arch)Bishop, the head of each religious congregation or other designated authority is the Head of Agency for the respective Catholic employer. School personnel should ascertain the precise Head of Agency arrangements which pertain to their school.

The legislation also requires the Head of Agency to make arrangements within Schools to require employees to notify the Head of Agency of any reportable allegations or reportable convictions of which they become aware.

20. Reportable allegations or reportable convictions against School employees

20.1 Procedures relating to reportable allegations or reportable convictions involving School employees

In cases where reportable allegations or reportable convictions involve School employees, members of the clergy, the School Principal or members of religious congregations, the notification procedures adopted are to be consistent with those set out in the School authority's guidelines for the management of allegations of misconduct or improper conduct by School employees.

Any allegation that the Principal has engaged in improper conduct of a sexual nature with a child (defined in the **Ombudsman Act 1974** as a person under 18 years of age), or otherwise abused a child, is to be reported to the School authority as soon as practicable.

20.2 Professional standards procedures – “Towards Healing”

As well, any allegations of improper conduct involving School employees, the clergy and members of religious congregations must be managed in accordance with agreed Church procedures as specified in the process outlined in **Towards Healing**.

Advice about these procedures can be obtained from:

- the School authority's Head of Agency; or

- **Professional Standards Office of the Catholic Church, NSW**
Level 12, Polding Centre
133 Liverpool Street
Sydney NSW 2000
Telephone: (02) 9287 1542

20.3 NSW Ombudsman's notification procedures

In those cases where reportable allegations have been made against School employees, the School Principal is also required to comply with the procedures of the School authority's Head of Agency for reporting such matters to the NSW Ombudsman, as required by the **Ombudsman Act 1974**.

The School authority's Head of Agency is responsible for –

- the oversight and co-ordination of the investigation and reporting of reportable allegations against School employees to the NSW Ombudsman;
- action (including determination) with respect to matters which are exempt from notification the NSW Ombudsman.

For an outline of the above procedures, Principals should contact the School authority's Head of Agency.

Advice on this subject can also be obtained from the CCER Manual: "Make it work (for kids) A Child Protection Kit to assist Catholic Heads of Agency", June 2005, or from:

Child Protection Team
CCER
Level 14, Polding Centre
133 Liverpool Street
Sydney NSW 2000
Telephone: (02) 9390 5255

21. Legislation

Everyone who is concerned in a professional capacity with the protection of children and young persons needs to have a clear understanding of the relevant legislative provisions applicable to the care and protection of children and young persons, and the implications of the law for the discharge of their responsibilities.

21.1 Statutory provisions

The principal statutes to be considered in the Guidelines in relation to the care and protection of children and young persons are the following:

- **CYP(CP)Act;**
- **Crimes Act.**

The other relevant child protection statutes which are referred to are the following:

- **Child Protection (Prohibited Employment) Act 1998;**
- **Commission for Children and Young People Act 1998** – Part 7, child-related employment screening;
- **Ombudsman Act 1974** – Part 3A.

The latter three statutes form part of a strategic response to addressing aspects of child protection within specified child-related workplaces, including government and non-government Schools. This package of legislation was implemented progressively during 1999 and 2000.

For further information about the three latter pieces of legislation, a School authority should contact its Head of Agency.

Alternatively, the School authority may contact the CCER.

21.2 CYP(CP)Act

21.2.1 What is the CYP(CP)Act about?

The **CYP(CP)Act** provides the statutory basis for DoCS to provide care and protection services for children and young persons, including the assessment and investigation of reported cases of children and young persons suspected of being at risk of harm.

The **CYP(CP)Act** defines the responsibilities borne by Schools and School personnel in relation to cases of children and young persons suspected of being at risk of harm.

The purposes of this Act in relation to Schools are, *inter alia*, to establish a procedure under which:

- a report must be made to DoCS regarding children (under 16 years of age), who are suspected of being at risk of harm by certain occupations;
- a report may be voluntarily made to DoCS regarding any child, who is homeless (note: a person who provides residential accommodation for a child who is living away from home without parental permission must immediately inform DoCS of the child's whereabouts);
- a report may voluntarily be made to DoCs regarding young persons aged 16 or 17 years of age, who are suspected of being at risk of harm;
- a report may be made to DoCs regarding any young person, 16 or 17 years of age, who is homeless, with their consent.

The **CYP(CP)Act** provides that DoCS may require some organizations, including Schools, to provide DoCS with certain information and provides for information to be sought from DoCS by those organisations.

21.2.2 Guiding principles of the CYP(CP)Act

The **CYP(CP)Act** also introduces a number of principles guiding DoCS' protection of, and intervention with, children and young persons. These principles:

- provide that the safety, welfare and well-being of children and young persons are paramount;
- encourage the participation of children and young persons;
- minimize intrusive intervention;
- encourage respect for the identity, culture, religion and experiences of children and young persons;
- ensure that special protection is given to children and young persons if they are unable to remain at home, including maintaining close relationships with people who are significant to them.

The Principle of Participation

Section 10 of the **CYP(CP)Act** provides that to ensure that a child or young person is able to participate in decisions made that may have a significant impact on their life, it is important that the opportunities are provided to the child or young person to do so. In the spirit of this principle children and young persons should be provided with the following support:

- provision of adequate information, in a manner and language that can be understood concerning the decisions to be made;
- the opportunity to express their views freely, according to their ability;
- any assistance that is necessary for them to express those views;
- information as to how those views will be recorded and taken into account; information about the outcome of any decision.

21.2.3 Definitions of “child” and “young person”

Underpinning all reports to DoCS and subsequent interventions made by DoCS are the respective definitions of “child” and “young person” in section 3 of the **CYP(CP)Act**:

- “child” is defined as meaning a person who is under the age of 16 years;
- “young person” is defined as meaning a person who is aged 16 years or above but who is under 18 years of age.

21.2.4 “Risk of harm”

“Suspected risk of harm” is the grounds for making a report to DoCS in relation to the safety, welfare or well-being of a child or young person. Pursuant to section 23 of the **CYP(CP)Act**:

“...a child or young person is at risk of harm, if current concerns exist for the safety, welfare or well-being of the child or young person because of the presence of any one of the following circumstances:

- (a) the child’s or young person’s basic physical or psychological needs are not being met or are at risk of not being met,
- (b) the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care,
- (c) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated,
- (d) the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm,
- (e) a parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm...”

Note: physical and sexual abuse may include an assault and can exist despite the fact that consent has been given.

The **CYP(CP)Act** does not define the term “current concerns”. Given its ordinary everyday meaning, the term “current concerns” in the context of section 23 of the Act, would simply suggest that at the time of making a report to DoCS, the person making the report had concluded that the safety, welfare or well-being of the child or young person may be at risk because of the presence of one or more of the sets of circumstances as outlined in section 23.

This includes concerns about physical and psychological safety.

It may also include a situation where a child or young person has recounted a past event that has happened to him/her. An eg of this situation could be one in which the child or young person discloses that he/she has been physically or sexually assaulted or abused and even if the abuse is no longer occurring, there are current concerns regarding the ongoing effects of the earlier abuse.

“Risk of harm” refers to the likelihood that a child or young person may suffer physical, psychological or emotional harm as a result of what is done (physical, sexual or psychological abuse) or not done (neglect) by another person, often an adult responsible for their care. Risk of harm can also refer to young persons who may suffer physical, psychological, sexual or emotional harm as a result of environmental factors (eg: homelessness) or self-harming behaviours. Professionals are required to make judgments about the risk of harm to a child or young person from abuse or neglect. When making a determination about the likelihood of a child or young person being at risk of harm the following factors may be of assistance:

- the age, development, functioning and vulnerability of the child or young person;
- the behaviour of a child or young person which suggests they may have been or are being harmed by another person;
- behaviour from another person, that has had or is having, a demonstrated negative impact on the healthy development, safety, welfare and well-being of the child or young person (eg: drug and alcohol abuse or domestic violence);
- contextual risk factors, eg: recent abuse or neglect of a sibling, or a parent recently experiencing significant problems in managing a child or young person’s behaviour;
- indications that a child’s or a young person’s emotional, physical or psychological well-being is significantly affected as a result of abuse or neglect.

In making judgments about risk of harm, School personnel need to give consideration to the factors that may heighten the risk of harm such as poverty, social isolation, presence of disability, or absence of educational opportunities. These factors may influence a judgment on both the level of risk and the degree of harm that may occur. Additionally, there are factors that may help reduce the risk of harm and provide protective factors for children and young persons, for eg: nurturing and secure relationships with at least one parent, positive school environment, positive personal achievements and involvement in positive social peer groups.

21.2.5 “Homelessness”

Sections 120 and 121 of the **CYP(CP) Act** provide for the reporting to DoCS of the homelessness of either a child or young person.

Reporting under these provisions is not mandatorily required. When reporting the homelessness of a young person, the person reporting may only do so with the prior consent of the young person.

The **CYP(CP)Act** does not define the term “homelessness”. Given its ordinary meaning, the term simply means that a child or young person lacks stable, secure accommodation or is without a home.

The Human Rights and Equal Opportunity Commission “Report of the National Inquiry into Homeless Children” (1989) definition may further assist in defining the term:

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

- no accommodation at all;

- only temporary or transient accommodation;
- emergency, refuge or crisis accommodation;
- other long term supported accommodation for homeless people such as hostels or transitional accommodation.”

In the context of the School, the reporting of a child or young person as being homeless, would usually be a voluntary matter for School personnel.

Homeless children and young persons also may be at risk of harm. School personnel should be alert to the possibility that a homeless child or young person, depending on the circumstances may also be at risk of harm. For instance, a homeless child or young person may at the very least be at risk of not having their basic physical needs not being met (as specified in section 23(d) of the **CYP(CP)Act**) due to their being homeless.

If this is the case, then even though the child or young person is homeless, because they are also at risk of harm, School personnel:

- must report to DoCS the child being at risk of harm, and
- do not need the consent of the young person to report them to DoCS for being at risk of harm.

21.2.6 Voluntary reporting to DoCS

There is no legal obligation to make a report to DoCS concerning any young person (16 or 17 years of age), in relation to whom there are reasonable grounds to suspect that the young person is at risk of harm.

Nor, as just mentioned above, in the context of the School is there an obligation to report to DoCS the homelessness of a child or young person.

If though, a homeless child was suspected of being at risk of harm, then a report must be made to DoCS.

21.2.7 Mandatory reporting to DoCS

Mandatory reporting creates a statutory requirement for certain groups of people, especially certain occupations dealing with children, to report to DoCS if they have current concerns about the safety, welfare or well-being of a child. Mandatory reporting laws are intended to reflect the community’s commitment to the protection of children and the promotion of their right to health and well-being as enshrined in the law.

In relation to mandatory reporting, the **CYP(CP)Act** sets out the following requirements:

- what is mandatorily reportable to DoCS?
- who is mandated to report to DoCS?

- whether there are penalties for failing to report to DoCS.

(Voluntary reporting in contrast offers people individual discretion in reporting certain matters to DoCS.)

What is mandatorily reportable to DoCS?

The **CYP(CP)Act** requires that a report must be made to DoCS regarding a child (a person under 16 years of age) who is suspected on reasonable grounds of being at risk of harm (as specified in section 23 of the Act).

Who is mandated to report to DoCS?

The mandatory provisions in section 27 of the **CYP(CP)Act** apply to the following:

- “(1)(a) a person who in the course of his or her professional work or other paid employment delivers health care, welfare, education, children’s services, residential services or law enforcement, wholly or partly, to children, and
- (b) a person who holds a management position in an organization the duties of which include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children’s services, residential services of law enforcement, wholly or partly to children ...”

The provisions apply to people whether or not they are employees, self-employed, or service providers contracted to provide services by or on behalf of other organizations, eg: Centacare. Such persons include: School Principals, Teachers, School Counsellors, Psychologists and Social Workers.

Pursuant to section 27(2) of the **CYP(CP)Act**, School personnel must make a report to DoCS, where they have reasonable grounds to suspect that a child is at risk of harm, and those grounds arise during the course of, or from the person’s work.

Penalties for failing to comply with mandatory reporting provisions

The maximum penalty for failing to comply with mandatory reporting provisions is \$22,000.00.

21.2.8 Furnishing information to DoCS

Section 248 of the **CYP(CP)Act** provides that a prescribed body may be required to furnish the Director-General of DoCS with information relating to the welfare of a particular child or young person or class of children or young people where directed to do so.

A “prescribed body” includes registered non-government Schools. This provision gives protection to third parties, ie: persons who are not the “reporter”, to exchange information with DoCS when investigations into the protection of a child are being pursued (although these protections do not prevent such information being produced in Court hearings).

Section 248(3) of the **CYP(CP)Act** provides that the furnishing of information attracts certain legal protections similar to those for mandated reporters (refer to section 21.2.10 of the Guidelines below), provided the information is given in good faith and with reasonable care.

21.2.9 “Reasonable grounds”

Reasonable grounds to suspect that a child or young person may be at risk of harm, may arise in the following factual circumstances:

- when a child or young person speaks about being abused or assaulted – about what has happened, about how they feel;
- when someone else (perhaps a relative, friend, acquaintance or sibling of the child) informs School personnel that they suspect abuse and gives some indication as to what concerns them;
- where a child or young person tells School personnel that they know someone who has been physically, emotionally or sexually abused (often the child is referring to themselves);
- when School personnel observe a particular child or young person’s behaviour, physical appearance, condition or demeanour – or their knowledge of children generally leads to suspicion of child abuse.

For a reporter to be acting on reasonable grounds, their actions must not be motivated by ignorance, malice or vindictiveness. As well, at the time of reporting to DoCS, the reporter should not be indifferent to the possibility that the assertion that an act of abuse has occurred may be false.

For further information, refer to Part III: Abuse of Children and Young Persons, of the Guidelines.

For further information in relation to the procedures for reporting to DoCS, refer to section 23 of the Guidelines.

21.2.10 Legal protection for reporters to DoCS

Section 29 of the **CYP(CP)Act** provides **protection for persons** who make reports to DoCS. Any person **who makes a report or furnishes information to DoCS in good faith and with reasonable care**, is given the following protection:

- the making of the report or the furnishing of the information shall not be held to be a breach of professional etiquette or ethics or a departure from acceptable standards of professional conduct;
- no liability for defamation is incurred for the person making the report or the furnishing of the information;
- the reporting or the furnishing of the information shall not constitute grounds for civil proceedings for malicious prosecution or for conspiracy;
- with the exceptions noted below, the report shall not be admissible in evidence in any Court, tribunal or committee proceedings;
- a person cannot be compelled by a Court to produce the report or give any evidence as to its contents.

The above protective provisions apply only to the report. Discussions, interviews and proceedings which precede or follow a report may fall outside the scope of these protections.

21.2.11 Protecting the anonymity of the person reporting to DoCS

Reports to DoCS are generally confidential. The **Interagency Guidelines** emphasize that no agency may disclose to a parent the identity of a reporter.

Preserving the anonymity of the reporter is DoCS' policy and School authorities are assured that it is strictly enforced by DoCS, with disciplinary action being initiated if confidentiality is breached.

The legislation does not absolutely prevent the details of the person making the report from ever being disclosed. The information may be attempted to be sought by way of subpoena or the questioning of witnesses in the course of contested legal proceedings. It is DoCS' policy and practice to oppose, in the public interest, the disclosure of the identity of the reporter. The Courts will usually not permit the disclosure of the reporter's identity unless it is in the interests of justice to do otherwise.

21.2.12 Exceptions to the legal protection of reporters to DoCS

The anonymity given to reporters under the **CYP(CP)Act** is, therefore, not absolute. On occasions, the reporter may be required to give evidence to a Court.

In criminal proceedings – information or a report supplied by School personnel may be relied on if criminal proceedings are initiated. There is an obligation on the prosecutor to disclose the existence of such information to the defence. This can mean that a record of an interview or a DoCS assessment report is potentially available to the person accused of an offence via their legal representative.

Evidence of first complaint – in situations where there is a disclosure about abuse which constitutes a crime, the person who first receives the information from the child or young person may be called to Court to give evidence. (This is called evidence of first complaint and it is important that the information received is accurately recorded.)

21.2.13 Other instances in which the reporter may have to give evidence

Other circumstances in which a reporter from a School may be required to give evidence, thus disclosing their identity include the following:

- in Care proceedings before a Children's Court (ie: where the child is under 16 years of age);
- in appeals against a decision of the Children's Court in the NSW District Court;
- in exceptional circumstances in Family Court of Australia ("**Family Court**") proceedings;
- where information has been furnished by the School, following a direction from the Director-General of DoCS (or delegated officer) to provide information about a child or young person who is the subject of an investigation following a report to DoCS;

- in proceedings involving any person in relation to that person exercising their functions under the **CYP(CP)Act**.

21.2.14 Reporting a young person 16 or 17 years of age

Under section 24 of the **CYP(CP)Act**, any person who has reasonable grounds to suspect that a young person who is 16 or 17 years of age, who is at risk of harm, may make a report to DoCS.

Reporting to DoCS of suspected physical or sexual abuse of young persons is not mandatory. However, consideration may need to be given to any possible legal duty to report knowledge of a crime to the NSW Police, under section 316 of the **Crimes Act**.

Section 24 of the **CYP(CP) Act**, offers to young persons the same intervention, access to care and support services from DoCS, as is available from DoCS for younger children. Again it is a discretionary matter whether or not School personnel wish to report to DoCS.

It is strongly recommended that where School personnel are concerned that a young person is at risk of harm from abuse or neglect, they should make a report to DoCS. The young person should be involved in the decision to report and the process of reporting, unless there are exceptional reasons for excluding them. If the young person is against the report being made, this information must be conveyed to DoCS, which must consider the young person's wishes in any assessments and investigations.

21.2.15 Can you report students 18 years of age and over to DoCS?

A student who has turned 18 years of age is legally an adult and therefore, is not covered by the provisions of the **CYP(CP) Act**. DoCS has no authority to receive reports about the safety, welfare or well-being of this category of student.

If the student (aged 18 years and above) has been physically or sexually abused, it is possible that a crime has been committed, in which case it may be desirable or necessary to report this to the NSW Police.

The student should be informed of this and of the various other services available such as counselling and/or emergency accommodation if it is required.

Any School personnel who have reasonable grounds to suspect that a student enrolled at the School has been sexually or indecently assaulted should immediately inform the School Principal of their suspicion regardless of the age of the student.

If the School Personnel and/or the Principal believe that a criminal offence has been committed which involves a student 18 years of age or older, then the NSW Police must be informed.

If any alleged sexual or indecent assault has occurred at School or during any School-related activity, the Principal has an obligation to report the matter to the NSW Police. The Principal should inform the student of this obligation.

MORE ABOUT REPORTING STUDENTS OVER 16 YEARS OF AGE TO DoCS

Every School owes a duty of care to its students. This is discharged through the School's personnel. This obligation arises from the nature of the teacher/student relationship. This duty exists regardless of the student's age. This legal duty coupled with the special pastoral relationship which is characteristic of Catholic Schools, demands that all students be provided with support and advice.

Simultaneously, there is a growing trend in the community to promote young persons' rights to participate in decisions that have an impact on their lives. An argument put forward to support this point of view is that mandatory reporting may inadvertently deprive a young person of the opportunity and right to have a say in their own future at a critical point in their life.

It must however be recognized that there are dangers in allowing young persons to control decisions that they may not be mature or informed enough to make. Adolescent maturation rates vary greatly and chronological development may not always be in tune with emotional and cognitive milestones, especially when abuse has featured prominently in a young person's life.

It is imperative that decision making responsibility for safety issues is not left solely to the individual young person aged 16 to 18 years.

The dynamics of abuse, particularly sexual abuse, characteristically depend on a culture of secrecy within a family. In circumstances of this nature it may be difficult for a person to whom the young person has disclosed, to effect the protection of that young person, if the person was to adhere to the young person's request for confidentiality. There may also be situations where younger children in a household are implicated in the disclosure of abuse by a young person.

It has been conceded by advocates for the rights of young persons that this is one of the exceptional circumstances where the need to protect other children may override the wish for confidentiality of the young person in question. However this must be weighed against the likelihood of breaching the student's trust by reporting to DoCS against the student's will, a step which itself could result in a retraction of the initial disclosure.

21.3 Crimes Act

21.3.1 Reporting crimes

Under section 316 of the **Crimes Act**, it is an offence for any person who knows or believes that another person has committed a serious offence, not to bring that information to the attention of the NSW Police or other appropriate authority. Relevant offences include the abuse (or neglect in extreme situations) of a child or young person.

The effect of section 316 is limited however, by the fact that a person is only bound to report if he/she knows or believes that an offence has been committed. There is no compulsion to report mere suspicions.

21.3.2 Criminal offences against children

Child abuse is a term commonly used to refer to a range of offences under the **Crimes Act** that result in harm to a child victim or involve behaviours to which a child cannot give consent. Such crimes include, but are not limited to the following:

Sexual intercourse

Under section 73 of the **Crimes Act** it is an offence for a person in a special care relationship with another person to have sexual intercourse with that person if that person is under the age of 18 years.

For the purposes of section 73, a person (*the victim*) is under the special care of another person (*the offender*) if, and only if:

- (a) [the offender](#) is the step-parent, guardian or foster parent of [the victim](#), or
- (b) [the offender](#) is a [school](#) teacher and [the victim](#) is a pupil of [the offender](#), or
- (c) [the offender](#) has an established [personal](#) relationship with [the victim](#) in connection with the provision of religious, sporting, musical or other instruction to [the victim](#) – in schools, this would extend to relationships involving sports coaches, music tutors etc, or
- (d) [the offender](#) is a custodial [officer](#) of an institution of which [the victim](#) is an [inmate](#), or
- (e) [the offender](#) is a health professional and [the victim](#) is a patient of the health professional.

It is also an offence under the **Crimes Act** to have a sexual intercourse with any person under the age of 16 years as the law does not recognise those persons as being able to give consent.

If these provisions of the **Crimes Act** are breached, the person may be liable for imprisonment.

In cases involving peer sexual activity, it is important for School personnel to understand that the existence of sexual activity between two people where one or both is under the age of consent, could make that relationship a criminal offence under the **Crimes Act**. When it's unclear whether a particular situation involves a consenting peer relationship or child sexual assault, advice should be sought from DoCS.

Indecent assault

An indecent assault is an assault accompanied by an indecent act. An indecent act is :

“...one which a right minded person would consider contrary to community standards of decency.”

21.3.3 DoCS and NSW Police co-operation

DoCS has no power to lay charges where a breach of the **Crimes Act** has been committed.

Therefore, all reports to DoCS which involve a criminal offence must be referred by DoCS to the NSW Police. This includes, for example, cases where:

- the victim has died;
- the victim has received a life-threatening or serious injury;
- the victim has been physically or sexually assaulted;

- there is torture involved;
- removal of the perpetrator is necessary to protect the victim;
- a person has neglected (to a serious degree) to provide adequate food, nursing, medical treatment, clothing, material aid or lodging for the victim;
- the victim has been sexually assaulted.

21.4 Crimes (Female Genital Mutilation) Act 1995

Female genital mutilation is a crime.

The **Crimes (Female Genital Mutilation) Act 1995** provides that anyone who is found guilty of practising female genital mutilation, or who aids, abets, counsels, or procures someone else to practise female genital mutilation on another person is liable for imprisonment.

It is also illegal for female genital mutilation to be carried out overseas on anyone who is normally resident in NSW.

21.5 Out-of-home care

The term “out-of-home care” broadly refers to:

- the residential care and control of a child or young person at a place other than the child’s or young person’s usual home; and
- that such care is provided by a person other than a parent of the child or young person.

In addition to the foregoing, section 135 of the **CYP(CP)Act** specifies that such care must either be:

- for a period of more than 14 days if provided under an order made by the Children’s Court;
or
- for an aggregate period of more than 28 days in 12 months in any other case.

It is not uncommon for a child or young person placed in out-of-home care (either initially or at some subsequent time), to experience upset, adjustment difficulties, emotional or psychological trauma.

School personnel have an important role to play in being sensitive to, and in responding to the particular child or young person’s needs, in providing support to them and to ensure that where necessary, the child or young person is able to source other avenues of support, assistance and counselling during this period of the child’s or young person’s life.

Where a child or young person’s placement in out-of-home care has been arranged under an order of the Children’s Court, the School Principal should obtain from the person responsible for enrolling the child or young person in the school, details of any Court Orders:

- prohibiting contact or access to the child or young person, by either or both parents or any other person;
- that expressly address the religious instruction of the child or young person; or

- which specify any other matter which would affect the education in the School of the child or young person.

Where necessary the Principal should convey to the child's or young person's Teachers, sufficient details of the Court Orders, to ensure compliance with such orders.

School personnel should otherwise deal with information about a child's or young person's out-of-home care in strictest confidence.

21.6 Preliminary conferences in the Children's Court

A "preliminary conference" is an informal, court-ordered meeting between representatives of DoCS and the other parties in a Children's Court care matter

The conference is conducted as a form of alternative dispute resolution by the Children's Registrar, who as an officer of the Court is independent of all the parties to the proceedings. What is said during the course of the conference is (with few exceptions) confidential and cannot be used as evidence in the Court proceedings unless all the parties at the conference agree otherwise.

The purpose of the conference is to identify areas of agreement and disagreement between the parties and to try and reach a solution which resolves all or some of the issues.

Subject to the agreement of all the parties involved in the preliminary conference, other persons may be permitted to attend the conference. Such persons may be permitted to attend as:

- a support person for one of the parties (other than DoCS); or
- as a representative of an agency whose attendance may be crucial in resolving the matter.

School personnel may be requested to attend a preliminary conference either as a support person or as a representative of the school.

Where School personnel attend a preliminary conference in support of a party to the proceedings, clarification should be sought from the Principal concerning the requisite leave arrangements for attending the conference.

Where School personnel are requested to attend a preliminary conference as a representative of the School, clarification should also be sought concerning requisite leave arrangements and the scope of the individual's delegated authority to speak on behalf of the School at the preliminary conference.

21.7 Giving evidence in care and related proceedings

School personnel may sometimes be requested to give evidence either by DoCS or one of the other parties in Children's Court care proceedings.

Unless a person is subpoenaed to provide such evidence, they are not otherwise compelled to do so.

The party who subpoenas a witness to give evidence in Children's Court care proceeding will normally be required to provide the necessary professional assistance to the witness to prepare an affidavit (ie: a pre-sworn or affirmed written witness statement) which is to be lodged with the Court prior to the hearing.

Any of the parties to the proceedings may then cross-examine the witness in Court during the course of the proceedings.

School personnel should note that some child-related matters may be litigated in the Family Court in proceedings commenced by the child or young person's parents. Others may be the subject of criminal proceedings in the NSW Local, District or Supreme Court.

Again, unless a person is subpoenaed to provide such evidence, they are not compelled to do so. It is advisable that School personnel who have not been subpoenaed to do so, should not give evidence in care or other related proceedings (except in matters of a personal private nature).

Before giving evidence, School personnel should consult with the legal representatives of the party calling upon them to testify in the proceedings.

School personnel should clarify with their School authority about the correct leave to apply for when providing evidence in particular care or related proceedings.

21.8 DoCS' early intervention strategy

In late 2004/early 2005, DoCS began trialling an early intervention strategy for responding to reports of children or young persons at risk of harm.

The strategy involves a combined interagency approach to coordinate and provide services, aimed at intervening early to prevent cases where lower levels of risk of harm are present, from developing into cases involving more serious levels of risk of harm to the affected child or young person.

Early intervention is also aimed at preventing cases escalating to the point where more intrusive intervention would otherwise be warranted.

The implementation of the early intervention strategy may involve School personnel more directly in assisting children and young persons, their parents or caregivers and DoCS in dealing with those issues which have led to the particular case being reported to DoCS.

School personnel should inform the School Principal of any requests from DoCS to participate in the early intervention of a case involving a child or young person enrolled in the School.

22. When a child or young person discloses abuse

22.1 Support for a child or young person who has disclosed abuse

When a child or young person discloses abuse, School personnel need to be well prepared so that they can be supportive of them, whilst being very clear about their responsibilities. Children and young persons generally disclose abuse with great hesitation and often with a mix of intense emotions, including fear, embarrassment and guilt. Sometimes they may only hint at or tell about a small part of their experience to see how the personnel react before fully disclosing.

It is essential that School personnel remain calm and supportive of the child or young person. The personnel should:

- actively listen to the child or young person and **never** probe for details or ask leading questions, eg: "Did he touch your vagina?";

- refrain from questioning excessively because of fear of making a mistake in deciding to report;
- talk gently and reassuringly, in private, pointing out that you are there to help;
- only ask questions that are open-ended and designed to provide sufficient information to decide whether the suspicion of abuse is sufficiently strong to warrant a report to DoCS being made.

22.2 Helping a child or young person making a disclosure

School personnel will help a child or young person making a disclosure by:

- listening in a calm way;
- reassuring the child or young person that you believe them;
- saying that you are “pleased” that the child or young person has told you, “as it was the right thing to do”;
- avoiding any reaction that could make the child or young person regret having talked about the experience;
- emphasizing that what has happened is definitely not the child or young person’s fault;
- acknowledging that it is very hard to talk about such things;
- telling the child or young person that the best way to stop the abuse happening is to report it to the people who have the responsibility for the care and protection of children and young persons.

22.3 Responding to a disclosure made in a group or classroom

If a child or young person begins to make a disclosure in a group situation, School personnel should use the strategy of “protective interruption” by:

- acknowledging that they have heard the child or young person;
- indicating their support by explaining that what they think the child or young person is saying sounds important and that it would be better to talk about it later;
- quietly arranging at an appropriate time to see the child or young person away from other children or young persons.

When a child or young person discloses abuse, School personnel should not make promises that they will not tell anyone – indeed they must tell the child or young person that they have a responsibility to inform the School Principal. Nor should the personnel assure the child or young person that the abuse will stop – as that cannot be guaranteed.

22.4 Where there is an assault on a child or young person by an unknown adult at School

In such situations, the School Principal must report the matter to DoCS in the first instance and then immediately inform the School authority of the situation. DoCS has a responsibility to notify the NSW Police and the JIT (or JIRT in rural and remote areas) to investigate the matter.

The Principal should discuss with DoCS the advisability of alerting other Schools in the area if there is a risk to other children and young persons.

The Principal should confirm that DoCS is liaising with the NSW Police. Refer to section 23 of the Guidelines for the procedure to be followed in reporting such a matter to DoCS.

22.5 Consultation available for School personnel

If School personnel have concerns that physical, psychological or sexual abuse may be occurring, or has occurred, and is uncertain that they have reasonable grounds on which to base their concerns, the personnel should obtain advice from the appropriate persons without delay. Such concerns should be raised immediately by School personnel with the School Principal.

Assistance may also be sought from:

- the School's adviser;
- the School authority's Head of Agency;
- Centacare;
- DoCS Helpline.

It is very important not to prematurely disclose the identity of the individual child or young person to others, when checking on the reasonableness of the suspicions and concerns which one holds for the child's or young person's safety, welfare or well-being. Specific details about the identity of the child or young person, or their family, should only be given when formally reporting the matter to DoCS.

22.6 Maintaining confidentiality

Any person making an inquiry or complaint about a report which has been made to DoCS, or about an interview with a child or young person in relation to a report, should be referred to DoCS.

23. Procedures for mandatory reporting to DoCS

23.1 Steps in the mandatory reporting process

All the following steps are to be followed in making a mandatory report to DoCS.

Section 23 must be read as a whole; subsection 23.1.1, or any other subsections, cannot be read alone.

23.1.1 Initial reference to the School Principal

School personnel who suspect on reasonable grounds that a child is at risk of harm, may be directed by their employer to advise this concern to the School Principal as soon as practicable. They also have a legal obligation to ensure that a report of risk of harm is made to DoCS.

23.1.2 Ascertaining the matters to be reported to DoCS

Under section 27 of the **CYP(CP) Act**, School personnel and the School Principal have separate, mandatory obligations to report relevant cases to DoCS in accordance with the aforementioned provision.

In accordance with section 27 of the **CYP(CP) Act**, the personnel and the Principal must report the following information to DoCS as soon as practicable:

- the name and a description of the child or young person involved;
- the age of the child or young person;
- the grounds for suspecting that the child is at risk of harm;
- the name and address of the person/s alleged to have abused the child or young person.

In the event that the Principal does not concur with the personnel that the child is at risk of harm, the Principal must advise the person that if they have formed the opinion that the student is at risk of harm then they are mandated to report direct to DoCS. All school personnel retain the legal right and duty to report risk of harm direct to DoCS.

The Principal must inform the personnel of the procedures to be followed in making a report concerning the child to DoCS.

23.1.3 Choosing and completing the reporting procedure to be followed

A report must then be made to DoCS using either one of the following procedures:

- centralised reporting to DoCS (refer Appendix 1); or
- direct reporting to DoCS.

Centralised reporting to DoCS

Centralised reporting to DoCS is endorsed in a Memorandum of Understanding between DoCS, the NSW Department of Education and Training, the CEC and The Association of Independent Schools of NSW Ltd. It is an administrative process that supports compliance with section 27 of the **CYP(CP)Act**.

A copy of the Memorandum of Understanding is provided at Appendix 1 to the Guidelines.

Adopting this procedure, the School personnel reports their concerns to the School Principal, and the Principal then contacts the DoCS Helpline by telephone (if possible).

On receipt of the report, DoCS will allocate a Case Reference Number, which is to be noted on the relevant School records of the report.

The reporting to the DoCS Helpline is to be documented by a report in writing on **Form A**, completed by the Principal in consultation with the personnel concerned.

A copy of **Form A** is provided at Appendix 2 to the Guidelines.

A copy of this form is to be sent to the School authority and also retained for the School's records.

Centralised reporting is the preferred and recommended reporting procedure.

However, the Memorandum of Understanding does not preclude any School personnel from reporting the matter directly to DoCS.

Direct reporting to DoCS

Adopting this procedure, School personnel directly report the matter to the DoCS Helpline by telephone (if possible).

Should the personnel take this option, the School Principal is still required to meet their reporting obligation under section 27 of the **CYP(CP) Act** to report relevant cases to DoCS.

The personnel making the report to DoCS records the Case Reference Number, and then advises the Principal that they have made the report and of the Case Reference Number allocated by DoCS.

The Principal refers to this Case Reference Number in also reporting the matter to DoCS.

The initial report to the DoCS Helpline is to be documented in writing on **Form A**, separately completed by the personnel concerned and the Principal.

Copies of the forms completed by the personnel and the Principal are to be sent to the School authority and retained for the School's records.

Preferred form of reporting to DoCS

DoCS' preferred form of reporting to the DoCS Helpline is by telephone.

However, if telephone contact with DoCS is unsuccessful, only then may the initial report be made by fax on **Form A** to the Helpline. In this situation, a fax receiving system will provide immediate confirmation from DoCS that the faxed report has been received at the Helpline. The receipt is generated automatically, and therefore does not provide information about the outcome of the Helpline's assessment.

A copy of a sample fax receipt issued by DoCS is provided at Appendix 3 to the Guidelines.

Information from DoCS on the assessment of the report is later sent in the form of a feedback letter.

A copy of a sample feedback letter issued by DoCS is provided at Appendix 4 to the Guidelines.

23.1.4 Procedure for reporting children or young persons to DoCS

The procedures outlined in this section of the Guidelines for reporting a child suspected of being at risk of harm to DoCS, are also to be used for reporting a young person at risk of harm to DoCS.

Reports to DoCS are to be made on the DoCS Helpline:

The telephone number for mandatory reporters is: 133627 (or 13DoCS).

The telephone number for voluntary reporters is: 132111.

The Helpline fax number is: (02) 9633 7666.

23.1.5 Procedure where the School Principal is the alleged perpetrator

In a case where the person who is the subject of the allegation is the School Principal, the person making the report to DoCS is to report their suspicion to the School authority and the School authority must then immediately make a report to DoCS. These reports are to be made as soon as practicable and must be documented.

23.1.6 Procedure where an allegation concerns a School employee

A "**School employee**" is any person employed by a School authority whether or not in connection with any work or activities of the School authority that relates to children, or any person employed or engaged by the School authority to provide services to children. This includes, but is not limited to employment in the following ways: paid employees, subcontractors, volunteers, ministers of religion, members of a religious congregation, or undertaking practical training as part of an educational or vocational course.

Where an allegation involves a School employee, the School authority must first decide if the allegation is one which must be reported to either or all of the following agencies:

- DoCS; or
- NSW Ombudsman, or
- NSW Police

In making this decision, the School authority needs to decide if the allegation fits the criteria for the particular types of reporting which are required by the respective agencies:

- DoCS

The allegation must be reported to DoCS if what is alleged constitutes a risk of harm to a child. A child is at risk of harm if current concerns exist for the safety, welfare or well-being of a child because of the presence of any one or more of the grounds listed in section 23 of the **CYP(CP)Act**.

- NSW Ombudsman

If the allegation involves a reportable allegation or reportable conviction as defined under the **Ombudsman Act 1974**, then this will need to be reported through the School authority's Head of Agency to the NSW Ombudsman, ie: what is alleged fits the criteria of either reportable conduct or an allegation of misconduct that may involve reportable conduct.

- **NSW Police**

If the allegation involves a possible criminal offence.

Section 25 A of the **Ombudsman Act 1974** defines reportable conduct as follows:

- (a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence), or
- (b) any assault, ill-treatment or neglect of a child; or
- (c) any behaviour that causes psychological harm to a child,

whether or not, in any case, with the consent of the child. Reportable conduct does not extend to:

- (a) conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant codes of conduct or professional standards; or
- (b) the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures; or
- (c) conduct of a class or kind exempted from being reportable conduct by the Ombudsman under section 25 CA (*of the **Ombudsman Act 1974***).

If the allegation involves a reportable allegation, the School authority must undertake an investigation and make a report on the outcome of that investigation to the NSW Ombudsman and NSW Police (for criminal matters).

For further information about the timing and conduct of investigations reportable to the NSW Ombudsman, refer to the School authority's Head of Agency guidelines.

Where upon investigation of a reportable conduct by the School authority, the finding of the investigation is that the conduct:

- involves reportable conduct as defined above, or an act of violence committed in the performance of work in the presence of a child; and

- the School authority then conducts an employment proceeding against the person against whom the allegation is made;

the outcome of the relevant employment proceeding must be communicated in writing to the CCYP as a Category 1 or Category 2 matter.

Employment proceedings, as defined under the **Commission for Children and Young People Act 1998**, is quite extensive. Such proceedings are not restricted to employment proceedings against mere employees, but also include investigative proceedings against sub-contractors, volunteers, ministers of religion, other members of a religious congregation, or persons undertaking practical training as part of an educational or vocational course.

Where a notification is made to the NSW Ombudsman and a report is also made to DoCS, the procedures set out in the **NSW Interagency Guidelines for Child Protection Intervention** and the **NSW Ombudsman Guidelines** should be followed.

23.2 Further issues in relation to mandatory reporting to DoCS

23.2.1 Confidentiality of documents

All documentation of mandatory reporting to DoCS must be kept confidential.

Documentation relating to the report to DoCS must be maintained in a separate file in a secure place under strictly limited access on a “need to know” basis as approved by the School Principal and/or the School authority.

Documents relating to any matter relating to the report should be kept by the Head of Agency or delegate in locked storage by the School or the School authority indefinitely.

23.2.2 Accuracy of documents and forms

The School Principal must ensure accurate documentation is made concerning the following elements of the mandatory reporting procedures:

- reports made to the Principal by School personnel about children or young persons suspected of being at risk of harm (**Form F**);
- details of the report to DoCS (**Form A**);
- any actions within the School resulting from the report (**Forms B, D or E**, as applicable);
- report to the School authority (copy of report to DoCS) (**Form A**);
- details of any feedback or requests for information, following the report, from DoCS.

Copies of the above forms are provided at Appendix 2 to the Guidelines.

23.2.3 Protecting privacy rights and related matters

At all stages in the process it is essential that:

- the child or young person’s right to privacy and confidentiality is respected;
- the School authority is kept well informed;
- the reporter’s anonymity is maintained;

- the rights of any person involved are respected, including the presumption of innocence of any alleged perpetrator of abuse.

23.2.4 Information sought by DoCS

The general procedures followed by DoCS in response to reports made to the DoCS Helpline are outlined at section 19.4 of the Guidelines.

In assessing a report made to DoCS, the Helpline Caseworker will seek from the person making the report information concerning the child or young person, the circumstances of the risk of harm and the basis for the concerns held for the safety, welfare and well-being of the child. The information sought by the Caseworker will include the following:

- the name of the child or young person;
- the address of the child or young person;
- where the child or young person is at the time of making the report, or where they were last seen;
- the age of the child or young person;
- the School attended by the child or young person;
- whether there are any other children in the household and their age(s);
- whether an interpreter or Aboriginal liaison officer may be needed;
- details of events, conversations or observations, ie: the grounds for concern which have led to the making of the report to DoCS;
- the name and contact telephone number of the person making the report.

23.3 Where reported harm to a child or young person arises outside the School context

If a child or young person discloses abuse while at School and there is a current suspected risk of harm, the School Principal should ensure that the child or young person is cared for at School until DoCS advises the Principal on the course of action to be taken.

It is the role of DoCS to assess and, where appropriate, investigate reports and to inform parents or caregivers that a report has been made. The Principal must not make any contact with parents or caregivers regarding this report.

The DoCS Caseworkers should give the School sufficient notice of DoCS' intention to interview the child or young person, for the School to make arrangements for an appropriate and private interview site.

For further information on arrangements for interviews of children and young persons by DoCS and the NSW Police, refer to sections 29 and 30 of the Guidelines.

23.4 Checklist for mandatory reporting to DoCS and related reporting to a School authority's Head of Agency, as well as to the Professional Standards Office

Information to be collected to complete this checklist is to be treated as confidential to the School Principal:

- Has a report of a child or young person suspected of being at risk of harm, been made to DoCS?

(This report may involve the homelessness of the child or young person.)

Note: DoCS' preferred method of reporting is via telephone to the DoCS Helpline.

- Has the School personnel who originally advised the Principal that the child or young person was suspected of being at risk of harm been –
 - informed of the report made by the Principal to DoCS? and
 - provided with feedback from DoCS about the report?

- Has **Form A** for documenting in writing the report made to DoCS been completed?

Note: **Form A** should only be sent (by fax) to DoCS if an attempt to report to the DoCS Helpline by telephone is unsuccessful.

- Has the School authority been advised of the report to DoCS and been sent a copy of **Form A** (and the fax receipt if the report was made by fax)?
- Has DoCS informed the parent or caregiver that a report to DoCS has been made?
- Has DoCS advised of the Case Reference Number assigned to the case and its response?
- Has a School copy of **Form A** and any related documents been filed in a secure and confidential place?
- Is the matter one to be reported to the School authority's Head of Agency and the NSW Ombudsman, as well as DoCS?

Head of Agency and the NSW Ombudsman

Where the allegation concerns a School employee, a **Child Protection Notification Form** should be forwarded by the School authority to its Head of Agency within 24 hours of receipt of the allegation by the School or as soon as practicable.

- Is the matter one which should also be brought to the attention of the Professional Standards Office?

Professional Standards office

Where any report to DoCS involves alleged sexual, physical or emotional abuse by clergy, religious, employees or volunteers working for the Catholic Church, then such allegations must be brought to the attention of the Professional Standards Office in NSW (Phone: (02) 9287 1542).

24. Exchange of information with DoCS

24.1 Responding to a written request from DoCS to provide information

DoCS' requests for written information about a child or young person or for direct access to School records must be made in writing to the School Principal (refer to **Form C**) and must be authorized by a delegated DoCS officer.

There is a legal requirement for schools to respond promptly to a DoCS direction to provide written information.

The issuing of a written direction from DoCS for a School to provide information does not mean that the Principal must provide a response in writing unless specifically directed to provide the information in writing.

Principals should use **Form B** when providing a written response to a written DoCS request for information.

It is essential that all copies of all relevant forms are kept. School records of this nature contain extremely sensitive information and should be kept in a secure place with strictly limited access.

DoCS has a discretion under section 248(1)(a) of the **CYP(CP)Act** to provide to Schools and other relevant organizations information relating to the safety, welfare and well-being of a child or young person.

24.2 Responding to a verbal request from DoCS to provide information

Schools have a legal duty to comply promptly with a direction from DoCS to furnish information about a child or young person who is the subject of a report to DoCS.

This obligation extends also to providing information about a class (ie: a category) of children or young persons, eg: family members; members of a School science club etc.

This exchange of information requirement may include information about a parent, caregiver or household member that is relevant to the child's or young person's safety and any risk assessment in respect of the child or young person.

Information provided to DoCS should only be that which is ordinarily available to the School Principal and the School. This may require the Principal to gather/become aware of information normally held by others in the School who have involvement with the child or young person at the School.

However, no attempt should be made to investigate to acquire information not normally held by the School. Investigation is the responsibility and role of DoCS Caseworkers.

24.3 DoCS can request information by telephone

DoCS Caseworkers may contact the School Principal by telephone requesting immediate information about a child or young person who is the subject of an investigation following a report to DoCS.

Following an oral request for information the Principal should confirm the identity of the caller by telephoning the known number of the DoCS Helpline or the DoCS CSC to request confirmation. Once the identity of the DoCS Caseworker has been verified, the Principal may refer to School records, and access and provide relevant information to the Officer.

Effective intervention in child protection cases demands co-operative, co-ordinated and prompt action by professionals responding to suspected risk of harm.

It is important that schools be able to provide verbal information to DoCS in the more extreme cases.

Where highly sensitive information is requested verbally, the Principal can insist that the DoCS Caseworker formally issue a written direction that such information is to be provided. A written request from DoCS would then be given on **Form C**. In these circumstances, the Principal is not required to respond in writing. The Principal should ensure that thorough documentation is maintained of any information of a sensitive or confidential nature, which is provided to DoCS verbally or otherwise.

25. School records

Professional practice requires that School records concerning matters related to child protection and abuse of children and young persons be carefully maintained at all times. Records should be organized, accurate and contain only factual data.

School Principals should be aware that School records may be:

- subpoenaed by a Court;
- subject to the exchange and provision of information requirements of section 248 of the **CYP(CP) Act**.

Forms to assist with the making and storage of records are contained in Appendix 2 to the Guidelines.

26. Written records of witness to interview with children and young persons

School personnel who attend an interview with a child or young person at School may make a written record of the interview. This record is private and confidential and should only be made available to DoCS interviewers at the discretion of the personnel or to a Court in response to a subpoena.

A written contemporaneous record may assist School personnel in the event that they are required to give evidence in subsequent Court proceedings.

27. Feedback from DoCS

DoCS has a responsibility to provide feedback to the reporter. The period of time taken to complete assessments and investigations will vary according to the particular facts in each case. Sometimes it may not be appropriate for DoCS to provide specific or detailed information, particularly where criminal proceedings are contemplated by the NSW Police in certain cases.

Following making a report to DoCS, if the School has not received advice from the DoCS Helpline with respect to DoCS' response, the School Principal is encouraged to contact the Helpline, quoting the Case Reference Number, for feedback on the progress of the case.

If DoCS advises the School that further follow-up may be directed to a nominated CSC or JIRT, then the CSC or JIRT would be the avenue for such follow-up as will be required for the School's ongoing management of the situation.

When a report has been investigated and substantiated, relevant School personnel may have an important ongoing interagency role and sometimes may be involved in planning meetings, case reviews and case closure meetings (refer to pages 131 to 139 of the **Interagency Guidelines** for further information).

If the Principal has concerns relating to the service provided by DoCS, these should be raised with the DoCS Area Manager or DoCS Complaints Unit. The DoCS Community Liaison Unit and the Community Services Commission are also available to receive and act on complaints.

28. Removal of a child or young person by DoCS

DoCS Caseworkers may advise the School Principal that they wish to remove a child or young person from School. This may arise from a decision to take action to ensure the child or young person's safety.

Children or young persons may be removed from School by DoCS Caseworkers on the authority of a DoCS delegated officer.

The Principal must not inform the parents or caregivers if a child or young person is to be removed from the School by DoCS. It is the responsibility of DoCS to contact parents or caregivers.

A Court order is not necessary for DoCS Caseworker to remove a child or young person from School. If the child or young person is to be removed from the School under section 43 of the CYP(CP)Act (or ordered to remain under section 44 of the Act), a notice will be produced by the DoCS Caseworker.

In these circumstances the Principal must:

- retain a copy of the section 43 notice;
- complete **Form D** and file on record;
- confirm with the DoCS Caseworkers, preferably in writing, that DoCS will inform the child or young person's parents or caregivers as soon as possible of the action taken;
- immediately inform the School authority;
- refer any inquiries from the parents or caregivers to DoCS.

29. Interviewing of children and young persons by DoCS

29.1 Procedures for interviewing children and young persons by DoCS

The following procedures are recommended to be followed by the School Principal when DoCS seeks to interview a child or young person at School.

29.1.1 Issues to consider before arranging the interview with DoCS

In some circumstances DoCS Caseworkers may wish to interview the child or young person at School. In such cases, DoCS should notify the School in advance so that appropriate arrangements can be made. The School Principal should ascertain with DoCS Caseworkers that there is no appropriate alternative venue.

Prior to an interview taking place at School, the Principal should sight documentation to establish the identity of the DoCS Caseworkers and discuss with them the procedures for conducting the interview. An opportunity should then be provided for the Caseworkers to meet with the child or young person to explain their role and the purpose of the interview.

If a child or young person who has been the subject of suspected abuse or risk of harm does not wish to be interviewed at School by DoCS Caseworkers, the **Interagency Guidelines** provide that the interview should not proceed at the School.

The Principal should inform the child or young person that they do not have to be interviewed at the School.

29.1.2 Provision of a support person for the child or young person

Under the **Interagency Guidelines** children and young persons interviewed at School may nominate an adult support person to attend the interview. The School Principal should make every effort to assist the child or young person to obtain the supportive adult requested.

The role of the adult nominee is to protect the child or young person's rights. School personnel may agree to act as the support person but should be aware that they may be subpoenaed as a witness should it be deemed necessary by either DoCS or the child or young person's legal representatives.

Prior to organizing the support person for the child or young person, it is critical to discuss the nomination with DoCS. An opportunity should be provided for DoCS to meet with the nominated support person prior to the interview with the child or young person.

Whilst School personnel, including the Principal, are not required to attend the interview against their wishes, it is advisable that personnel who are acceptable to the child or young person attend.

Any School personnel who does attend an interview may make a written record. The information in the record is confidential and should only be made available to DoCS at the discretion of the personnel or to a Court in response to a subpoena.

This written contemporaneous information may be of assistance in the event the personnel are called to give evidence in subsequent Court proceedings (refer to sections 21.2.10 to 21.2.13 of the Guidelines).

29.2 Informing the child or young person's parents or caregivers

The School Principal should clarify with the DoCS Caseworker:

- who will take responsibility for informing the child or young person's parents or caregivers that an interview has taken place;
- what contact is to be made with the family by the School;
- the type and level of support the child or young person may require at School.

When there is no suspected family or close friend involvement in the reported abuse or risk of harm, DoCS is required to inform the parent or caregiver that a report has been made. The Principal must seek confirmation from DoCS that this has occurred and clarify if the parent or caregiver, or their nominee, will be attending the interview.

The Principal must inform the child or young person that no interview can be conducted at the School without the child or young person's agreement and in such circumstances the Principal or nominated School personnel are not to attend the interview unless nominated by the parent or caregiver.

29.3 Interviewing of other children and young persons who are not suspected at risk of harm

DoCS Caseworkers may consider it necessary to interview other members of the child or young person's family or household who attend the same School.

In these circumstances, the School Principal should follow the procedures already outlined above.

The crucial factor for the Principal to consider in all situations is whether a family or close friend has been involved in the reported abuse or risk of harm.

29.4 Interviewing of School personnel by DoCS

DoCS Caseworkers may wish to interview School personnel. This is a matter for the individual personnel to decide.

The name of any School personnel should be given to DoCS only after consultation with the personnel and with that person's approval, providing that the withholding of any name does not constitute obstruction of the DoCS Caseworker in the exercise of their duty (refer to section 251 of the **CYP(CP)Act** as cited in section 29.5 the Guidelines).

29.5 Conduct of investigations by DoCS

It is important for School Principals and School personnel to be aware that DoCS Caseworkers have broad powers under the **CYP(CP) Act** and that School personnel have an obligation to assist DoCS in the conduct of investigations.

The **CYP(CP)Act** creates the following offences:

- **Section 251 – Obstruction of persons**

“... A person who wilfully hinders, obstructs, delays, assaults or threatens with violence any person in the exercise of that person's functions under this Act is guilty of an offence.”

Maximum penalty: \$22,000.00.

- **Section 253 – False or misleading statements**

“... A person must not, in any application under this Act or the regulations or in connection with an inquiry made by the Director-General in relation to such an application:

- (a) make a false statement, or
- (b) furnish information,

that the person knows to be false or misleading in a material particular ...”

Maximum penalty: \$550.00.

30. Interviewing of children and young persons by the NSW Police

Where the student concerned is 16 years of age or older, NSW Police officers may be investigating the report.

It is also possible the Police officers may be responsible for investigating reports involving children or be involved in Joint Investigations with DoCS Caseworkers.

In cases of Police investigation at School, the procedures noted above for interviews by DoCS Caseworkers should be followed.

The School Principal has the right to make the final decision as to whether the School is the most suitable place for Police officers to interview the child or young person.

The Principal has the responsibility to inform the child or young person that the child or young person has a right to refuse to be interviewed at School.

31. Children and young persons with special needs

Consideration in implementing the foregoing procedures by the School Principal and School personnel should be given to those children and young persons who may have special needs:

- a specific learning difficulty;
- a disability;
- Aboriginal and Torres Strait Islander background;
- non-English speaking background.

School personnel can play a crucial role on behalf of children and young persons with special needs, in:

- advocating their rights;
- acting as a support person;
- organizing for others to act as support persons;
- arranging for interpreters.

For further information in this regard, refer to Part III – Abuse of Children and Young Persons, of the Guidelines.

32. Providing support to children and young persons

32.1 The Catholic School as a source of support for children and young persons

The School environment can offer security and stability for children and young persons who may be at risk of harm at a time when other aspects of their lives may be unstable. It can also be a catalyst for victims of all forms of abuse to learn to trust others and feel safe.

Providing this support to children and young persons is a valuable role that can be undertaken by all School personnel within the range of their normal duties. Teachers in particular, through their normal daily contact with children and young persons, have an opportunity to make a major contribution to the adjustment of those who are victims of abuse. The significance of a constant, trusting and supportive adult to the child or young person's recovery should never be underestimated.

32.2 The stability provided by the Catholic School to a child or young person

In responding to the needs of children and young persons who experienced abuse and neglect, it must be emphasized that the range and intensity of the experiences involved vary greatly. Given this, the needs of children and young persons who have experienced abuse must be considered and addressed individually.

Essentially, the same strategies that are used by School personnel in their normal interaction with children and young persons are appropriate to support them following the reporting of abuse. Additional sensitivity may be required, however, if the child or young person's behaviour is disruptive, anti-social or if they are persistently withdrawing from activities or social contact.

School personnel can provide critical support structures such as reassurance and encouragement by maintaining normal routines and providing opportunities for success within the context of School-based activities.

32.3 Pathways for providing support to children and young persons

The following measures should be considered by School Principals and School personnel for providing support for children and young persons who have been abused.

Provide positive learning environments for victims of abuse

Maintain the child or young person's normal status within the class. Provide consistency, structure and predictability in the daily routine. Provide a secure structure for their day.

Children and young persons who are at risk of harm may understandably have high levels of stress about what is happening to them outside School and may have difficulty concentrating or lack the confidence to organize themselves in understanding tasks either individually or in group work. Until they can mobilize their own resources, children and young persons can gain strength and direction from their Teacher who provides specific directions and regular feedback.

Respect and maintain the child or young person's privacy

A major fear of children and young persons who are at risk of harm is that this will become common knowledge within the School.

Particular care should be taken to ensure that the confidentiality and privacy of a child or young person or their family is respected as far as practicable in relation to other staff and other students.

Clearly define what acceptable behaviour is

Disruptive or anti-social behaviour (which may include sexual promiscuity) should be discouraged and appropriate behaviour encouraged. It is important to provide clearly explained behavioural limits.

Support the child or young person's sense of belonging

Support children and young persons to foster positive peer relationships. Strive to provide an atmosphere where they feel included and accepted. It may be helpful/useful to seat them with friends or other caring and supportive students.

Strengthen the child or young person's sense of identity

Give the child or young person positive information or feedback about themselves. Comment positively on those things that they can do.

Respect the child or young person's personal space

Use alternatives to touching to express your affirmation and encouragement as this expression of friendliness or support may be misinterpreted.

Other forms of encouragement such as smiles, or nods, or placing your hand on the child or young person's work are preferable.

Model an appropriate adult-child relationship

Establish sound adult-child boundaries and adhere to them.

33. Providing support to parents

33.1 Involvement with the parent community

Catholic Schools and School personnel must acknowledge the importance of working with parents as full partners in child protection. In this context, Catholic Schools need to fully involve their parent communities in School-based child protection initiatives.

School authorities should provide:

- opportunities for parents to participate in child protection in-service programs;
- parent access to child protection materials and information;
- appropriate parent participation in the implementation of school-based child protection programs and activities;
- appropriate parent participation in processes following reporting to DoCS in a manner consistent with DoCS requirements and advice.

33.2 Working with parents in crisis

School personnel should also be prepared for times when they face parents who are emotionally upset. Parents who are investigated as a result of a report to DoCS experience a wide range of emotions. They sometimes seek external sources of blame or the opportunity to vent their anger. School personnel may become the target of these intense emotions. Angry distressed parents may find it difficult to absorb information correctly. They may find it difficult to express their feelings and concerns coherently. It can help to diffuse the situation if the School personnel remain calm, concerned and provides the opportunity for the parents to have their say.

In addition, when any child or young person has been reported to DoCS, the School should assist parents who are in physical, emotional or spiritual need to receive appropriate counselling and/or related support. Specialist support services are available through Centacare as well as other government and private service providers.

34. Providing support to School personnel

34.1 Impact of abuse of children and young persons on School personnel

The abuse and neglect of children and young persons can have a strong impact on School personnel who raise concerns about a child or young person or who are involved with a report to DoCS or with the ongoing support of a child or young person.

It is important that the personnel understand their own feelings about child abuse and how these feelings can affect their behaviour.

34.2 Support for School personnel

School Principals should ensure that School personnel have appropriate opportunities to debrief, are well informed of counselling, support services, courses and programs available to them, have the opportunity to attend appropriate in-service and are given general feedback about a report to DoCS in which they have been involved.

Catholic School Principals should:

- always ensure that School personnel are advised that their report of abuse or risk of harm has been communicated to DoCS;
- consistent with DoCS advice, keep the personnel informed of post-reporting developments;
- provide, as appropriate, any necessary counselling or other support services to the personnel;
- provide, as appropriate, any necessary child protection in-service programs and/or materials for the personnel;
- provide for liaison with the School authority in order to ensure that all relevant and appropriate support services are made available to School personnel as are necessary.

35. Protecting children and young persons in work experience

35.1 Protective strategies for work experience and related initiatives

Particular attention needs to be given to the protection of children and young persons involved in work experience and other workplace learning initiatives outside the usual School environment.

Any persons involved in the delivery of curriculum out of School should be made aware of child protection procedures and the requirement that these must be followed by everyone working with children and young persons in schools and school-related activities.

35.2 Provision of information for participating employers

Information for participating employers should include any special regulations pertaining to children and young persons on work experience or work placement programs.

All information relating to child protection should be provided in writing by the School before the commencement of the placement.

Employers should be aware that the sexual harassment provisions of the **Anti-Discrimination Act 1977** apply to children and young persons on work experience or work placement.

35.3 Protective information for children and young persons

It is essential that strategies for responding to inappropriate and/or illegal situations such as harassment, discrimination, access to drugs or alcohol and other unethical practices are discussed with children and young persons prior to attending to the commencement of the placement. Parents should also be advised of these issues.

Children and young persons on workplace learning activities should be given the School telephone number and advised to contact the School immediately if they become concerned about any aspect of their workplace learning environment.

35.4 Responding to unacceptable workplace practices

In cases where unacceptable workplace practices are observed, suspected or reported, the School Principal must ensure that appropriate action is taken to ensure the safety of the child or young person. This would usually involve the withdrawing of the child or young person from the workplace and communication of the concerns to the manager or other appropriate personnel.

Any incident amounting to abuse or risk of harm should be reported to DoCS.

Part III: Abuse of Children and Young Persons

Note: The information provided in this Part of the Guidelines is provided for background purposes, and does not reflect changes to legislation that have removed the notion of “child abuse”

The following material is provided for School Principals and School personnel to assist them in further understanding and responding to the problem of abuse of children and young persons, and to provide a basic frame of reference in implementing the foregoing child protection policies and procedures within the context of the Catholic School.

In addition to the narrative material in this Part of the Guidelines, Principals and School personnel are also encouraged to consult the articles and publications listed in the Reference section at the end of this document.

36. Child sexual abuse

36.1 What is child sexual abuse?

36.1.1 A working definition of child sexual abuse

Child sexual abuse is the involvement of dependent children or adolescents in sexual activity with an adult or person older or bigger. The child is used as a sexual object for the gratification of the older person's need or desires and is unable to give consent due to the unequal power in the relationship.

Child sexual abuse does not generally include peer sexual activity, but peer sexual activity may in some circumstances constitute sexual abuse.

36.1.2 Peer sexual activity

When considering alleged cases of peer sexual activity, criminal offences and age of consent is highly relevant.

In this regard, refer to section 21.3.2 of the Guidelines.

36.1.3 Examples of child sexual abuse

Child sexual abuse includes fondling genitals, masturbation, oral sex, vaginal and anal penetration by a finger, penis or any other object. It includes attempting any such act, or assault with such intent. It may also include pornography, exhibitionism and suggestive behaviour.

In all cases, the offender has more power than the child and misuses that power to take sexual advantage of the child.

36.2 Recognising child sexual abuse

36.2.1 Exploiting the dependency and immaturity of children

Adults or adolescents who perpetrate child sexual abuse exploit the dependency and immaturity of children. Coercion, which may be physical or psychological, is intrinsic to child sexual abuse and differentiates such abuse from consensual peer sexual activity.

The largest group of offenders is adult males known to the child, followed by (biological and step) fathers and male children under 18 years of age.

36.2.2 Incidence of child sexual abuse

Current research with sex offenders reveals that men who sexually abuse children are highly skilled at gaining access to victims, abusing and silencing them through a range of tactics including force, threats, and tricks (Conte et al, 1989).

Earlier attempts to develop offender typologies based on age, sex and relatedness of victim have been found to greatly underestimate the extent and range of sexual offences committed.

While girls are reported as victims more frequently than boys, surveys of identified offenders indicate that they have many more victims, and many more male victims, than has previously been recognized.

36.2.3 Tactics to avoid detection

Offenders invariably force the child to keep assaults secret through a range of behaviours including force and threats as well as tricks to trap the victim and to avoid exposure. Most commonly, offenders' tactics involve the offender placing responsibility onto the victim and/or non-offending family members. Offending behaviour is often characterized by denial and attempts to establish allies who will support the denial.

In a societal context there are many misconceptions about child sexual assault, and victims and their non-offending caregivers frequently experience guilt and shame. When abuse has occurred, early and appropriate intervention to ensure the child's safety, stop the abuse, and assist the child to overcome its effects is critical in minimizing the long-term impact.

36.2.4 Important role of School personnel in recognizing child sexual abuse

School personnel, through their contact with children, young persons and their families in many settings, are well placed to recognize situations in which a child or young person has been abused, or is at risk of abuse. Such recognition, followed by reporting to the NSW Department of Community Services ("DoCS"), is the first step in mobilizing assistance to stop the abuse and ensure the safety of the child or young person.

36.2.5 Building knowledge and awareness about child sexual abuse

School personnel play a vital role in the child protection system.

In order to ensure that abused and neglected children are identified, School Principals and School personnel, whose primary function is not protection, but who come into contact with children, young people and families, require training in the recognition of child abuse and neglect, as well as the procedures for reporting.

The School authority should make all reasonable efforts to provide all those who work closely with students with the skills, knowledge, resources and support necessary for the early identification of child abuse. Volunteers who have contact with students on a regular basis also need to be aware of these issues.

36.3 Some indicators of child sexual abuse

The **Interagency Guidelines** identify the following as among the common behavioural indicators which may lead School personnel to suspect that a child has been sexually abused. One indicator in isolation may not necessarily indicate abuse. Rather, any indicator must be considered in the context of the child's personal circumstances:

- direct or indirect disclosure;
- sexual behaviour inappropriate to the child's age, development and vocabulary level;
- sexual themes and fears expressed in the child's artwork, written work or play;
- describing sexual acts;
- complaints of itching or pain in the genital area;
- injury or bleeding in the genital area or the anus;
- reluctance to go to a certain place or be with a particular person;
- child being in contact with a known or suspected perpetrator of sexual assault;
- persistent running away from home;
- going to bed fully clothed;
- regression in developmental achievements;
- self-destructive behaviour, drug dependency, suicide attempts, self mutilation;
- trauma to the breasts, buttocks, lower abdomen or thighs;
- unexplained accumulation of money or gifts;
- sexually transmitted diseases;
- adolescent pregnancy;
- anorexia or over-eating.

General indicators of stress exhibited by a child should also be considered, such as:

- marked behaviour or mood swings, tantrums, aggressiveness and withdrawal;
- poor concentration at school;
- complaints of stomach aches and headaches with no physical findings to support the complaints;
- sleeping and bedtime problem, eg: nightmares, bed-wetting.

37. Physical abuse

37.1 What is physical abuse?

Physical abuse is defined as non-accidental injury to a child or young person by a parent, caregiver or another person responsible for the child or young person. It includes injuries which are caused by excessive discipline, severe beatings or shakings, bruising, lacerations or welts, burns, fractures or dislocation, female genital mutilation, attempted suffocation or strangulation and death.

There are many behaviours which may constitute abuse and the law takes into account the circumstances of the victim which may mean that particular instances of abuse may be regarded as a more serious assault.

The vulnerability of a child, and hence the likelihood of sustaining a more serious injury or permanent injury, means that assault may be warranted in cases of physical abuse.

37.2 Indicators of physical abuse

The following list constitutes some of the more common indicators of physical abuse:

- facial, head and neck bruising;
- lacerations and welts from excessive discipline or physical restraint;
- the explanation offered by the child is not consistent with the injury;
- other bruising and marks which may show the shape of the object that caused it (eg: a hand print, buckle etc);
- bite marks and scratches where the child is bruised, revealing a print of teeth indented into the skin surface;
- multiple injuries or bruises;
- ingestion of poisonous substances, alcohol or other harmful drug;
- ruptured internal organs without a history of major trauma;
- dislocations, sprains, twisting;
- fractures of bones;
- burns and scalds;
- head injuries where the child may exhibit symptoms of drowsiness, vomiting, fits or retinal (eye) haemorrhages suggesting the possibility of the child having been shaken.

In relation to female genital mutilation, indicators could include:

- having a special operation associated with a special family celebration;
- reluctance to be involved in sport or other physical activities when otherwise previously interested.

38. Psychologically harmful behaviour

38.1 What is psychologically harmful behaviour?

38.1.1 A working definition of psychological harm

Serious psychological harm involves the impairment of, disturbance or damage to a child or young person's physical, cognitive, emotional, behavioural or social development.

Psychologically harmful behaviour encompasses a range of behaviours that harm a child or young person. It includes:

- excessive or unreasonable demands;
- domination, excessive, inappropriate or inconsistent discipline;
- failure to provide the psychological nurturing and affection necessary for a child's physical and emotional growth and development;
- ongoing scapegoating or rejection;
- severe verbal abuse and threats of abuse.

These behaviours by caregivers can destroy the confidence of a child and the subsequent emotional deprivation and trauma impairs the child or young person's development. Witnessing domestic violence can have a profound effect on children and young persons, and constitutes a form of emotional abuse.

38.1.2 Incidence of psychological harm and emotional abuse

A large number of parental behaviours could be described as psychologically harmful or emotionally abusive, and while such behaviour may constitute poor parenting, in many cases, there is no evident sign of emotional harm to the child or young person.

Approximately one quarter of cases of substantiated emotional abuse are attributable to the parent's alcohol or drug use. Emotional abuse has been identified as an inherent part of all forms of child abuse, because the majority of the long-term effects of all types of abuse are psychological.

It is the least reported category of child abuse and the one most difficult to define and prove.

38.2 Indicators of psychological harm and emotional abuse

The following constitute some of the common indicators of psychological harm and emotional abuse:

- feelings of worthlessness about life and oneself;
- inability to value others;
- lack of trust in people and expectations;
- lack of interpersonal skills necessary for adequate functioning;
- other behavioural disorders (eg: disruptiveness, aggressiveness or bullying).

39. Neglect

39.1 What is neglect?

Neglect occurs where a child is harmed by the failure to provide the basic physical and emotional necessities of life – food, clothing, shelter, emotional security, affection, attachments, medical care and adequate supervision. Neglect is characterized as a continuum of omissions in parental caretaking.

Kari Killen (NSW Child Protection Council, 1994) views emotional neglect, ie: the parent's lack of ability to engage positively with the child, as the core of neglect, underlying physical, medical, social and educational neglect and resulting in severe harm to the child.

39.2 Indicators of neglect in children and young persons

The following constitute some of the common indicators of neglect:

- poor standards of hygiene leading to social isolation;
- hunger and/or scavenging or stealing food;
- non-organic failure to thrive and malnutrition;
- extended stays at School, public places and others' homes;
- being left inappropriately without supervision;
- extreme longing for adult affection;
- a flat and superficial way of relating, lacking a sense of genuine interaction;
- anxiety about being dropped or abandoned;
- self-comforting behaviour, eg: rocking and sucking;
- delay in developmental milestones;
- untreated physical problems.

40. Abuse of children and young persons with special needs

40.1 Abuse of children and young persons with a disability

Children and young persons with a disability are acknowledged to be one of the groups at greater risk of harm because:

- they may depend on others to a greater extent than the general population for personal and physical care;
- they may be less able to stop abuse from happening;
- the disability may mask or camouflage the impact of the abuse.

(Refer to Camblin (1982)).

Persons who work with children or young persons with a disability should be alert to the reality that they are sometimes abused and neglected. School personnel can play an important role in advocating for children with a disability by being more aware of the issues that surround child protection of this particular group of students and by taking care not to overlook or discount indicators of child sexual assault and other forms of abuse.

In the case of a marked change in a child or young person's behaviour accompanied by a range of indicators, possibly with a sexual component, serious consideration should be given to whether there are reasonable grounds to suspect that the child or young person has been sexually assaulted.

40.2 Abuse from delaying intervention because of "cultural factors"

Cultural issues are often viewed as barriers to intervention in cases involving families of non-English speaking background, or Aboriginal and Torres Strait Islander families. This may result in children and young persons being unnecessarily deprived of the protection and support available under the community's child protection laws.

Principles of social justice require that children and young persons have access to the same child protection services, regardless of race or culture. It is generally accepted that intervention within a family on grounds of suspected abuse should not be delayed by cultural considerations. But it is also generally accepted that such intervention should be culturally sensitive and informed.

To delay intervention because of cultural factors, may in itself constitute a form of systems abuse, compounding the suspected abuse experienced by the child or young person concerned.

41. Abuse of children and young persons in another School

41.1 Suspected abuse of children and young persons in another School within or across systems

Where School personnel, in the course of carrying out their duties, eg: through information given by the child or young person's siblings or peers, or through contact with children and young persons on excursions, has reasonable grounds to suspect that a child or young person from another School has been abused, or is at risk of harm, this matter should be reported directly to the School Principal of the personnel's School.

41.2 Referral of matter to the child or young person's School Principal

That School Principal must advise, as soon as possible, the Principal of the School where the child or young person attends of the identified concerns.

The Principal of the School at which the child or young person is enrolled should report the matter to DoCS (per section 27 of the **Children and Young Persons (Care and Protection) Act 1998** ("**CYP(CP)Act**") if they consider the concern of the School personnel to be based on reasonable grounds.

If the Principal does not consider a report warranted then the personnel who first raised the concern must be informed of this decision. In this situation, the Principal should inform the personnel that they can make a report directly to DoCS if they believe that there are reasonable grounds for this concern.

41.3 Monitoring and review of action in response

The School Principal of the School who initially raised the concern should request information regarding any consequent action from the Principal of the (other) School which the child or young person attends.

If a report was not made by the child or young person's School, then the Principal who first received the report should notify DoCS if she or he believes that reasonable grounds to do so exist.

Refer to **Procedures for mandatory reporting to DoCS** in section 10, Part II, Guidelines and 'Procedures for Catholic Schools, of the Guidelines, for an outline of the above reporting procedures' for Principals and School personnel.

42. Peer abuse and assault

42.1 Peer abuse and assault of persons under 18 years of age

The following information applies to persons under 18 years of age.

Research has shown that some 20% of sexual abuse cases involve offenders under 18 years of age.

Where a report has been made concerning alleged peer assault or abuse and the School Principal has reasonable grounds to suspect that it is appropriate to report the matter to DoCS or the NSW Police, the Principal should comply with the aforementioned reporting procedures, outlined in Part II of the Guidelines.

Particular attention needs to be given to the issues relating to criminal offence and the age of consent.

42.2 Protective measures to be adopted

While the investigation is being pursued, the School Principal should take whatever action is necessary to ensure the safety, welfare and well-being of all children and young persons involved. This may involve informing the parents or caregivers that there has been a serious allegation made.

However, as with all investigations following a report, it is the responsibility of DoCS Caseworkers to inform the parents or caregivers of a child or young person who is the subject of a report of being at risk of harm.

DoCS will also notify the NSW Police Service if a joint investigation is warranted.

In making the report, the Principal must confirm with the DoCS Caseworker when the parents or caregivers will be informed so that necessary steps at a School level can be taken.

42.3 Confidentiality and privacy issues

It is essential that strict confidentiality is maintained in any communication with parents or caregivers regarding the matter. Particular care should be taken not to name (orally or in writing) any children or young persons implicated in the alleged abuse or assault.

School personnel must not investigate cases of abuse or assault or discuss with children and young persons details of the alleged assault or abuse.

Appendix 1

Memorandum of Understanding on Mandatory Reporting for the School Sector (and “Centralised Reporting”)

MEMORANDUM OF UNDERSTANDING

between

DEPARTMENT OF COMMUNITY SERVICES

and

Department of Education and Training

Catholic Education Commission

The Association of Independent Schools

On

Mandatory Reporting for the Education Sector

Signature:

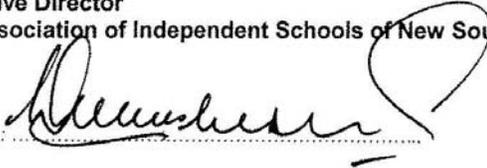
Mr Andrew Cappie-Wood
Director-General of Education and Training
Managing Director of TAFE NSW
NSW Department of Education and Training

Signature:

Dr Brian Croke
Executive Director
Catholic Education Commission NSW

Signature:

Dr Geoff Newcombe
Executive Director
The Association of Independent Schools of New South Wales Limited

Signature: 

Dr Neil Shepherd
Director-General, NSW Department of Community Services

PART 1 Rationale

The Memorandum of Understanding (MoU) between the Department of Community Services (DoCS) and the Department of Education and Training (DET) including the TAFE Commission, the Catholic Education Commission (CEC) and The Association of Independent Schools (AIS) is concerned with Section 27 of the *Children and Young Persons (Care and Protection) Act 1998* and the endorsement of centralised reporting.

Centralised reporting involves a mandatory reporter within an education setting reporting via the Principal, who then makes a report to the DoCS Helpline. This administrative process provides a number of benefits for the child who is the focus of the report, the education institution and for DoCS.

For the child who is the focus of the report, centralised reporting ensures that education personnel consider their knowledge of the child's background, behaviour within the education context and family circumstances when making a report to DoCS via the Principal. This process can assist personnel in supporting the child as well as providing a more detailed report to DoCS.

If there is more than one child in the family attending a school and there are child protection concerns about any of the siblings, reporting via the Principal assists the school and DoCS to coordinate their responses and effort to the family. This has the potential to reduce duplicate reports.

In most education settings, centralised reporting streamlines the reporting process and enables better internal management of information relating to child protection concerns. For example, more than one person in a setting may identify a concern and report this concern, thereby duplicating effort. It also enables personnel to more actively monitor and become engaged in students' welfare. This promotes better management of an individual child's situation in the education setting.

For DoCS, the practice reduces duplicate reports about one child. A bringing together of concerns before a report is made to the Helpline can also add value to the information provided to DoCS.

The endorsement of centralised reporting across the three education sectors will bring about a consistent approach to reporting within schools across NSW and bring about greater collaboration between DoCS and the education sector, whilst still meeting the spirit of mandatory reporting under Section 27 of the Act.

PART 2 Joint Principles

2.1 MoU relates to S27 of the *Children and Young Persons (Care and Protection) Act 1998*

Section 27 of the *Children and Young Persons (Care and Protection) Act 1998* refers to mandatory reporting.

(1) This section applies to

- (a) A person who, in the course of his or her professional work or other paid employment, delivers health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children, and
- (b) A person who holds a management position in an organisation, the duties of which include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children.

(2) If:

- (a) a person to whom this section applies has reasonable grounds to suspect that a child is at risk of harm and
- (b) those grounds arise during the course of or from the person's work,

the person must, as soon as practicable, report to the Director-General the name or a description of the child and the grounds for suspecting that the child is at risk of harm.

2.2 Joint Principles

The parties agree that:

- This MoU relates to centralised reporting in relation to children who are under the age of 16 years as per the definition of child in the *Children and Young Person (Care and Protection) Act 1998*.
- That centralised reporting applies only to risk of harm reporting.
- This MoU does not preclude any personnel employed within an education setting governed by DET or CEC or that is a member of the AIS from reporting directly to the DoCS.
- Centralised reporting is an administrative process that supports compliance with Section 27 *Children and Young Persons (Care and Protection) Act 1998*.

- Where the principal acts as a conduit for reports from members of staff, the principal should provide feedback to those staff members that a report has been made.
- Where a risk of harm report relates to the actions of a principal, the report should be made through the supervisor of the principal. The supervisor will act as the conduit for the report and undertake further responsibilities related to allegations of a child protection nature against an employee.

PART 3 Scope of the MoU

3.1 This MoU applies to:

Mandatory reporters within an education setting that is governed and / or represented by:

- The Department of Education and Training (DET); or
- The Catholic Education Commission (CEC); or
- Membership of The Association of Independent Schools (AIS).
- Any preschool or out of school hours service which is under the auspice of a school principal and is within a school governed and / or represented by DET, CEC or is a member of the AIS will be included in the scope of this MoU.

3.2 Objective of the MoU

To establish a protocol between DoCS and the education sector that endorses the procedure of centralised mandatory reporting to DoCS via the principal.

This MoU:

- (a) Endorses and formalises centralised reporting by personnel employed with the DET or the CEC education setting or an education setting that is a member of the AIS.

PART 4 The Roles and Responsibilities of DoCS and Education Sector

4.1 The role of the Department of Community Services

- 4.1.1 DoCS will receive centralised reports of risk of harm from Principals employed and/or represented by DET or CEC and those that are members of the AIS.
- 4.1.2 DoCS will regard these reports as meeting the requirements of mandatory reporting under S.27 of the *Children and Young Persons (Care and Protection Act) 1998*

- 4.1.3 In the event that a mandatory reporter complies with the procedures for centralised reporting of his or her employer (which procedures are pursuant to this MoU) and has no knowledge of any failure to relay the risk of harm report to DoCS, then DoCS will accept that the mandatory reporter has reported to DoCS in accordance with section 27, *Children and Young Persons (Care and Protection) Act 1998* and DoCS will not initiate any relevant prosecution for breach of that section.
- 4.1.4 Principals are accountable to relay a report of risk of harm to DoCS when personnel employed within the education setting report risk of harm to the Principal. Should a Principal fail to relay the risk of harm report, then DoCS may take action against the Principal in accordance with Section 27, *Children and Young Persons (Care and Protection) Act 1998*.
- 4.2 Role of the Department of Education and Training (DET), the Catholic Education Commission (CEC) and the Association of Independent Schools (AIS) each in their system.**
- 4.2.1 To ensure as far as is reasonably practicable that personnel employed in DET and CEC education settings and those that are members of the AIS understand their responsibility as mandatory reporters.
- 4.2.2 To ensure that relevant education settings have documented procedures in relation to centralised reporting that permit the accurate and timely relay of information of a risk of harm from a mandatory reporter by means of centralised reporting to DoCS.
- 4.2.3 To ensure that personnel employed within DET, CEC education settings or those that are members of the AIS are informed that centralised reporting does not preclude them, as mandatory reporters from reporting risk of harm directly to the DoCS Helpline.

PART 5 Review and Alteration of the MoU

5.1 Review of the MoU

This MoU will be reviewed two years after the signing of the document. The operation of the MoU will be reviewed by DoCS in conjunction with the Department of Education and Training, the Catholic Education Commission and The Association of Independent Schools.

5.1.1 Review of the *Children and Young Persons (Care and Protection) Act 1998*

The *Children and Young Persons (Care and Protection) Act 1998* may be subject to review during this period and operation of the MoU will need to be considered subsequent to any relevant changes in the Act.

5.3 Alteration of this MoU

Any party to the Memorandum may seek its alteration by notifying the other parties to this effect. Alterations must be agreed to by the Directors-General of the Departments of Community Services and Education and Training, the Director of the Catholic Education Commission and the Executive Director of The Association of Independent Schools.

PART 6 Definitions

6.1 Mandatory Reporter

A person who as part of their professional or paid work or as the supervisor/manager of a person who as part of their professional or paid work, delivers health care, welfare, education, children's services, residential services or law enforcement to children or young persons. Mandatory reporters are required to make a report to DoCS under section 27 of the *Children and Young Persons (Care and Protection) Act 1998* if they suspect that a child is at risk of harm as detailed in section 23 of the Act.

6.2 Risk of Harm

Risk of harm is present if there are current concerns that a child or young person may suffer physical, sexual, psychological and/or emotional harm as a result of what is being done or not done by another person. Risk of harm is defined in section 23 of the Act.

6.3 Report Risk of Harm

A report made to DoCS, usually via the Helpline, to convey a concern about a child or young person who may be at risk of harm due to the circumstances outlined in sections 23, 24, 25, 27, 120, 121 and 122 of the Act.

6.4 Making a Report to the Director-General

Making a Report to the Director-General, means making a Report to the DoCS Helpline.

6.5 Principal

School principal or college principal, TAFE executive officer, director, rector or other person with duties and responsibilities normally associated with the position of a principal.

6.6 Education Setting

School, college, preschool under the auspice of a school principal, out of school hours care under the auspice of a school principal, TAFE campus, TAFE training setting external to TAFE campus, TAFE children's centre.

Appendix 2

FORMS

Report forms to be completed in relation to the reporting of suspected risk of harm to a child or young person, to the NSW Department of Community Services (“DoCS”).

FORM “A”

Form for the reporting of a child or young person to DoCS where the child or young person is suspected on reasonable grounds of being at risk of harm.

The form also includes provision for recording reporting of a suspected crime against a child or young person to the NSW Police Service. The form is to be used by the School Principal and any School personnel in compliance with the procedure outlined in section 10 in Part II of the Guidelines.

FORM “B”

Form for responding to a request for information on the safety, welfare or well-being of a child or young person, who is the subject of a report to DoCS.

FORM “C”

Form to be used by DoCS when requesting information on the safety, welfare or well-being of a child or young person, who is the subject of a report.

FORM “D”

Form to be used to record details of DoCS’ removal of a child or young person from a school.

FORM “E”

Form to be used to record details of DoCS involvement at School.

FORM “F”

Form for reporting to the School Principal by School personnel of a child or young person suspected of being at risk of harm.

FORM "A"

Form for the reporting of a child or young person to DoCS suspected of being at risk of harm

Name of child or young person:

Date of birth:

Male Female (tick the applicable response)

Child under 16 years
(tick the applicable response)

Young person, 16 to 18 years

Home address:

Home phone no.:

Aboriginal

Torres Strait Islander

NESB

Disability

In Court-ordered care

(tick any of the above responses, if applicable)

Name of parents or caregivers and relationship to child or young person:

Name:

Name:

Phone no:

Phone no:

Relationship:

Relationship:

REPORT MADE TO DoCS Helpline* on, at (insert date and time)

*** for mandatory reporters, phone: 13 36 27**

for voluntary reporters, phone: 13 21 11

or

**REPORT MADE TO POLICE IN CASE OF SUSPECTED CRIME AGAINST A CHILD OR YOUNG PERSON
on at to at Police
Station**

(insert date)

(insert time)

(insert name of Police)

(insert locality/city/suburb)

DoCS Case Reference No:

DoCS Response:

Grounds for concern:

Do you consider the child or young person's safety, welfare or well-being is at immediate risk? Why? (If necessary attach further information)

If known, what are the wishes of the child or young person about this matter?

FORM "B"

Form for responding to a request for information on the safety, welfare or well-being of a child or young person, who is the subject of a report to DoCS

Name of child or young person:

Date of birth:

Response to request for information received on:

DoCS Case Reference No:

DoCS Response:

Relevant information:

Other School personnel approved for contact in relation to this matter:

Yes No
(tick the applicable response)

If yes, name and position of approved contact:

School Principal/Manager

Name:

Position:

Signature:

Date:

School/Agency:

Name:

Phone:

Fax:

FORM "C"

Form to be used by DoCS when requesting information on the safety, welfare or well-being of a child or young person who is the subject of a report

Name of child or young person:

Date of Birth:

Home address:

Home phone no:

Contact phone no:

DoCS Case Reference No:

DoCS Response:

Reasons for request for information:

Information sought from School/Agency/unit:

Have the parents/caregivers given permission for the release of information? Yes No
(tick the applicable response)

IF NO, PLEASE PROVIDE ADVICE ON PARENT/CAREGIVER CONTACT:

DATE REQUESTED:

DATE REQUIRED:

Name:

Position:

Signature:

Date:

DoCS Customer Service Centre or other unit:

Name:

Phone:

Fax:

FORM "D"

Form to be used to record details of DoCS' removal of a child or young person from a School

Name of child or young person:

Class:

Date:

Time:

Delegated DoCS officer who authorized the removal:

DoCS officers/caseworkers involved (names and designations):

Identification sighted:

DoCS Case Reference No:

DoCS Response:

Intended place of lodgement of child or young person:

Reason for removal:

Comments:

Attach a copy of the DoCS notice, authorizing removal of the child or young person, to this form

FORM "E"

**Form to be used to record details of DoCS' involvement at a school
(child or young person interviews, protection planning meetings, etc.)**

Name of child or young person:

Class:

Date of DoCS visit:

Time:

DoCS officers/caseworkers involved (names and designations):

Identification sighted:

DoCS Case Reference No:

DoCS Response:

Action taken:

Interview details (person(s) interviewed, reasons, those present, time):

Other agencies involved:

Outcome of interview:

Name:

Position:

Signature:

Date:

FORM "F"

Form for reporting to School Principal by School personnel of a child or young person suspected of being at risk of harm

Date:

Name of child or young person:

Class:

Student's Date of Birth:

CHILD UNDER 16 YEARS

YOUNG PERSON, 16 – 18 YEARS

(Tick appropriate box if child is under 16 years of age and he/she is suspected of being at risk of harm, DoCS must be contacted on the **DoCS Helpline: 13 36 27**; if he/she is between 16 and 18 years of age and suspected of being at risk of harm, the School may report it to the **DoCS Helpline on the same phone number**)

Grounds for concern:

What reasons do you have for suspecting that the child or young person is at risk of harm?*
(If necessary attach further information)

Where is the child or young person at the time of report?

Name of School personnel making the report:
(indicate name and position in School)

Name of School Principal:
(Indicate name of Principal, or person and their position, supervising the person making the report)

Name of School:

***The following should be read to determine if the child or young person should be reported to DoCS**

Section 23 of the **Children and Young Persons (Care and Protection) Act 1998**, provides that a child or young person is **at risk of harm** if current concerns exist for the safety, welfare or well-being of the child or young person because of the presence of any one or more of the following circumstances:

- (a) the child's or young person's basic physical or psychological needs are not being met or are at risk of not being met
- (b) the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care
- (c) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated
- (d) the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm
- (e) a parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm.

Appendix 3

Sample DoCS HelpLine Fax Receipt

Fax receipt for initial reports made to the DoCS Helpline via fax

FAX RECEIPT

From: Department of Community Services HelpLine

Date:

**IF TRANSMISSION IS INCOMPLETE OR ILLEGIBLE, PLEASE TELEPHONE THE SENDER ON
132 1111 OR 13DOCS**

Message

Serious and urgent matters should be phoned to the HelpLine on 13DOCS

The details of your Fax have been received at the HelpLine and the information is being assessed. In due course, DoCS will provide you with written feedback as to the outcome of the initial assessment.

Thank you for helping us to provide care and support to children, young people and their families. We value and appreciate your continued support.

This fax is intended for the named addressee(s) only. If you receive this fax in error, please notify us immediately by return fax, then destroy this fax. The NSW Department of Community Services is not responsible for any changes to this fax, or the consequences of any changes to this fax.

Appendix 4

Sample DoCS Helpline Response Advice

DoCS Reference:
Your Reference:
Name:
Contact us: 133627
Date:

(Name)
(School)
(Address)

Dear (Name)

Thank you for contacting DoCS on (Date) about the child born on (Date).

The details of your contact have been recorded and the report has been forwarded to the (Name) Community Services Centre for follow-up.

Thank you for helping us to provide care and support to children, young people and the families. We value and appreciate your continued support.

If you have any additional information or wish to discuss the matter further, please contact the Casework Manager at (Name) Community Services Centre on (Phone Number) during business hours, quoting the DoCS reference number above.

Your sincerely

Duty Team Leader
DoCS Helpline
Date:

“Your reference”

“Your reference” is the number you gave us when you made contact.

References

Angus G and Hall G, 1996, **Child abuse and neglect in Australia 1994 – 1995**, Australian Institute of Health and Welfare, Canberra

Australian Catholic Bishops' Conference and the Australian Conference of Leaders of Religious Institutes, **Towards Healing**, March 2001 and amended May/June 2003
www.acbc.catholic.org.au/bc/profstan/2001030111.htm

Australian Catholic Bishops' Conference and the Australian Conference of Leaders of Religious Institutes, **Integrity in Ministry**, June 2004
www.acbc.catholic.org.au/bc/profstan/20005090311.htm

Briere J N, 1992, **Child abuse and trauma: theory and treatment of the lasting effects**, Sage, Newbury Park

Briggs F and Hawkins R, 1997, **Child protection: a guide for teachers and child care professionals**, Allen and Unwin, Sydney

Catholic Commission for Employment Relations, **Make it work (for kids) A Child Protection Kit to assist Catholic Heads of Agency**, June 2005
www.ccer.catholic.org.au

Conte J R, Wolf S and Smith T, 1989, "What sex offenders tell us about prevention strategies", **Child Abuse and Neglect**, 11, 433 – 442

Daro D A, 1994, "Prevention of child sexual abuse", **The future of children**, 4, 198 – 223

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Finkelhor D, 1992, Preface in Briere J N, **Child abuse and trauma: theory and treatment of the lasting effects**, Sage, Newbury, xii-xv

Goddard C and Hiller P, 1993, "Child sexual assault in a violent context", **Australian Journal of Social Issues**, 28, 20 – 33

Haffe P G, Wolfe D A and Wilson S K, (1990) **Children of battered women**, Sage, Newbury Park

McKay, Mary McKernan, 1994, "The link between domestic violence and child abuse: assessment and treatment considerations", **Child Welfare**, LXX 111m 29 – 39

NSW Commission for Children and Young People, **Interagency Guidelines for Child Protection Intervention**, 2000 Edition (Revised 2005)
www.kids.nsw.gov.au/publications/safety_protection.html

NSW Commission for Children and Young People, "**Working with Children Check**" Guidelines, April 2004
www.kids.nsw.gov.au/check/employer.html

NSW Department of Community Services, **DoCS Child and Family Handbook: Keeping kids safe**, 2000

NSW Department of Education and Training, **Protecting and Supporting Children and Young People**, 2000

https://www.det.nsw.edu.au/policies/student_serv/child_protection/protsupp/PD20020072.shtml

NSW Department of School Education, **Child protection resource folder**, 1997

NSW Health, **Child Protection Policy and Procedures Manual Child Protection**, Health Services Policy Branch, March 1997

<http://www.health.nsw.gov.au/audit/manuals/childintro.html>

NSW Ombudsman, **Investigating Complaints – A Manual for Investigators**, 2000

www.nswombudsman.nsw.gov.au/publications/index.html

Oates K, 1996, **The spectrum of child abuse: assessment, treatment and prevention**, Astram Books

Parkinson P, 1997 **Child sexual assault and the churches**

Standing Committee of Attorneys-General, **Discussion paper: Model criminal code**, November 1996.

Tomison A, 1995, "Child abuse and other family violence: findings from a case tracking study", **Family Matters**, 41, 33-38

Legislation

Anti-discrimination Act 1977

Child Protection (Prohibited Employment) Act 1998

Child Protection (Offenders Registration) Act 2000

Children and Young Persons (Care and Protection) Act 1998

Commission for Children and Young People Act 1998

Crimes Act 1900

Ombudsman Act 1974

Ombudsman Amendment (Child Protection and Community Services) Act 1998

www.austlii.edu.au/au/legis/nsw/consol_act/

Child Protection Curriculum Support Documents

Catholic Education Commission NSW

Catholic Education Commission NSW, **Personal development and Christian values, goals and principles for Catholic School communities**

Catholic Education Commission NSW, **Towards wholeness – a Catholic perspective on personal development, health and physical education, years K-6**

www.cecnsw.catholic.edu.au/default3.asp?ID=17

Catholic Education Commission NSW, **Towards wholeness – a Catholic perspective on personal development, health and physical education, years 7-10**

www.cecnsw.catholic.edu.au/default3.asp?ID=17

NSW Department of Education and Training

NSW Department of Education, **Child Protection, Preventing child sexual assault - Parent and community participation**, 1989

NSW Department of Education, **Child Protection, Preventing child sexual assault – Early childhood curriculum ideas**, 1989

NSW Department of Education, **Responding to child sexual assault – Guidelines for teachers**, 1989

NSW Department of School Education, **A fair go for all: enhancing student welfare by teaching and learning about positive relationships and personal safety, Kindergarten, Year 1 and Year 2**, 1996

NSW Department of School Education, **Child protection supporting students**, 1997

NSW Department of School Education, **Child protection curriculum materials to support teaching and learning in personal development, health and physical education, stage 1 (Kindergarten to Year 2)**, 1997

Further Resources

Principals and Teachers may find the following additional materials useful for extending their understanding of child abuse and for developing child protection curricula, programs and preventative strategies in the context of the Catholic School.

Books

The following reference books on child abuse are available from ASTAN Books, Private Locked Bag 2, Annandale, NSW 2038

Briere J N, **Child abuse trauma: theory and treatment of lasting effects**

Briere, J N et al (eds), **The APSAC Handbook on child maltreatment**

Draucker C B, **Counselling survivors of childhood sexual abuse**

Faller K C, **Understanding child sexual maltreatment**

Finkelhor D A, **Sourcebook on child sexual abuse**

Gomes-Schwartz B, **Child sexual abuse: the initial effects**

Myers J E B, **The backlash**

Oates K, **The spectrum of child abuse: assessment, treatment and prevention**

Starr R H et al, **The effects of child abuse and neglect**

Wolfe D A, **Child abuse implications for child development and psychopathology**

Wolfe D A, **Preventing physical and emotional abuse of children**

Wyatt G et al (eds), **Lasting effects of child sexual abuse**

Manuals

Harrison L (ed), **Keep Safe: Protective Behaviours for Adolescents, Teaching Manual and Training Manual**

Lippett I, 1990, **Trust Your Feelings: A Protective Behaviours Resources Manual for Primary School Teachers**, Essence Publications, Adelaide

Everybody's Business Video

Introduction to the Protective Behaviours Program

Handbook for People Who Care for Kids

A resource for Schools for working with parents, implementing the Protective Behaviours Program

Keep Safe – Parent Booklet
Complementing **Keep Safe Manual**

Primary Protective Behaviours

A teaching resource for teachers and trainers in primary schools – worksheets are available in 6 languages

Audio Visual, Posters and Other Resources

NSW Department of School Education, **Training video and support materials**, June 1997
Kit, video and facilitator's manual, using case studies and interviews as prompt material for workshops

Tell a friend – it's never too late

Video for use with adults and children over 8 years of age; to be used with children only with parental consent; not suitable as an introductory resource material

NSW Commission for Children and Young People, **Information Sheets**

A series of child protection community information sheets are available from the Commission: on phone (02) 9286 7276 or from its website: www.kids.nsw.gov.au

NSW Ombudsman office, **Fact Sheets**

A series of child protection community fact sheets are available from the NSW Ombudsman: on phone (02) 9286 1000 or from its website: www.nswombudsman.nsw.gov.au

Child Protection Agencies

Below is a list of the major government agencies and Catholic services involved with various aspects of child protection in NSW.

Major Government Agencies

NSW Department of Community Services (“DoCS”)

Head Office
4-6 Cavill Avenue
Ashfield NSW 2131

Telephone: (02) 9716 2222

(For telephone numbers and addresses of local Community Services Centres, contact the above central office telephone number)

DoCS Helpline: Mandatory reporters: 13 36 27

Web: www.community.nsw.gov.au

(Web – for Mandatory Reporters): www.community.nsw.gov.au/html/child_protect/mandatory.htm

NSW Commission for Children and Young People

Level 2, 407 Elizabeth Street
Surry Hills NSW 2010

Telephone: (02) 9286.7276

Web: www.kids.nsw.gov.au

NSW Ombudsman – Child Protection Unit

580 George Street
Sydney NSW 2000

Telephone: (02) 9286 1000

Web: www.nswombudsman.nsw.gov.au

Catholic Services

Child Protection Team, Catholic Commission for Employment Relations NSW

Level 14, Polding Centre
133 Liverpool Street
Sydney NSW 2000

Telephone: (02) 9390 5255

Web: www.ccer.catholic.org.au

Catholic Education Commission NSW

Level 9, Polding Centre
133 Liverpool Street
Sydney NSW 2000

Telephone: (02) 9287 1555

Web: www.cecnsw.catholic.edu.au

Centacare

Refer to the Catholic Directory for the telephone contact number and address for each Diocesan Centacare service. Each Centacare offers services tailored to meet the needs of its particular (Arch)Diocese.

Professional Standards Office of the Catholic Church, NSW

Level 12, Polding Centre
133 Liverpool Street
Sydney NSW 2000

Telephone: 9287 1542