

Diocese of Maitland-Newcastle



Child Protection Information Book

Current as of February 2011
Zimmerman House, Diocesan Child Protection Unit

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APPENDIX A: REPORTING CHILD PROTECTION CONCERNS POLICY

1. NSW LEGISLATIVE AND REGULATORY FRAMEWORK

The current key child protection legislation in NSW is the Children and Young Persons (Care and Protection) Act 1998. However there are a significant number of inter-related pieces of legislation, regulation and regulatory requirements that are applicable to child protection and out-of-home care in NSW. These are listed below for your information, to give you an idea of the complex legal environment we work in.

During the course of this training we will explore the relevant sections of the three pieces of legislation that shape child protection, reportable conduct and employment screening in NSW:

- Children and Young Persons (Care and Protection) Act 1998,
- Ombudsman Act 1974 **and**
- Commission for Children and Young People Act 1998

These three acts have direct, ongoing relevance to your role as employees of the Diocese of Maitland Newcastle.

The Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009 is the legislative expression of the Keep Them Safe reforms that is fundamentally reshaping NSW child welfare practices from 2010 to 2015. Much of the reforms initiated by sections of this act has already been incorporated into other acts.

Current Legislation, Regulation and Guidelines

All NSW employees work within a complex legislative framework, with related regulations and statutory guidelines. The following section lists the more relevant legislation that governs the behaviour and functions of diocesan employees providing services to children:

ACTS

- Administrative Decisions Tribunal Act 1997
- Child Protection (Offenders Registration) Act 2000
- Child Protection (Offenders Registration) Amendment Act 2007
- Children (Education and Care Services National Law Application) Act 2010
- Children and Young Persons (Care & Protection) Amendment (Permanency Planning) Act 2001
- Commission for Children & Young People Act 1998
- Community Services (Complaints, Review and Monitoring) Act 1993
- Crimes Act 1900
- Crimes Amendment (Child Pornography and Abuse Material) Act 2010
- Education Act 1990
- Government Information (Information Commissioner) Act 2009
- Government Information (Public Access) Act 2009
- Occupational Health & Safety Act 2000
- Ombudsman Act 1974
- Privacy Act 1988 (Federal)

REGULATIONS

- Administrative Decisions Tribunal (General) Regulation 2004
- Children & Young Person (Care & Protection) Regulation 2000
- Community Services (Complaints, Reviews and Monitoring) Regulation 2004
- Education Regulation 2007
- Occupational Health & Safety Regulation 2001
- Workers Compensation Regulation 2003
- Workplace Injury Management and Workers Compensation Regulation 2002
- Ombudsman Regulation 2005

STANDARDS/STATUTORY GUIDELINES ETC.

CCYP:

- The Working With Children Employer Guidelines (December 2006)
- Taking Participation Seriously Framework
- Child-Safe Child-Friendly Framework

Community Services (formerly DoCS):

- Performance Monitoring Framework for Funded Services
- The Good Practice Guidelines for DoCS Funded Services
- Case Management Policy

NSW Ombudsman:

- Child Protection in the Workplace: Responding to allegations against employees 3rd Ed. (June 2004)
- Effective Complaint Handling (2004)

OCCG:

- NSW Out of Home Care Standards
- Accreditation Benchmark Policies
- Accreditation Statutory Guidelines

Diocesan staff can access all NSW legislation at:

<http://www.legislation.nsw.gov.au/>

Premier's & Cabinet:

- NSW Interagency Guidelines for Child Protection Intervention (2006 Ed)
- Keep Them Safe: A shared approach to child wellbeing (2009)

ISO (International Standards Organization):

- Risk management – Principles and guidelines (AS/NZS ISO 31000:2009)

Summary Table of the Three Key Acts in NSW Child Protection

e m p l o y e e f o c u s

c h i l d f o c u s

Legislation	Ombudsman Act 1974	Commission for Children and Young People Act 1998	Children and Young Persons (Care and Protection) Act 1998
Key Issue	Allegations of reportable conduct against employees	Child-related employment screening	Child or young person at 'risk of significant harm'
Key Agency	NSW Ombudsman	NSW Commission for Children & Young People (CCYP)	NSW Department of Human Services – Community Services (formerly DoCS)
Obligations of Employers	<p>Heads of agencies are required to report to the Ombudsman, within 30 days of becoming aware, any allegations or convictions of reportable conduct against employees.</p> <p>Heads of agencies are required to conduct investigations into allegations of reportable conduct or convictions, including allegations which are exempted from notification and to take appropriate action as a result</p> <p>Clause 6 Ombudsman Regulation 2006 makes the Bishop 'head of agency' for all diocesan bodies.</p>	<ul style="list-style-type: none"> • Conduct employment screening by an approved Screening Agency • Establish existing employees are not 'prohibited persons' • Not to employ a person who is a 'prohibited person'. • Notify the Commission of relevant employment proceedings taken as a result of an allegation of reportable conduct or conviction against an employee • Notify the Commission of applicants who have not been offered child-related employment as a result of an assessment by an approved Screening Agency. • Securely retain relevant records. 	<p>Ensure that employees who are mandatory notifiers under the Act, are aware of their obligation to report to the 'Community Services Helpline' when they have reasonable grounds to believe a child or young person is 'at risk of significant harm'.</p> <p>Ensure that agency policies, procedures and practices are in line with the Act in relation to child protection, including the conduct of 'out of home' care.</p>
Obligations of Employees	Inform the head of agency or delegate of any allegation or conviction against an employee, which may be reportable conduct or exempt from notification, which occurred either within or outside the workplace.	<p>Disclose to the employer his/her status relating to the definition of a 'prohibited' person</p> <p>Not apply for or remain in child-related employment if a 'prohibited person'.</p>	<p>Report concerns that a child or young person is 'at risk of significant harm'.</p> <p>Ensure practice is consistent with the principles, objectives and provisions of the Act</p>

Legislation	Ombudsman Act 1974	Commission for Children and Young People Act 1998	Children and Young Persons (Care and Protection) Act 1998
Effects	<p>Ensures government and certain non-government agencies are aware of their reporting obligations under the Act</p> <p>Requires the Ombudsman to:</p> <ul style="list-style-type: none"> • scrutinise the systems these agencies have for preventing and responding to allegations of reportable conduct (including allegations which are exempt from notification) against children by employees, • monitor agency investigations of allegations of reportable conduct against employees • or, in some cases, conduct those investigations, and • investigate a complaint about an agency's inappropriate handling of a response to an allegation of reportable conduct against a child. 	<p>Makes background checking mandatory for persons deemed to be in 'child-related employment' (refer Working With Children Check Guidelines, 2010) that have direct unsupervised contact with children as part of their job. This generally includes:</p> <ul style="list-style-type: none"> • teachers, most school based staff and some CSO staff, • most Social Service Directorate staff in CatholicCare, • foster parents, and • members of clergy and religious and most employed parish based lay leaders <p>Prohibits persons with convictions for serious sexual offences from working in positions of child-related employment, which primarily involves direct contact with children where that contact is not directly supervised.</p> <p>In a Working With Children Check, the applicant's background is checked for:-</p> <ul style="list-style-type: none"> • relevant criminal records – charges or convictions for any sexual offence, any assault, ill-treatment or neglect of a child or any registrable offence punishable by imprisonment for 12 months;- • relevant Apprehended Violence Orders (AVO) – made on the application of a police officer or other public official for the protection of a child; • relevant employment proceedings – completed employment proceedings involving reportable conduct or an act of violence committed by the employee in the course of employment and in the presence of a child. 	<p>Prescribes the role of Community Services in child protection. This role includes, but is not limited to:</p> <ul style="list-style-type: none"> • providing or arranging services to children, young people and parents when a request for assistance is received; • receiving and assessing reports of children or young people at risk of significant harm; and • acting to maintain the safety of children and young people. <p>Emphasises that caring for children and young people is a responsibility to be shared by families, agencies and communities working in partnership.</p> <p>It recognises the rights of children and young people to participate in decision making and has an emphasis on appropriately taking account of culture, language, religion and identity.</p>

2. KEEP THEM SAFE

Special Commission of Inquiry into Child Protection Services in NSW (The Woods Commission 2007-08)

In 2007 the Special Commission of Inquiry into Child Protection Services in NSW were issued letters of patent from the NSW Parliament. Justice James Woods commenced a broad review of the child protection system in NSW, inclusive of early intervention, child protection and out of home care.

In November 2008 the 'Woods Commission' delivered the 3 volume Report of the Special Commission of Inquiry into Child Protection Services in NSW which included a range of sweeping reforms, to be implemented through a complex set of 111 recommendations.

The Special Inquiry articulated a set of key principles, which should underpin child protection services in NSW:

1. *Child protection is the collective responsibility of the whole of government and the community.*
2. *Primary responsibility for rearing and supporting children should rest with families and communities, with government providing support where it is needed, either directly or through the funded nongovernment sector.*
3. *The child protection system should be child focused, with the safety, welfare and wellbeing of the child or young person being of paramount concern, while recognising that supporting parents is usually in the best interests of the child or young person.*
4. *Positive outcomes for children and families are achieved through development of a relationship with the family that recognises their strengths and their needs.*
5. *Child safety, attachment, wellbeing and permanency should guide child protection practice.*
6. *Support services should be available to ensure that all Aboriginal and Torres Strait Islander children and young persons are safe and connected to family, community and culture.*
7. *Aboriginal and Torres Strait Islander people should participate in decision making concerning the care and protection of their children and young persons with as much self-determination as is possible, and steps should be taken to empower local communities to that end.*
8. *Assessments and interventions should be evidence based, monitored and evaluated.*

NSW Government Response: Keep Them Safe

In March 2009 the NSW Government responded to the Special Inquiry report with Keep Them Safe a whole of sector reform plan designed to be implemented over a 5 year timeframe. The reform process includes significant changes to the Children and Young Persons (Care and Protection) Act 1998, which have passed parliament as The Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009 and are in the process of being proclaimed.

The Government has established a set of interconnected implementation bodies to drive the reforms, including:

- Interagency Implementation Unit has been established in Department of Premier and Cabinet to develop the whole of government response and high level Action Plan with Senior Officers from key NSW departments (operating for a min. 1 year)

- Child Protection Advisory Group, chaired by the Minister for Community Services. The main function of the Group is to advise the Minister and provide high level policy advice and informed stakeholder input on issues arising in the development and implementation of the reforms. (Operating for a min. 2 years)
- Service System Advisory Group, chaired by the Director-General of Community Services and consisting of Governmental and community sector service providers. The main function of the Group is to provide high level policy advice and informed stakeholder input on issues arising in the development and implementation of the reforms. The CEOs of CatholicCare and Marist Youth and St Vincent DePaul are members of the group. (Operating for a min. 2 years)
- Community and Carers Advisory Group, chaired by the Director-General of Community Services. The main function of the group is to represent carers and service users and provide more detailed advice and informed stakeholder input on issues arising in the development and implementation of the reforms. (Operating for a min. 2 years)

The Keep Them Safe Report articulated a number of key elements to the reform process (referred to as the Keep Them Safe Action Plan):

1. The universal service system

The NSW Government is committed to providing essential services to all, including health care programs for mothers and children, early childhood education and other support for parents. These services help prevent problems from arising in the first place, and when problems do arise, universal services can identify and help families manage these problems at the earliest possible opportunity by linking them to the most appropriate support and service.

2. Strengthening early intervention and community-based services

Supporting children and their families within the community and working to prevent the need for children to enter the child protection system is essential, and early intervention and community based services will be expanded to support more families and children.

3. Better protection for children at risk

The Government will improve the statutory child protection system so that statutory intervention is focused only on those children who require intervention in their lives to protect them from harm. Where children cannot live with their families, the main priority is to ensure the child receives the best possible care and support within out-of-home care.

The Government will also improve court processes so they are fairer and more user-friendly for children and their families.

4. Changing practice and systems

Effective referral systems are needed to connect children and families with the right services (universal, early intervention and statutory child protection services).

These services need to be properly coordinated by government and non-government agencies, and agencies need to be able to share information so that children and families do not fall through the cracks.

A centrepiece of the reforms is a new model for the intake and referral of child protection concerns. This involves the establishment of Child Wellbeing Units within six key government agencies, NSW Health (Area Health Services, the Children's Hospital at Westmead), NSW Police, and the DET, Housing, DADHC and Juvenile Justice.

5. Supporting Aboriginal children and families

The Government will work with Aboriginal children, their families and communities to reduce the number of children coming into contact with the child protection system and improve support for those children in the system.

In developing this Action Plan, we have considered not only the specific recommendations in the Inquiry's Report relating to Aboriginal children, but also the benefits for Aboriginal children and their families of all the Report's recommendations, and what further action might be necessary to reduce the overrepresentation of Aboriginal children and young people in the child protection, out-of-home care and juvenile justice systems. We will also develop an Aboriginal Impact Statement to assess the impact of all the actions in the Action Plan on Aboriginal families and communities.

6. Strengthening partnership across the community services sector

The Government is committed to developing stronger partnerships with non-government organisations (NGOs) and leading workforce and cultural change throughout the community services sector. We support an enhanced role for the non-government sector and share the Special Commission of Inquiry's view that building capacity will be critical. While some NGOs already have the capacity to deliver more services, others will need time and assistance to assume a greater role.

Cultural change is needed to encourage better information-sharing and trust between Government and NGOs. Cultural change and workforce development will also support enhanced services for particularly vulnerable groups such as children and young people with a disability, as well as giving Aboriginal organisations a stronger voice in determining how services are delivered to local communities.

We recognise that the culture in Government agencies needs to change. To bring this about, the Government will investigate and apply models for workforce management and collaborative service delivery with the goal of making NSW an international benchmark in family and community services.

The NSW Government have summarised the intended outcomes of the reform process as follows:

- *Increasing the threshold for reporting children and young people to the Community Services Helpline from "risk of harm" to "risk of significant harm"*
- *Establishing Child Wellbeing Units in the major government reporting agencies*
- *Trialling a network of Family Referral Services to make sure these services add value to improving outcomes for children and families*
- *Enhanced service provision focusing on early intervention and prevention, including comprehensive universal, secondary and tertiary services*
- *Increasing the role of non government organisations in delivering services*
- *Changes to out-of-home care*
- *Changes to processes in the Children's Court and*
- *Providing better services to Aboriginal children and young people*

Legislative Changes

On 24 January 2010 the most fundamental reshaping of the Children and Young Persons (Care and Protection) Act was proclaimed (put into effect), as a direct result of the Woods Commission. There were also modifications to the Commission for Children and Young Persons Act 1998 and Ombudsman Act 1974. A detailed discussion of the changed definition of 'risk of serious harm' is provided in Chapter 4. The following is a brief summation of other key changes.

CHANGES THAT AFFECT THE LEGAL SYSTEM

In an attempt to streamline the legal process and reduce the legalistic nature of proceedings a number of changes have been made to processes in the Children's Court, including:

- Care applications filed within 72 hours following assumption of care.
- Initiating applications will need to be accompanied by a written report instead of an affidavit.
- Not all material to be relied upon in the care proceedings must be filed at the beginning of proceedings.
- The Children's Court can send parties to attend an Alternative Dispute Resolution service.

On 1 June 2009 changes to the senior judicial office in the Children's Court were proclaimed, providing for the appointment of the President of the Children's Court, Judge Mark Marien.

There is ongoing discussion in relation to a limitation on the Children's Court ability to make contact orders. This change has yet to be proclaimed and may be subject to change:

- The power to make contact orders is limited to making interim orders where it has approved a permanency plan involving restoration (note that this change will not be proclaimed until an Alternative Dispute Resolution scheme is in place).

CHANGES THAT AFFECT OUT-OF-HOME-CARE

The legislation strengthens the framework for the provision of out-of-home care by clarifying the legislative definitions and service classifications of out-of-home care (OOHC) [section 135]:

- **Statutory OOHC** will consist of placements that are made following a court order where a family member no longer has parental responsibility [new section 135A]. Placements under statutory OOHC will be under the purview of the OCCG (Office of Children – Children's Guardian) and its regime of OOHC standards
- There are also placements which have been agreed to by family members but which are assisted by Community Services, because alternative approaches to court action are being taken to address the needs of the children who are in need of care and protection.

These will be called **Supported OOHC** [new section 135B]. The support provided by Community Services could include a range of things such as the provision of services, arranging parenting courses or providing financial assistance.

- Another type of placement is **Voluntary OOHC** arranged by the family without State intervention [new section 135C]. This allows children in private arrangements made by their families without the knowledge, involvement or support of Community Services to continue with as little State interference as possible. The only involvement by Community Services will be as a safety net to stop children in voluntary arrangements being forgotten, and to ensure their futures are properly planned.

LEGISLATIVE CHANGES THAT EFFECT WORKING WITH CHILDREN CHECKS

There are new employment categories that will be required to undergo background checks before commencement. These include:

- people who manage and/or control prescribed children's services, including an authorised supervisor of a prescribed children's service
- Child Wellbeing Unit assessment officers
- Principal officer of an accredited adoption service provider
- Contractors whose work involves direct unsupervised contact with children
- High risk volunteers – persons who work with children or young people with disabilities

Keep Them Safe Website

Keep Them Safe is being driven by a number of strategies, including e-newsletters, central and regional implementation groups involving ministers, senior governmental and community leaders and local operational management groups.

At the heart of the public promotion of Keep Them Safe is the dedicated website that provides links to:

- Detailed information on the scope and implementation of Keep Them Safe Reforms
- Relevant legislative changes
- Reporting children at significant risk of harm (including the mandatory reporters guide)
- Information sharing
- NSW Interagency Guidelines
- The roles of the community sector in Keep Them Safe
- New systems and services
- Support services for Aboriginal families
- Training opportunities
- FAQ and other resources

The Keep Them Safe website is at:
<http://www.keepthemsafe.nsw.gov.au/>

3. NSW STATUTORY AUTHORITIES

Department of Human Services

The Department of Human Services is a 'super department', announced on 11 June 2009. On the following page the Department's organisational structure has been reprinted. In brief, Human Services includes the following agencies (which were formerly departments in their own right):

- Aboriginal Affairs,
- Aging, Disabilities and Home Care,
- Community Services,
- Housing NSW
- Juvenile Justice,
- NSW Aboriginal Housing Office
- NSW Businesslink

Community Services (*Formerly DoCS*)

Role

Community Services has lead responsibility for providing and coordinating a response where intervention is necessary for the care and protection of children and young people. The Agency has wide-ranging statutory powers under the Children and Young Persons (Care and Protection) Act 1998 to carry out its role in protecting children and young people from abuse and neglect.

The agency's lead role does not detract from the joint responsibility of all relevant agencies to protect children and young people who are at risk of significant harm and to work together to provide a coordinated and comprehensive response.

Responsibilities

- Responding to requests for assistance from children, young people and families
- Receiving and assessing reports of children and young people at risk of significant harm
- Planning, conducting and managing joint investigations of serious child sexual, physical abuse and extreme neglect reports with nsw police, and nsw health when medical examinations are needed
- Undertaking risk and needs assessments of the child or young person and the family to ensure their safety, welfare and wellbeing
- Determining if a child or young person is in need of care and protection
- Monitoring the child, young person and family in order to maintain a safe and secure environment
- Providing, arranging and requesting care and support services for children, young people and families, including homeless children and young people
- Providing, or negotiating with other agencies to provide, high quality out-of-home care and support services to children and young people
- Arranging mediation or other suitable intervention for children, young people and families where this will assist in problem-solving
- Gathering evidence and initiating care proceedings before the children's court

Minister for Housing
 Minister for Small Business
 Minister Assisting the Premier on Veterans' Affairs

Minister for Community Services
 Coordinating Minister for Human Services
 Minister for the State Plan

Minister for Aboriginal Affairs
 Minister for Industrial Relations
 Minister for Commerce
 Minister for Energy
 Minister for Public Sector Reform

Minister for Ageing
Minister for Disability Services
 Minister for Youth
 Minister for Volunteering

Minister for Juvenile Justice
 Minister for Local Government
 Minister Assisting the Minister for Planning
 Minister Assisting the Minister for Health (Mental Health)

Frank Terenzini MP

Linda Burney MP

Paul Lynch MP

Peter Primrose MLC

Barbara Perry MP

Department of Human Services NSW

Director-General
 Jennifer Mason

Providing better and more integrated services for vulnerable client groups in NSW

Housing NSW

NSW Aboriginal Housing Office

Community Services

NSW Businesslink Pty Ltd

Aboriginal Affairs NSW

Ageing, Disability and Home Care

Juvenile Justice

Chief Executive
 Mike Allen

A/Chief Executive
 Mike Allen

Chief Executive
 Annette Gallard

A/Managing Director
 Albert Olley

Chief Executive
 James Christian

Chief Executive
 Jim Moore

Chief Executive
 Peter Muir

Helping to build a stronger community by providing housing solutions for people in need.

Developing safe, affordable and culturally appropriate housing, and promoting employment opportunities for Aboriginal people and Torres Strait Islanders.

Promoting the safety and wellbeing of children and young people. Working to build stronger families and communities.

Providing shared business services to agencies in the NSW Department of Human Services.

Administering the Aboriginal Land Rights Act and working across government to achieve improved social and economic outcomes, as well as strengthening cultural wellbeing for Aboriginal people in NSW.

Supporting older people, people with a disability and their carers to live in their own homes and to participate in community life.

Supervising young offenders in the community and in juvenile justice centres and delivering youth justice conferencing.

- Developing, implementing and undertaking educational and preventative programs aimed at protecting children and young people
- Raising community awareness about the safety, welfare and wellbeing of children and young people

Services and Programs

- Helpline (13 3627 for mandatory reporters, 132 111 for non-mandatory reporters) – a state wide 24/7 call centre staffed by departmental caseworkers to receive, document and undertake initial assessment of risk of significant harm reports from mandatory reporters and others in the community. The Helpline also provides an after-hours crisis team to respond to emergency after-hours call-outs in metropolitan Sydney
- Domestic Violence Line (1800 656 463) – a toll-free statewide 24/7 counselling and referral call centre staffed by women
- Child Protection Casework – located in more than 80 Community Services Centres, where child protection caseworkers undertake further assessment of reports transferred by the Helpline. Assessment involves addressing any immediate safety issues, determining the risk to the child, deciding what should be done to reduce that risk, such as history checks, telephone inquiries or a family visit
- Joint Investigation Response Teams (JIRT) – comprise specially trained police and child protection caseworkers who conduct joint investigations when a risk of significant harm report involves a criminal act. Community Services' role is to ensure that the child is safe from further harm, and assist in interviewing the child or young person
- Allegations Against Employees Unit – manages and coordinates responses to allegations of reportable conduct against departmental employees
- Strategy to Reduce Violence Against Women – this cross-agency strategy, hosted by Community Services, is a partnership with NSW Police, NSW Health, Attorney General's Department, Department of Education and Training, and Office for Women. The Strategy's Violence Against Women Specialist Unit promotes state wide initiatives to better protect women and their children from domestic and family violence
- Out-of-Home Care – the Department provides, or helps arrange accommodation, care, and other forms of support for children and young people who have experienced significant harm or for some other reason cannot live at home. Services are provided for crisis, short, medium or extended periods, and sometimes permanently; and include foster care, relative and kinship care, and small residential services in the community. In addition, the Department:
 - funds non-government organisations to provide accommodation and support services
 - monitors and reviews placements, and assesses, trains, authorises and supports carers
 - supports children and young people in out-of-home care, and works with their families. Out-of-Home Care caseworkers provide and arrange mentoring, therapy, medical and dental care, youth development work, remedial teaching and respite care. Support services may also be engaged to work with birth families to assist them to regain care of their children
 - provides specialist services for children and young people with high and complex needs. A small number of young people with challenging or self-harming behaviours receive specialist placement options, such as intensive foster care, residential care, semi-supported independent living. Intensive support service caseworkers support

young people, and provide interventions, with psychologists, which assist to modify the young people's behaviour.

- **Funded Services** – around 50% of the Department's budget is provided via grants and subsidies to non-government organisations. Funding programs include:
 - whole-of-government and multi-agency programs such as Families First; the Aboriginal Child, Youth and Family Strategy, which provides support to families, young people and children; and the Alcohol and Other Drugs Program, which assists individuals, families and communities affected by drug and alcohol misuse. Whole-of-government approaches assist in preventing child abuse and neglect by enhancing community capacity and resilience. Evidence suggests that strong and cohesive communities are more likely to look out for children and young people
 - the Supported Accommodation Assistance Program (SAAP), which is a joint Commonwealth/State Program administered in NSW by Community Services. It provides accommodation and support to people who are homeless or at risk of being homeless, including young people and families, women and children escaping domestic violence
- **Early Intervention Program** – a voluntary program for families with young children encountering problems that affect their ability to care for their children.

Interagency Guidelines

In 1997 the NSW Government launched the NSW Interagency Guidelines for Child Protection Intervention that were designed to address the historic problems of child protection being left to a single authority – DoCS.

In 2000 a revised edition of the Guidelines was published, to align them to the new legislation. The most recent edition was released in 2006. There is currently a revised version of the guidelines (The Child Wellbeing and Child Protection – NSW Interagency Guidelines) being developed, with five of the eleven intended sections being available on line at the Keep Them Safe Website:

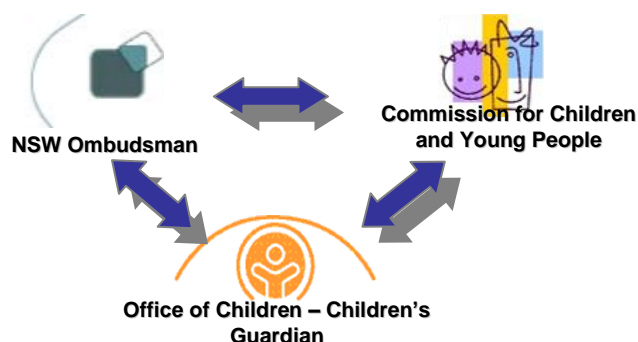
http://www.keepthemsafe.nsw.gov.au/interagency_guidelines

The Guidelines are a core document for staff that provide services in the child protection environment (including out-of-home care). Staff should have an operational familiarity with the Interagency Guidelines.

The guidelines provide a clear framework for governmental and community bodies to work in a collaborative way, to address the needs of vulnerable children. The 2006 edition highlighted the roles of Community Services as the statutory authority responsible for child protection in NSW. It also identifies the NSW Ombudsman as the oversight authority for "reportable conduct" matters.

NSW child protection has a complex oversight set of oversight arrangements that is principally built on the interactions of three statutory authorities:

- Office of Children – Children's Guardian (OCCG)
- NSW Ombudsman (Child Protection and Community Services Divisions)
- Commission for Children and Young People (CCYP)



Office of Children – Children’s Guardian (OCCG)

The 1998 Act includes provisions in relation to accreditation and obligations to meet standards and established an independent regulator, the Office of the Children’s Guardian, to oversight these processes. The relevant Section of the Children and Young Persons (Care and Protection) Act 1998 are:

- s.181 functions relating to parental responsibility, including:
 - (1)(a) to exercise, subject to any direction of the Minister, the parental responsibilities of the Minister for a child or young person for the benefit of the child or young person,
 - (1)(b) to promote the best interests of all children and young persons in out-of-home care,
 - (1)(c) to ensure that the rights of all children and young persons in out-of-home care are safeguarded and promoted,
 - (1)(d) to examine a copy of the case plan for each child or young person in out-of-home care and a copy of each report made following the regular review of the case plan,
 - (1)(e) to accredit designated agencies and to monitor their responsibilities under this Act and the regulations.
- s.182 to remove the daily care and control for a child or young person in OOHC from an authorised carer.
- s.183 to attempt dispute resolution between children and young people, their parents, carers or designated agencies.
- s.184 to apply to the Children’s Court for the variation or rescission of any order made under the Act.
- s.185 to obtain or release information from a designated agency, registered carer or Community Services.

The office was renamed in 2006 as the Office for Children – Children’s Guardian (OCCG) when a number of it’s administrative functions were merged with the NSW Commission for Children and Young People (CCYP).

OOHC STANDARDS

The OCCG is the oversight body for establishing and maintaining the NSW OOHC Standards that came into force on the 1st July 2005. Under the Children and Young Persons (Savings and Transitional) Regulation 2000 all OOHC service providers in NSW received interim accreditation and have undergone, or are currently undergoing, an accreditation process reviewing the agency’s demonstrated capacity to meet the OOHC Standards.

There are 50 individual standards set out in 10 sections and relating to issues of:

1. Casework practice and the importance of case planning in providing OOHC
2. Recruitment, training and supervision of foster carers
3. Dimensions of care for children and young people
4. Rights of children and young people, confidentiality and complaint management
5. Gathering, maintenance and content of care records
6. Leaving care
7. Working with other agencies and liaison with the community
8. Organizational management and accountability
9. Planning, evaluation and service development; and

10. Human Resource management and boards of management.

There are two parallel processes used to determine accreditation for designated agencies in NSW:

1. The collection and presentation of evidence, compiled by the agency and submitted to the OCCG, using a standardised 'Self Study Report' (SSR) to cross reference the evidence to the Standards and Mandatory Requirements
2. An on-site Case File Audit (CFA) conducted by the OCCG, based on a random sample of files, using a standardised File Audit tool

Case File Audits: part of the ongoing monitoring carried out by the OCCG is an annual case file audit, which is a targeted process, checking on particular agencies, ascertaining that the agencies are able to demonstrate that they have maintained the OOHC standards.

The OCCG are in the process of completing an exhaustive review of the current standards and developing a set of streamlined standards, modelled on the European Commission's current structure. This review process has been undertaken in consultation with the principle governmental and community sector service providers.


ACCREDITATION

The OCCG derives its power to accredit designated agencies (as noted in CatholicCare's accreditation notice above) through clause 39 of the Children and Young Person's (Care and Protection) Regulation 2000.

c.39 Conditions on accreditation and process of accreditation

- (1) *An accreditation is subject to the conditions set out in Schedule 4.*
- (2) *The Children's Guardian may impose such other reasonable conditions as the Children's Guardian sees fit on an accreditation, and may vary or revoke such conditions, by notice in writing given to the designated agency.*
- (2A) *Without limiting subclause (2), the Children's Guardian may impose a condition prohibiting the designated agency from providing, arranging or supervising voluntary out-of-home care.*
- (3) *The Children's Guardian may impose such reasonable conditions as the Children's Guardian sees fit on the process of accreditation (including accreditation by way of a transfer under clause 37B), and may vary or revoke such conditions, by notice in writing given to the applicant.*
- (4) *If an accreditation is transferred, a copy of the notice given under subclause (3) is to be given to the transferee.*
- (5) *If the Children's Guardian is satisfied a condition should be imposed under subclause (2) on a departmental designated agency, the Children's Guardian must first report to the Minister on the need to impose the condition.*
- (6) *A condition imposed under this clause may authorise any matter or thing to be from time to time determined or applied by any specified person or body.*

Note. Contravention of a condition of accreditation is not an offence but is grounds for shortening the accreditation period, or suspending or cancelling the accreditation, of a designated agency.



NSW OFFICE FOR CHILDREN
the Children's Guardian

Notice of Conditions of Accreditation as a Designated Agency

issued under clause 39 of the Children and Young Persons (Care and Protection) Regulation 2000

Catholic Care Newcastle

ABN 44568352340

In addition to the general conditions of accreditation in clause 39 of the *Children and Young Persons (Care and Protection) Regulations 2000*, the Children's Guardian has imposed the following condition on the accreditation of Centacare Newcastle:


Condition 1:	Foster care only may be provided.

The Children's Guardian may suspend or cancel Centacare Newcastle's accreditation if it fails to comply with this condition.

The Children's Guardian may publish details of failure to comply with conditions of accreditation in the Children's Guardian's Annual Report to Parliament.

A decision of the Children's Guardian to impose, not impose, vary or revoke a condition of accreditation is reviewable by the Administrative Decisions Tribunal, under clause 6B of the *Children and Young Persons (Care and Protection) Regulation 2000*, following an internal review by the Office for Children – the Children's Guardian.

The Children's Guardian has provided a copy of this Notice to the NSW Department of Community Services, the NSW Department of Ageing, Disability and Home Care and the NSW Ombudsman.



New South Wales Government

Kerryn Boland
Children's Guardian

CatholicCare Newcastle is due for reaccreditation by 13 June 2011.

Commission for Children and Young People (CCYP)

The CCYP has a tertiary role in the promotion of safety, welfare and wellbeing for all children and young people in NSW. The CCYP was one of the recommendations from the NSW Royal Commission (Paedophile Inquiry) and the Commissioner is a statutory position appointed by NSW Governor, under the Commission for Children and Young People Act 1998.

The CCYP is not responsible to any one Minister and answers directly to the NSW Parliament, with the powerful and highly influential Parliamentary Joint Committee on Children and Young People having primary oversight of the Commission.

The CCYP has four core guiding principles:

1. The safety, welfare and wellbeing of children is paramount.
2. The views of children and young people are taken seriously.
3. The relationships between children, their families and their communities are important for their safety, welfare and wellbeing.
4. Vulnerable children and young people will be given priority.

In working to fulfil these principles, the CCYP does not directly address the complaints or concerns of individual children, rather the CCYP works for the 'collective' good through a number of key strategies including:

- Promoting children's participation in decisions that affect them, such as child protection casework decisions and case planning through the *TAKING PARTicipation Seriously* framework,
- Encouraging organizations to develop their capacity to be safe and friendly for children through the *Child-Safe Child-Friendly* framework,
- Acting as lead agency in the development, maintenance and monitoring of the employment screening processes through the *NSW Working With Children Check Employer Guidelines*,
- Maintaining and administering the *NSW Working With Children Check* database of relevant employment proceedings for the Working With Children Check and employment screening, and
- Administering the Child Sex Offender Counsellor Accreditation Scheme

The CCYP also undertakes a range of other responsibilities including:

- Promoting and monitoring the overall safety, welfare and wellbeing of children and young people in the community
- Making recommendations to government and non-government agencies on legislation, policies, practices and services affecting children and young people
- Promoting the provision of information and advice that assists children and young people
- Conducting, promoting and monitoring training, public awareness and research on issues affecting children and young people, and
- Supporting the Child Death Review Team (CDRT) in the exercise of its functions.


The NSW Ombudsman

There was a major expansion of the role of the NSW Ombudsman as a direct consequence of the Woods Royal Commission. The introduction of Part 3A of the Ombudsman Act brought the Ombudsman into child protection as a principal oversight authority. The NSW Ombudsman carries out this oversight through the following roles:

- Monitoring and review of preventative strategies and the management of reportable conduct and reportable allegations by employers of all government and designated agencies involved in the provision of OOHC services, in NSW

- Ensuring designated government agencies, non-government agencies and other public authorities are aware of their reporting obligations under Part 3A of the Ombudsman Act 1974
- Oversight of employers’ handling of individual allegations against their employees that constitute ‘Reportable Conduct’ matters, including providing the agency with recommendations or suggestions for action at the conclusion of a direct investigation or after monitoring an investigation
- Educating consumers of community services, including children and young people, of their right to complain about access to services or about unreasonable conduct in the provision of services
- The monitoring and review of the provision of services provided by Community Services, DADHC and organizations that are funded, licensed or authorised by their ministers (including designated agencies). This includes the receipt and investigation of complaints by service users or other interested parties,
- Reviewing complaints-handling systems within services or in Programme areas and making recommendations for improvements

The Office of the NSW Ombudsman consists of three branches headed by Deputy Ombudsmen:

		Responsibilities
 <p>Ombudsman Bruce Barbour</p>	<p>Police and Compliance Branch Deputy Ombudsman Greg Andrews</p>	<p>Police Division Oversight and direct investigation of police complaints. Conduct legislative reviews.</p> <p>Secure Monitoring Unit Audit and monitor covert operations and the use of telephone intercepts. Hear appeals and handle complaints relating to witness protection.</p> <p>Business Improvement Coordinate planning of office security and information management. Driving cross office improvement projects.</p>
	<p>Public Administration and Strategic Projects Branch Deputy Ombudsman Chris Wheeler</p>	<p>Public Administration Division Handle complaints about all state and local government agencies. Provide advice and guidance on good administration and complaint handling.</p> <p>Strategic Projects Division Identify, direct and coordinate large cross office projects. Coordinate and provide community education and training. Manage the work of the Aboriginal Unit and Youth Liaison Officer.</p>
	<p>Human Services Branch Deputy Ombudsman Steve Kinmond</p>	<p>Community Services Division Review and promote improvements in community services. Handle complaints about government and non-government community service providers.</p> <p>Employment Related Child Protection Division Ensure designated government agencies, non-government agencies and public authorities comply with our child protection obligations.</p>
	<p>Corporate Branch Director Anita Whittaker</p>	<p>Corporate Provide personnel, accounting, information technology, records management and publications services to the whole office.</p>

There are two divisions of the Ombudsman’s Office that relate to all or part of the Diocese have been placed under a single Deputy Ombudsman (Steve Kinmond) as the “Human Services Branch”.

Child Protection Division oversees the Diocese child protection and reportable conduct policy, procedures and practices on a case by case basis. Zimmerman House relate to the Child Protection Division constantly.

Community Services Division is responsible for reviewing and promoting improvements in the standards of delivery of community services through the case by case resolution of complaints and monitoring delivery of community services.

The Ombudsman also has two specific programmes that are of relevance to the Diocese, notably CatholicCare:

Official Community Visitors is administered through the Community Services Division. Official community visitors monitor the quality of out-of-home care services. The Ombudsman provides education and training for official community visitors about indicators of abuse and neglect and the procedures for reporting suspected risk of significant harm.

Reviewable Deaths The Ombudsman reviews the deaths of children, or siblings of children, who were reported to Community Services within three years prior to their death, and the deaths of children in care which occurred in suspicious circumstances or were due to abuse or neglect. The scope of reviewable deaths includes children and adults with disabilities. The Ombudsman analyses the causes and patterns of deaths and recommends ways to improve services to reduce early and preventable deaths

The Ombudsman's powers are far reaching, including the ability to monitor specific investigations whilst they occur, investigate a specific allegation directly, or investigate an entire agency, or part thereof, if deemed warranted. The NSW Ombudsman may compel an agency to provide information on a broad range of matters.

Administrative Decisions Tribunal (ADT)

The ADT is a judicial body established to provide an easily, and speedily, accessible body for the review of administrative decisions made by statutory authorities, including designated agencies. The ADT works under the Administrative Decisions Tribunal Act 1997. For the Diocese, notably CatholicCare, nearly all matters would be dealt with by the Community Services Division of the ADT. The type of decision that can be reviewed by the Community Services Division include decisions:

- Granting to, or removing from, an 'authorised carer' the responsibility for the day-to-day care and control of a child or young person
- Authorising or not authorising a person to be an 'authorised carer', imposing conditions on an authorisation or cancelling or suspending a person's authorisation
- Providing financial assistance where the provision of assistance does not conform with the objects and principles of the Disability Services Act
- Accrediting or refusing to accredit an adoption service provider or imposing conditions on their accreditation
- Failing to provide information or assistance under the Adoption Act
- Refusing to terminate the Minister's guardianship of a ward
- Terminating a person's custody of a child who is a ward

- Directing a licensee of a family day care children's service to remove the name of a family day carer from the register for the service, or
- Suspending a family day care carer's name from the register for the service.

When determining an application to review a decision of a government agency or designated agency, the ADT can:

- Affirm the decision
- Revoke all or part of the decision
- Substitute a new decision for the original decision, or
- Require the decision maker to reconsider the decision.

4. RISK OF SIGNIFICANT HARM

Risk of Significant Harm

Children and Young Persons (Care and Protection) Act 1998

Section 23: Child or young person at risk of significant harm

(1) For the purposes of this Part and Part 3, a child or young person is at risk of significant harm if current concerns exist for the safety, welfare or well-being of the child or young person because of the presence, to a significant extent, 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,
- (b1) in the case of a child or young person who is required to attend school in accordance with the Education Act 1990—the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with that Act,
- (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,
- (f) the child was the subject of a pre-natal report under section 25 and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.

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

(2) Any such circumstances may relate to a single act or omission or to a series of acts or omissions.

There are also a number of other circumstances in which a child or young person is deemed to be at risk of significant harm, including:

Section 154: Restriction on who may provide supported out-of-home care

(2) If a person, other than the Director-General or an authorised carer, provides out-of-home care in respect of a child or young person:

- (a) the child or young person is, for the purposes of Parts 2 and 3 of Chapter 3, taken to be at risk of significant harm,

Section 156A: Voluntary arrangements for out-of-home care

(2) *If a child or young person is placed in out-of-home care under a voluntary arrangement:*

- (a) *the child or young person must not remain in out-of-home care for more than 3 months in any period of 12 months unless the care is provided by, or is under the supervision of, a designated agency, and*
- (b) *the child or young person must not remain in out-of-home care for more than 180 days in any period of 12 months unless the designated agency responsible for the child or young person has, in accordance with the guidelines issued by the Children's Guardian for the purposes of this section, prepared a plan that meets the needs of the child or young person under the arrangement.*

(3) *If subsection (2) is not complied with in relation to the provision of out-of-home care under a voluntary arrangement, the child or young person to whom the arrangement applies is, for the purposes of Parts 2 and 3 of Chapter 3, taken to be at risk of significant harm.*

Section 24: Report concerning child or young person at risk of significant harm

A person who has reasonable grounds to suspect that a child or young person is, or that a class of children or young persons are, at risk of significant harm may make a report to the Director-General.

Section 25: Pre-natal reports

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

Note. *The intentions of this section are:*

- (a) *to allow assistance and support to be provided to the expectant mother to reduce the likelihood that her child, when born, will need to be placed in out-of-home care, and*
- (b) *to provide early information that a child who is not yet born may be at risk of significant harm subsequent to his or her birth, and*
- (c) *in conjunction with section 23 (f) and section 27, to provide for mandatory reporting if there are reasonable grounds to believe that the child is at risk of significant harm subsequent to his or her birth.*

Mandatory Reporters

Children and Young Persons (Care and Protection) Act 1998**Section 27: 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 significant harm, and
 - (b) those grounds arise during the course of or from the person's work,
- it is the duty of the person to report, as soon as practicable, to the Director-General the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm.
- (3) A person to whom this section applies satisfies his or her obligations under subsection (2) in relation to two or more children that constitute a particular class of children if the person reports that class of children to the Director-General together with:
- (a) a description that is sufficient to identify all the children who constitute the class, and
 - (b) the grounds for suspecting that the children of that class are at risk of significant harm.

Protections for Reporters

Children and Young Persons (Care and Protection) Act 1998

Section 29: Protection of persons who make reports or provide certain information

- (1) If, in relation to a child or young person or a class of children or young persons, a person makes a report in good faith to the Director-General or to a person who has the power or responsibility to protect the child or young person or the class of children or young persons:
- (a) the making of the report does not constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct, and
 - (b) no liability for defamation is incurred because of the report, and
 - (c) the making of the report does not constitute a ground for civil proceedings for malicious prosecution or for conspiracy, and
 - (d) the report, or evidence of its contents, is not admissible in any proceedings (other than care proceedings in the Children's Court, or any appeal arising from those care proceedings), and
 - (e) a person cannot be compelled in any proceedings to produce the report or a copy of or extract from it or to disclose or give evidence of any of its contents, and
 - (f) the identity of the person who made the report, or information from which the identity of that person could be deduced, must not be disclosed by any person or body, except with:
 - (i) the consent of the person who made the report, or
 - (ii) the leave of a court or other body before which proceedings relating to the report are conducted,and, unless that consent or leave is granted, a party or witness in any such proceedings must not be asked, and, if asked, cannot be required to answer, any question that cannot be answered without disclosing the identity or leading to the identification of that person.

The protection of a reporter's identity may be overridden in s.29(4) and (4A) if protecting the reporter's anonymity would:

- prevent the proper investigation of the report, or

- interfere with a the investigation of a serious offence alleged to have been committed against a child or young person, or
- interfere with the safeguarding or promoting the safety, welfare and well-being of any child or young person (whether or not the victim of the alleged offence)

Helping the Child after Reporting

Children and Young Persons (Care and Protection) Act 1998

Section 29A: Person who makes report is not prevented from helping child or young person

For avoidance of doubt, it is declared that a person who is permitted or required by this Part to make a report is not prevented, by reason only of having made that report, from responding to the needs of, or discharging any other obligations in respect of, the child or young person the subject of the report in the course of that person's employment or otherwise.

Homelessness of Children & the Obligation to Report

Children and Young Persons (Care and Protection) Act 1998

Section 120: Homelessness of children

- (1) Any person may report the homelessness of a child to the Director-General.
- (2) On receipt of a report, the Director-General must conduct such investigation and assessment concerning the child as the Director-General considers necessary.
- (3) The Director-General may provide or arrange for the provision of services, including residential accommodation, where appropriate, for a child whose homelessness has been reported to the Director-General.

Section 121: Homelessness of young people

Any person may, with the consent of the young person, report the homelessness of a young person to the Director-General.

Section 122: Mandatory reporting of child who lives away from home without parental permission

A person who provides residential accommodation for another person who the person has reasonable grounds to suspect:

- (a) is a child, and*
 - (b) is living away from home without parental permission,*
- must, as soon as practicable, inform the Director-General of the child's whereabouts.*

Maximum penalty: 200 penalty units.

Note: *The police will notify the Director-General of the details of children who have been reported to the police as missing. If the Director-General becomes aware that a child reported missing is safe, the Director-General is required to advise the police that the child is safe*

but not of the whereabouts of the child. The purpose of this provision is to avoid wasting resources in having the police search for missing children whose whereabouts are known to the Director General.

The parents should be informed that the child is safe, but nothing in this section requires any person to reveal the whereabouts of the child to a person other than the Director General.

The homelessness provisions balance the need to keep children safe with the need to inform parents about their whereabouts. It makes clear the responsibilities of agencies providing residential accommodation, and promotes partnership and clear communication between police, agencies and Community Services. The Community Services has responsibility for assessing any safety issues involved, and taking action if necessary to protect the child.

Managing matters that are below the threshold

Section 27A provides for alternative reporting arrangements for key governmental agencies to report matters that are assessed not to be risk of significant harm.

CHILD WELLBEING UNITS

For governmental agencies there are **Child Wellbeing Units (CWU)**, established in “the big four” reporting departments; NSW Police, NSW Health, DET, the newly established Department of Human Services.

CWUs are call centres designed to address the inter-related issues of:

- Reducing the flood of matters being referred to the Child Protection Helpline, filtering those child protection concerns that are not significant (i.e. below the threshold).
- Providing support and follow-up to departmental officers who have child protection concerns assessed as being below the threshold, (i.e. an alternate reporting pathway)

The NSW Government Factsheet on CWUs (March 2010) defines the CWU’s role as:

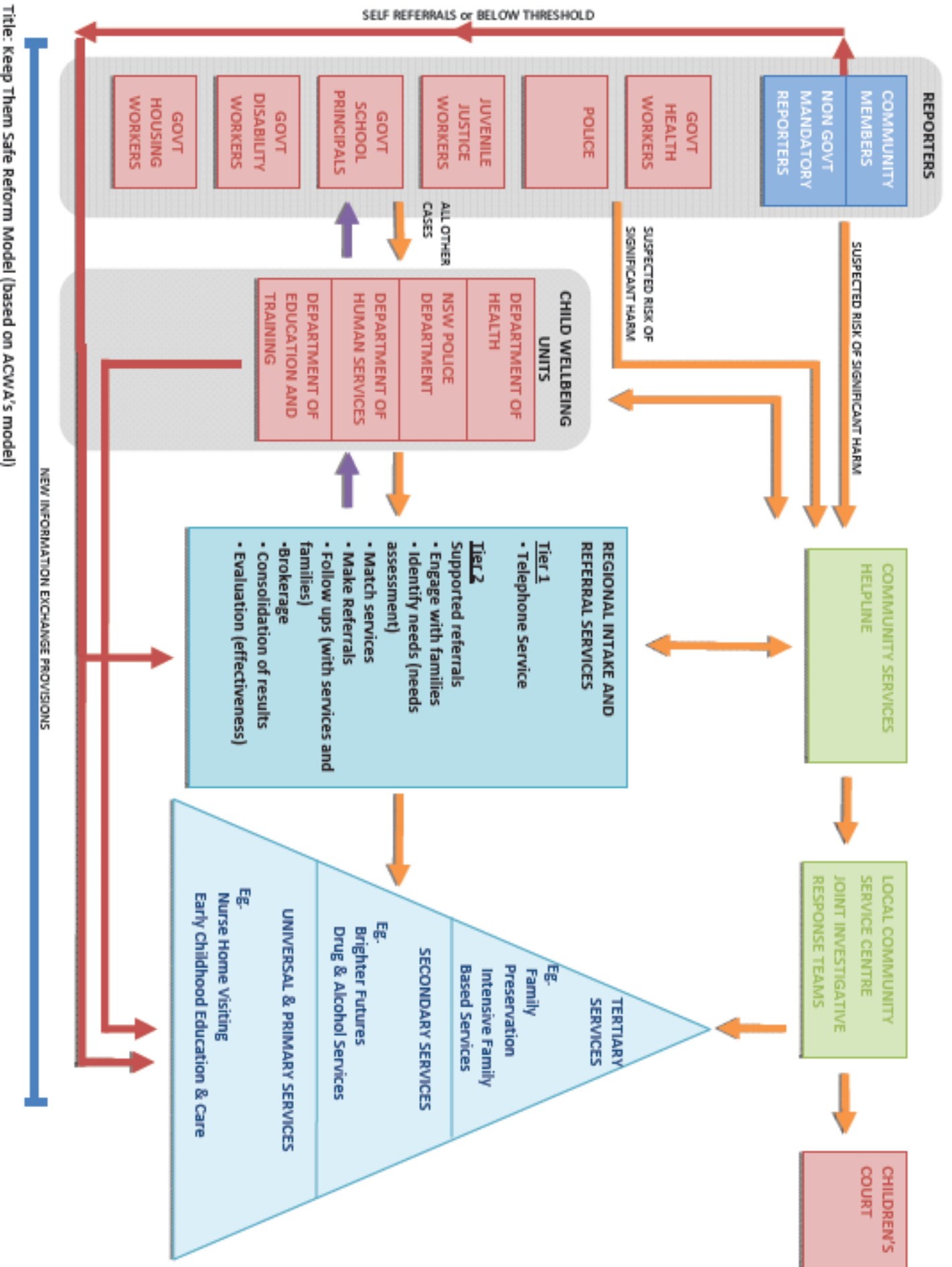
- *Help agency mandatory reporters identify whether a child or young person is likely to meet the risk of significant harm threshold.*
- *Provide advice to mandatory reporters about possible service responses in cases where concerns for a child or a young person fall below the threshold.*
- *Drive better alignment and coordination of agency service systems over time, to enable better responses to children and families in need of assistance.*

The CWUs are also a key strategy to ensure that government agencies can meet their obligations to identify and report accumulative harm, as the CWUs will record and store below the threshold concerns. CWUs have limited access to other agencies’ CWUs and Community Services’ KiDS child protection database.

For the Diocese and other non-government agencies, there is no access to a CWU and the issue of how accumulative harm will be managed remains unclear.

The following page is a graphic developed by the NSW government to describe the new processes in child protection under the Keep Them Safe reforms. Please note that the Regional Referral and Intake Service is now renamed Family Referral Services

Flowchart for managing child protection concerns under Keep Them Safe Reforms



Title: Keep Them Safe Reform Model (based on ACWA's model)

Family Referral Services

From mid 2010, the NSW Government commenced three pilot programmes, to establish and operate Family Referral Services, originally called Regional Intake and Referral Services.



Family Referral Services (FRS) are intended to assist children, young people and families who fall below the threshold for child protection intervention (i.e. assessed as not being at risk of significant harm), but would benefit from accessing specific services to address current problems, prevent escalation, and foster a protective and nurturing environment.

FRS are intended to link vulnerable children, young people in need of assistance, and their families, with the most appropriate available support services in their local areas.

FRS provide a voluntary service, i.e. the family must agree to their involvement with the FRS. Community Services' statutory child protection services are non-voluntary and have the legal responsibility to intervene. The Diocese, along with governmental and community agencies, as well as individuals can refer families to FRS where circumstances do not warrant statutory intervention.

FRS will refer client families to services such as housing, child care, supported play-group, drug and alcohol/mental health services, and youth services. The KTS Fact Sheet 9a Family Referral Services (May 2010) states the purposes of FRS as:

- *To identify and refer children, young people or families to appropriate services, building on (rather than replacing) agency action, expertise and capacity.*
- *To drive improved links between government and non-government services.*
- *To provide advice to agencies to support better coordination of local services.*

THE HUNTER FAMILY REFERRAL SERVICE

The NSW Government is currently undertaking a trial of 3 different models of FRS in three sites across NSW, the Hunter is one of those sites. The Benevolent Society has commenced operation of a 'augmented' FRS model in the Hunter which will include:

- a telephone service which will provide children and their families with information on support services in their local area, and
- the capacity to support families who have greater and more complex needs through more active referrals with, in some instances, some case management and access to support supplemented via brokerage funding.

The Newcastle FRS covers the entire Central Coast, Lake Macquarie and Hunter region with the main service (telephone and augmented) based in Rutherford and three augmented services provided from:

- Newcastle (servicing Newcastle, Port Stephens, Gloucester, Dungog, Cessnock)
- Muswellbrook (servicing Muswellbrook, Upper Hunter Shire and Singleton)
- Watanobbi (servicing Wyong, Gosford, East of Lake Macquarie).

The Hunter Referral Service operates 8am to 6pm, Monday to Friday

Contacted by phone



1300 006 480

5. INDICATORS OF ABUSE AND NEGLECT

Understanding the Use of Indicators

To report child protection matters, you need to be aware of some of the indicators of abuse and neglect.

It is the responsibility of every Diocesan employee of the Diocese's to have some understanding of the indicators of abuse and neglect in children or young people.

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

The absence of indicators does not necessarily mean that a child or young person is safe as some maltreated children or young people will not display any noticeable symptoms. Equally, many of the indicators listed may be the consequence of other factors besides from abusive or neglectful care.

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

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

General indicators of abuse or neglect include:

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

Learning to identify indicators and to use them effectively in recognising child abuse and neglect is complex because of the unique nature of children and families. For this reason, it is important to access the guidance of your supervisor/manager and consult with staff from Zimmerman House when uncertain.

Neglect

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

Both the Children and Young Persons (Care and Protection) Act 1998 and the Crimes Act 1900 provide significant penalties against a person who neglects to provide adequate and proper food, nursing, or lodging for a child or young person, or intentionally abandons or exposes a child under seven years of age to risk if it causes danger of death or serious injury to the child.

Neglect can take one or more of the following forms:

(i) Neglect of basic physical needs occurs where there is a risk of significant harm or actual harm caused by the parent or caregiver's failure to provide for a child's basic physical needs, such as:

- food
- clothing and hygiene
- physical shelter
- safety from harm – including issues of appropriate supervision.

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

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

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

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

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

INDICATORS OF NEGLECT:

In Children¹	In Young People¹	In Parents or Carers
<p>Physical</p> <ul style="list-style-type: none"> • low weight for age and/or failure to thrive and develop • poor primary health care (e.g. untreated sores, serious nappy rash, significant dental decay) • poor standards of hygiene (i.e. child consistently unwashed, bad odour) • poor complexion and hair texture 	<p>Physical</p> <ul style="list-style-type: none"> • poor standards of hygiene and self-care 	<p>Physical</p> <ul style="list-style-type: none"> • may have poor standards of hygiene and self-care
<p>Social/psychological</p> <ul style="list-style-type: none"> • child not adequately supervised for their age • scavenges or steals food; • focus is on basic survival • longs for or indiscriminately seeks adult affection • displays rocking, sucking, head-banging behaviour • poor school attendance 	<p>Social/psychological</p> <ul style="list-style-type: none"> • stays at the homes of friends and acquaintances for prolonged periods, rather than at home • cannot access adequate self-care resources such as washing facilities and food • poor school attendance 	<p>Social/psychological</p> <ul style="list-style-type: none"> • unable/unwilling to provide adequate food, shelter, clothing, medical attention, safe home conditions • leaves the child without appropriate supervision • abandons the child • withholds physical contact or stimulation for prolonged periods • unable or unwilling to provide psychological nurturing – low-warmth parenting • has limited understanding of the child's needs • has unrealistic expectations of the child

Physical abuse

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

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

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

¹ Indicators of neglect that are listed for children may also be evident in young people

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

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

Risk of physical abuse involving infants require extra vigilance and attention. A study by Dale, Green and Fellows in 2002 (based on a Welsh child protection sample) provides powerful illustrative data, finding that severe physical abuse in babies under one year was:

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

INDICATORS OF PHYSICAL ABUSE:

In Children ²	In Young People ²	In Parents or Carers
<p>Physical</p> <ul style="list-style-type: none"> • bruises on face, head or neck • other bruises or marks which may show the shape of the object that caused it • lacerations and welts • head injuries where the infant may be drowsy or vomiting, or have glassy eyes, fixed pupils or pooling of blood in the eyes suggesting the possibility of having been shaken • adult bite marks and scratches • bone fractures, especially in children under three years old • dislocations, sprains, swelling • burn marks and scalds • multiple injuries or bruises • child's explanation inconsistent with injury • abdominal pain (may be caused by ruptured internal organs) • ingestion of poisonous substances, alcohol or drugs 	<p>Physical</p> <ul style="list-style-type: none"> • lacerations, welts, bruising, burn marks • unspecified internal pains 	<p>Physical</p> <ul style="list-style-type: none"> • frequent visits with child to health or other services with unexplained or suspicious injuries, swallowing of non-food substances or internal complaints • explanation of injury is not consistent with the visible injury

² Indicators of physical abuse that are listed for children may also be evident in young people

In Children ²	In Young People ²	In Parents or Carers
<ul style="list-style-type: none"> • general indicators of female genital mutilation (e.g. having a 'special operation') 		
<p>Social/psychological</p> <ul style="list-style-type: none"> • wears clothing that is inappropriate to the weather conditions, to conceal injuries • fears adults, is aggressive, lacks empathy 	<p>Social/psychological</p> <ul style="list-style-type: none"> • aggressive and violent behaviours toward others, particularly younger children • explosive temper that is out of proportion to precipitating event • constantly on guard around adults, cowers at sudden movements, unusual deference to adults 	<p>Social/psychological</p> <ul style="list-style-type: none"> • family history of violence • history of their own maltreatment as a child • fears injuring their child • uses excessive discipline

Sexual Abuse

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

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

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

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

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

Children with a disability are at greater risk of sexual abuse. A large epidemiological study in 2000³ found that the rate of sexual abuse of children with a disability is higher than that of children with no disability. It identified that this abuse was more likely to be by an extra-familial perpetrator.

GROOMING

Recently the Crimes Act specified a particular offence that refers to “grooming”. The traditional use of the term ‘grooming’ is broader. It describes patterns of behaviour aimed at engaging or ‘grooming’ a child as a precursor to sexual abuse. Grooming may involve a person identifying particularly vulnerable children, such as isolated children who may be unhappy or needy and using tactics to establish trust with the child for inappropriate purposes.

The actual act of sexual assault need not have occurred for grooming to have occurred. The grooming process can include:

- persuading a child that a ‘special’ relationship exists:-
 - spending inappropriate ‘special’ time with the child,
 - inappropriately giving gifts,
 - showing special favours to them but not other children,
 - allowing the child to overstep rules, etc.;
- testing of boundaries –
 - undressing in front of the child,
 - allowing the child to sit on the lap,
 - talking about ‘sex stuff’ and other inappropriate acts,
 - ‘accidental’ touching of intimate areas including genitalia, etc.;
- establishing relationships outside the employment relationship – grooming should not be assumed where such relationships are the result of a relationship established before employment; and/or
- inappropriate personal correspondence, including electronic communication, with a child.

These behaviours may not indicate risk if they occur in isolation, but if there is a pattern of behaviour occurring, it may indicate grooming.

In order to maintain the relationship with the child, the person may also ‘groom’ others (such as other employees or family members) to ensure the adult is considered to be a ‘credible’ person and the child is someone who is not to be believed if they do disclose inappropriate behaviour by the employee.

INDICATORS OF SEXUAL ABUSE:

In Children ⁴	In Young People ⁴	In Non-Offending Parents, Carers	In Perpetrator
<p>Physical</p> <ul style="list-style-type: none"> • bleeding from the vagina, external genitalia or anus • tears or bruising to the genitalia, anus or perineal regions 	<p>Physical</p> <ul style="list-style-type: none"> • adolescent pregnancy and/or reluctance to identify father of child 	<p>Physical</p> <ul style="list-style-type: none"> • Nil 	<p>Physical</p> <ul style="list-style-type: none"> • Nil

³ Sullivan, P. M. & Knutson, J. F. (2000). *Maltreatment and disabilities: A population-based epidemiological study*. *Child Abuse & Neglect*, 24(10), 1257-1273.

⁴ Indicators of sexual abuse that are listed for children may also be evident in young people

In Children ⁴	In Young People ⁴	In Non-Offending Parents, Carers	In Perpetrator
<ul style="list-style-type: none"> • trauma to the breasts, buttocks, lower abdomen or thighs including bite/burn marks • sexually transmitted disease 			
<p>Social/Psychological</p> <ul style="list-style-type: none"> • direct or indirect disclosures • describes sexual acts with age inappropriate knowledge • age-inappropriate behaviour and/or persistent sexual behaviour • self-destructive behaviour, drug misuse, suicide attempts, self mutilation • runs away from home persistently • eating disorders • goes to bed fully clothed • regression in developmental achievements in younger children • has contact with a known or suspected paedophile • unexplained money and gifts 	<p>Social/Psychological</p> <ul style="list-style-type: none"> • poor self esteem • runs away from home, homelessness • particularly negative reaction to adults of only one sex • desexualisation (e.g. wearing baggy clothes in order to disguise gender) • artwork or creative writing with obsessively sexual themes • sexually provocative behaviour • engaging in/talking about violent sexual acts • knowledge about practice and locations usually associated with prostitution • risk-taking behaviours – self-harm, suicide attempts • contact with a known or suspected paedophile 	<p>Social / Psychological</p> <ul style="list-style-type: none"> • defers to partner • may minimise disclosure 	<p>Social/Psychological</p> <ul style="list-style-type: none"> • controlling attitude and behaviour to children and/or partner • inappropriately curtails child's age appropriate development of independence from the family • overly critical of adult partner • defends against accusations by claiming the child or young person is lying • encourages/tolerates sexualised behaviour between family members • exposes child or young person to prostitution or pornography; or uses a child or young person for pornographic purposes • intentionally exposes child or young person to the sexual behaviour of others • committed/been suspected of child sexual abuse or child pornography • coerces child or young person to engage in sexual behaviour with other children and young people • verbal threats of sexual abuse • family denies adolescent pregnancy

Psychological Harm

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

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

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

INDICATORS OF PSYCHOLOGICAL HARM:

In Children ⁵	In Young People ⁵	In Parents or Carers
<p>Social/Psychological</p> <ul style="list-style-type: none"> • feels worthless about life and themselves • unable to value others or show empathy • lacks trust in people • lacks interpersonal skills necessary for age-appropriate functioning • extreme attention-seeking • takes extreme risks, is markedly disruptive, bullying or aggressive 	<p>Social/Psychological</p> <ul style="list-style-type: none"> • avoids all adults • is obsessively obsequious to adults • has difficulty maintaining long term significant relationships • is highly self-critical • is depressed, anxious, other mental ill-health indicators • is self-harming, attempts suicide 	<p>Social/Psychological</p> <ul style="list-style-type: none"> • constantly criticises, belittles, teases a child or young person • ignores or withholds praise and affection • excessively criticises a child in comparison to child's peers • is persistently hostile and verbally abusive, rejects and scapegoats • makes excessive or unreasonable demands • believes that a particular child or young person is bad or evil • uses inappropriate physical or social isolation as punishment • domestic violence involvement such as where weapons are used, significant threats made

Exposure To Domestic Violence

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

⁵ Indicators of psychological harm that are listed for children may also be evident in young people

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

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

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

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

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

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

It is also critical to consider whether **the caregiver's level of victimisation** is such that they are unable to act protectively towards the child or young person and to note whether domestic violence coexists with one or more factors such as the hazardous use of alcohol or other drugs and/or untreated mental health concerns. Violence to Aboriginal women is reported to be 45 times higher than to non-Aboriginal women, with 23% of these women needing hospital treatment compared to 6.6% of non-Aboriginal victims.

The **developing baby's brain** is most vulnerable to the impact of traumatic experiences between the seventh prenatal month and the infant's first birthday. It is believed that raised levels of cortisol, secreted during stress, may affect the development of a major stress regulating system in the brain.

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

INDICATORS OF EXPOSURE TO DOMESTIC VIOLENCE:

In Children ⁶	In Young People ⁶	In Parents or Carers	
		Adult Victim	Perpetrator
<p>Physical</p> <ul style="list-style-type: none"> • preterm and low birth weight baby • slow weight gain in infants • difficulties with sleeping/eating • unexplained physical injuries. 	<p>Physical</p> <ul style="list-style-type: none"> • unexplained physical injuries • eating disorders, such as anorexia and bulimia • uses alcohol and drugs • psychosomatic complaints • higher rates of genital tract infection. 	<p>Physical</p> <ul style="list-style-type: none"> • injuries do not fit the cause/history given • bite marks • unwanted pregnancy or sexually transmitted infection through coerced sex/refusal to use contraceptives • bruising/other injuries, especially if pregnant • unexplained miscarriage or stillbirth • nutritional/sleep deprivation or disorders • alcohol and drug abuse • psychosomatic complaints 	<p>Physical</p> <ul style="list-style-type: none"> • physical signs of the victim fighting back, such as facial scratches and injuries to hands
<p>Social / Psychological</p> <ul style="list-style-type: none"> • defiant at school, particularly with female teachers • aggressive or violent behaviour • over-protects mother or fears leaving mother at home • concentrates poorly • constantly fights with peers • frequently absent from school • clingy, dependent, sad and secretive • regressive behaviour • delayed or problematic 	<p>Social / Psychological</p> <ul style="list-style-type: none"> • depressed • suicide attempts • takes extreme risks • physically and verbally abusive • abuses siblings, parents, peers • sexually abusive • frequently absent from school, and poor academic achievement • disruptive • homeless or stays away from home for prolonged time • socially isolated 	<p>Social/Psychological</p> <ul style="list-style-type: none"> • anxious, depressed • suicidal thoughts and attempts • low self-esteem • socially isolated • submissive and withdrawn • repeat/after hours presentations at emergency departments • seldom/never makes decisions without referring to partner • fears reprisal • frequent absences from work/studies 	<p>Social/Psychological</p> <ul style="list-style-type: none"> • presents as the victim of abuse, discrimination or allegation of abuse • admits to some violence but minimises its frequency and severity • visible rough handling of victim/children/pets • impresses as overly concerned about suspected victim • threatens to commit acts of violence • is unable to control angry outbursts • always speaks for partner/children

⁶ Indicators of exposure to domestic violence that are listed for children may also be evident in young people and vice versa

In Children ⁶	In Young People ⁶	In Parents or Carers	
		Adult Victim	Perpetrator
language development • stealing			<ul style="list-style-type: none"> • believes he 'owns' partner/children • describes partner as incompetent or stupid • holds rigidly to stereotypical gender roles • jealous of partner, lacks trust in her or anyone else • does not allow partner or child to access service providers alone

6. EMPLOYMENT SCREENING

Child Related Employment

As noted on pages 15 and 18-19, the Commission for Children and Young People (CCYP) has the responsibility for the maintaining and administering the *NSW Working With Children Check* database of relevant employment proceedings for the Working With Children Check and employment screening.

As part of this responsibility the CCYP is the lead agency in the development, maintenance and monitoring of the employment screening processes through the ***NSW Working With Children Check Employer Guidelines*** with the latest revisions released February 2010.

For the purposes of the CCYP, employment is:

Types of employment	What's included	What's excluded
work under a contract of employment; or	<ul style="list-style-type: none"> work for a salary or wage 	
work as a self-employed person; or	<ul style="list-style-type: none"> "fee for service" work as a sole provider - contract work as a sole provider 	
work as a contractor or subcontractor; or	<ul style="list-style-type: none"> engagement for a project or sub-project within a contractor's project 	
work as a volunteer for an organisation; or	<ul style="list-style-type: none"> carrying out an unpaid role in an organisation eg sports coach, reading tutor 	<ul style="list-style-type: none"> attending with or viewing your own children in (for example) a sporting or learning organisation
practical training as part of an educational or vocational course; or	<ul style="list-style-type: none"> a compulsory or other placement that is part of a university or other educational course. 	<ul style="list-style-type: none"> work experience as part of the school curriculum
work as a minister, priest, rabbi, mufti or other like religious leader or spiritual officer of a religion or other member of a religious organisation; or	<ul style="list-style-type: none"> the religious leader whose role is equivalent to a priest or minister -official holders of roles or titles within a religious order eg youth group leaders, Sunday school teachers 	<ul style="list-style-type: none"> general members of a religious congregation
foster carer; or	<ul style="list-style-type: none"> an authorised carer appointed by Community Services or an approved agency of Community Services - 	<ul style="list-style-type: none"> a parent whose children are being returned to them -an adoptive parent
providing a prescribed children's service; or	<ul style="list-style-type: none"> individuals or committee members licensed to provide a child care children's service, home based children's service or mobile children's service care service 	
work as a person involved in the control or management of a prescribed children's service	<ul style="list-style-type: none"> supervisors and managers of child care centres, family day care services, home based care for children or mobile child care services 	

The CCYP has established five criteria to determine whether a particular role may be considered a ***child related employment position***. Child related employment must meet all five criteria.

(1) Employment in the following work setting	What's included	What's excluded
pre-schools, kindergartens and child care centres;	<ul style="list-style-type: none"> • services providing education and care for children under, • child care services provided in commercial or recreational facilities • before and after school care • vacation care 	<ul style="list-style-type: none"> • babysitting, playgroup or child-minding service organised by and for participating parents of the children involved
babysitter or childminder arranged by a commercial agency;	<ul style="list-style-type: none"> • agency nannies and babysitters 	<ul style="list-style-type: none"> • privately engaged nannies and babysitters • babysitting, playgroup or child-minding service organised informally by parents of the children involved
private tuition of children	<ul style="list-style-type: none"> • formal engagements where the tutor/coach is teaching a program or course • sports, music and academic tutoring or coaching 	<ul style="list-style-type: none"> • informal help and support
schools or other educational institutions (not being universities);	<ul style="list-style-type: none"> • schools, TAFEs, training colleges teaching students under the age of 18. 	<ul style="list-style-type: none"> • universities • organisations whose primary function is not education (eg a museum or library is not in this category)
school buses;	<ul style="list-style-type: none"> • buses accepting travel passes from students travelling to and from school at the start and finish of the school day 	<ul style="list-style-type: none"> • general route buses not providing a school transport service
regular provision of taxi services for the transport of children with a disability;	<ul style="list-style-type: none"> • taxi services arranged especially to support and transport disabled children 	<ul style="list-style-type: none"> • general taxis that may on occasion pick up a person or child with a disability
child protection services;	<ul style="list-style-type: none"> • facilities and services established to provide a child protection service 	
fostering or other child care;	<ul style="list-style-type: none"> • foster care by authorised carers • boarding or home stay arrangements • respite care • residential child care centres 	
refuges used by children;	<ul style="list-style-type: none"> • formally established and governed refuges that accommodate children 	
detention centres or juvenile correction centres	<ul style="list-style-type: none"> • Juvenile Justice facilities • Kariong Correctional facility 	
counselling or other support services for children	<ul style="list-style-type: none"> • youth services, family support services and other welfare services • mentoring services • personal care for disabled children that involves intimate contact (for 	<ul style="list-style-type: none"> • personal care for adults • personal care for children who are not disabled

(1) Employment in the following work setting	What's included	What's excluded
direct provision of child health services	<p>example bathing, dressing or toileting disabled children)</p> <ul style="list-style-type: none"> • medical and dental services, ambulances, and therapies covered by major health insurance funds 	<ul style="list-style-type: none"> • administrative or other employees not providing a direct health service to children
wards of public or private hospitals in which children are patients;		
clubs, associations, movements, societies, institutions (eg of a cultural, recreational or sporting nature) with a significant child membership or involvement	<ul style="list-style-type: none"> • sporting and youth clubs (eg scouts, PCYC) • children's choirs, bands and orchestras • museums, councils, galleries and other like institutions are included if they provide programs specifically for children 	<ul style="list-style-type: none"> • libraries are not included, except where they provide a particular children's program • organisations without significant child membership
in entertainment venues where the clientele is primarily children	<ul style="list-style-type: none"> • public fairs and events intended for children, children's theatres, computer games arcades, vacation care centres, public swimming pools and sports facilities 	<ul style="list-style-type: none"> • zoos, aquariums, theme parks, fun parks, general theatres, circuses and cinemas except within programs they run specifically for children
overnight camps for children	<ul style="list-style-type: none"> • camp-grounds or group accommodation that caters for groups of children staying overnight 	<ul style="list-style-type: none"> • Camp-grounds or accommodation where children m stay, but that do not cater for children's camps • Hotels and motels
religious organisation	<ul style="list-style-type: none"> • formal religious body that is part of a Church or similar organisation 	
providing prescribed children's service	<ul style="list-style-type: none"> • licensees • managers and supervisors • authorised supervisors 	
assessment officers in Well-Being Units of government agencies	<ul style="list-style-type: none"> • NSW government agencies with Well Being units are: • NSW Health • NSW Police, • Department of Education and Training • Department of Human Services 	
principal officers of designated agencies	<ul style="list-style-type: none"> • CEOs of agencies that provide out of home placements 	
principal officers of accredited adoption services	<ul style="list-style-type: none"> • CEOs of adoption agencies accredited under the Adoption Act 2000 	

(2) The position primarily involves contact with children

The position primarily involves contact with children when direct contact with children is an essential requirement of the role. E.g. a builder can do his/her job without contact with children, so this is not child-related work

However, if you are a contractor, a contractor's employee or a self employed person working for an agency that has child related services, you meet this requirement by having regular or extended contact with children at the premises of these agencies.

If your contact with children at these places is fleeting or transient you do not need a Working With Children Check. For example, people delivering goods to schools, or occasionally maintaining grounds or buildings, are not in child-related employment

(3) Direct contact with children

To involve direct contact with children, it must be face to face contact. Contact with children by telephone or online is not direct contact.

(4) Contact with children is not directly supervised

Direct supervision is when a supervisor is on site and observes the worker for the whole time they are with children (except for infrequent and short breaks).

(5) The supervisor has capacity to direct the employee

A person can 'direct' if they have a higher authority or they are delegated to do so. Generally parents or other observers cannot direct an organisation's employees, so cannot be used as "supervisors" for the Check.

Child related employment has certain legal restrictions and other expectations placed on it including undertaking the '**Working With Children Check**' which is a form of employment screening.

As an employer, the Working With Children Check requires that you:

- don't employ prohibited persons in child-related employment;
- do Working With Children background checks where directed by the Guidelines; and
- report relevant employment proceedings.

Most volunteers (except specific classes of volunteers discussed below) are excluded from undergoing a WWCbC. Agencies satisfy the CCYP's Guidelines by having volunteers give a statutory declaration – the Volunteer/Student Declaration (formerly the Prohibited Employment Declaration). The declaration is designed to exclude prohibited persons from volunteering

Working With Children Background Check

You must conduct Working With Children background Checks (WWCbC) for the preferred applicants for "primary" child-related employment. Primary child-related employment is:

What's included	What's excluded
<ul style="list-style-type: none"> • Paid child-related employment 	<ul style="list-style-type: none"> • Existing employees in paid employment (unless they are to start a new position with a different range of child-related contact) • Volunteers ,other than those listed elsewhere in this table.

What's included	What's excluded
<ul style="list-style-type: none"> • Foster carers • Adult household members of foster carers 	<ul style="list-style-type: none"> • Existing carers • Natural parents (restitution) • Adoptions • Adult household members of home stay providers
<ul style="list-style-type: none"> • Licensees and authorised supervisors of child care centres, home based care services, mobile child care services and family day care services 	
<ul style="list-style-type: none"> • Adult household members of home based carers 	
<ul style="list-style-type: none"> • Ministers of religion 	<ul style="list-style-type: none"> • Volunteers in the congregation Members of the congregation
<ul style="list-style-type: none"> • Assessment officers in government Well-Being Units 	
<ul style="list-style-type: none"> • Principal officers of adoption and foster care agencies 	
<ul style="list-style-type: none"> • Students on placement in Community Services 	<ul style="list-style-type: none"> • Students on placement anywhere else
<ul style="list-style-type: none"> • Volunteers working with an agency, who mentor disadvantaged children in a program involving family like relationships (eg Aunties and Uncles, or Big Brother, Big Sister programs) 	<ul style="list-style-type: none"> • Mentoring programs that are not for disadvantaged children • Mentoring programs that are short term and supervised Informal mentoring without an organisation or program • Mentoring that does not foster family-like relationships • Volunteers whose roles do not require mentoring, for example those with general supervisory responsibilities
<ul style="list-style-type: none"> • Volunteers providing personal care for disabled children, involving intimate contact, (for example bathing, dressing or toileting disabled children) • Permanent or temporary disability • Disability services Roles that specifically require personal care 	<ul style="list-style-type: none"> • General services where a disabled child may participate without special support • Support for children with a short term problem like a broken bone • Helping a child in an emergency or one-off situation Work with children who do not have a disability • Roles where personal care is not a core duty

With the 2010 review of the guidelines, the CCYP has also issued revised forms. The table on the following page sets out which forms to use and when, depending on the nature of the recruitment that you are undertaking.

CCYP forms are available to complete on-line at the website:
<https://check.kids.nsw.gov.au/>

Application of 2010 Pre-Employment forms from the CCYP – For Diocesan Personnel

Form Title	What its for	When you should use it
Volunteer/Student Declaration	<p>The volunteer/student declaration replaces the old Prohibited Employment Declaration. The new form requires that the volunteer provides adequate identifying information for their identity to be verified if the CCYP chooses to undertake a background check at some later time.</p> <p>You are also required to sight a valid form of photo ID from the volunteer before you sign off on the declaration. Zimmerman House recommends using a current NSW Driver's Licence (where available).</p>	<p>This form should be filled out by any person who is wanting to undertake volunteer work in parishes or any church related activities involving children, including liturgy, Catholic schools or CatholicCare child related services.</p> <p>NB.: Those volunteers who mentor disadvantaged children in family-like relationships, or provide intimate personal care (eg bathing or toileting) for disabled children must complete the Applicant Declaration And Consent for instead.</p>
Applicant Declaration And Consent	<p>The applicant declaration and consent form replaces the old he Prohibited Employment Declaration and Working With Children Background Check (WWCC) Consent.</p> <p>The form allows the diocese to undertake a working with children check on preferred applicants to child related employment and includes their statutory declarations that they are not prohibited persons</p>	<p>Prior to engagement, the preferred applicant to any child related employment is required to establish their identity (100 Point Check – Points Document), make a statutory declaration that they are not a prohibited person and consent to a working with children check (Applicant Declaration And Consent). You then request a working with children check (Employer Request For Background Check).</p> <p>Child related employment is determined by five tests:</p>
100 Point Check – Points Document	<p>The 100 point check – points document is a quick and easy way of making sure you have collected sufficient proof of identity to fulfil your statutory obligations.</p> <p>Take photocopies of the original ID documents provided by the preferred applicant & attach them to the 100 point check – points document.</p>	<ul style="list-style-type: none"> • Is the nature of the work “employment” by the act? YES – all paid or volunteer activities are defined as work • Is the work in a “child-related” setting? YES – all activities related to religion, schools or welfare services to families/children are ‘child-related’ • Does the applicant work primarily involves contact with children, i.e. the job cannot be done without contact with children • Will the applicant have direct face to face contact with children • Will the applicant have this contact without direct supervision, i.e. under the immediate or direct supervision of another employee who has the authority to direct their work.
Employer Request For Background Check	<p>The employer request for background check replaces the old Working With Children Background Check Request form.</p> <p>The form requests the CCYP to undertake a working with children check on the preferred applicant to child related employment.</p>	

If in doubt as to which process should be undertaken or which forms you should use and you work in:

- CSO/schools – contact CSO Employment Services (Ph. 4979 1230)
- CatholicCare – contact CatholicCare Human Resources (Ph. 4979 1120)
- Parish or Chancery – contact Zimmerman House (Ph. 4940 8091)

The WWCbC considers three types of records:**(1) RELEVANT CRIMINAL RECORDS**

A relevant criminal record is a criminal record of a person with respect to a charge or conviction for:

- any sexual offence (including but not limited to, sexual assault, acts of indecency, child pornography, child prostitution and carnal knowledge);
- any assault, ill-treatment, neglect of, or psychological harm to, a child;
- any registrable offence;
- offences of attempting, or of conspiracy or incitement, to commit any of the above offences;
- and if any offence above was:
 - committed in New South Wales and was punishable by penal servitude or imprisonment for 12 months or more; or
 - committed elsewhere and would have been an offence punishable by penal servitude or imprisonment for 12 months or more if it had been committed in New South Wales.

A relevant criminal record includes all matters irrespective of whether they are otherwise considered spent and all relevant offences committed as a juvenile.

Relevant criminal records include charges which:

- may have not been heard or finalised by a court; or
- are proven but have not led to a conviction; or
- have been dismissed, withdrawn or discharged by a court.

(2) RELEVANT APPREHENDED VIOLENCE ORDERS

An Apprehended Violence Order (other than an interim order):

- made by a court under Part 15A of the *Crimes Act 1900*; or
- an external protection order (within the meaning of Part 15A of the *Crimes Act 1900*) which is registered in NSW;
- made on the application of a police officer or other public official for the protection of a child (or a child and others).

It does not include orders made before 3 July 1995.

(3) RELEVANT EMPLOYMENT PROCEEDINGS

Relevant employment proceeding records are findings by an employer that the following conduct occurred or may have occurred:

- reportable conduct - any sexual offence or sexual misconduct, committed against, with or in the presence of a child, including a child pornography offence;
- any child-related personal violence offence;
- any assault, ill-treatment or neglect of a child;
- any behaviour that causes psychological harm to a child; or
- an act of violence committed by an employee in the course of employment and in the presence of a child.

Additional Screening Requirements for Clergy and Religious

Towards Healing contains the principles and procedures in responding to complaints of abuse against personnel of the Catholic Church in Australia. It is produced by the National Committee for Professional Standards under the auspice of the Australian Catholic Bishops Conference & the Australian Conference of Leaders of Religious Institutes.

Section 45 of *Towards Healing* details preventative strategies that the Church will apply to reduce the risk of future abuse within the Church. Subsections 45.6 and 45.7 detail requirements for screening clerical or religious personnel when they transfer (permanently or temporarily) between one diocese or institution and another:

45.6 Whenever a cleric or religious is to transfer from one diocese or institute to another, or is to carry out a ministry or apostolate in another diocese or institute, the Church authority to which the person is to be transferred shall ask for a written statement from the priest or religious indicating whether there have been any substantiated complaints of abuse against him or her or whether there are known circumstances that could lead to a complaint of abuse. Such statements shall be held as confidential documents by the Church authority.

45.7 In these same circumstances the Church authority in the diocese or institute where the cleric or religious previously lived and worked, shall provide a statement in writing to the new diocese or institute indicating whether such authority knows of any complaints of abuse which have been substantiated or is aware of circumstances that could lead to a complaint of abuse. Where there has been a substantiated complaint, the Church authority shall furnish all information necessary to evaluate the seriousness of the offence, and shall report on all treatment undertaken, and other measures employed to ensure that further offences do not occur. Such statements shall be held as confidential documents by the Church authority.

The Diocese requires that a cleric or religious who is going to be transferred into the diocese or is visiting and wishes to minister in the diocese whilst visiting provide evidence to satisfy the *Towards Healing* requirements.

This evidence is in the form of a testimonial provided by the cleric or religious Bishop or Leader of religious institutes. Equally, where applicable, the Diocese will provide diocesan clerics and religious testimonials to the same effect.

The Diocese seeks evidence on 6 criteria that, to the best of the Bishop or Leader's knowledge, the individual:

1. Is a cleric or religious under the relevant Bishop or Leader's jurisdiction and that they are in good standing
2. Has never been suspended or otherwise canonically disciplined
3. Has no criminal record, nor have criminal charges ever been brought against him;
4. Has manifested no behavioural problems in the past that would indicate that the individual might deal with children, vulnerable adults or others in an inappropriate/immoral manner nor have any allegations ever been made against them with respect to such inappropriate behaviour
5. Has never been involved in anything which called into question their fitness or suitability to fulfil the responsibilities and duties of their ministry due to alcohol, substance abuse or other causes
6. Has no other particular mental health and physical attribute, condition and/or past situation which would adversely affect their performance of ministry.

Prohibited Persons

It is an offence for a prohibited person to work in child-related employment.

A prohibited person is a person who is convicted of the following (whether in NSW or elsewhere):

- serious sex offence;
- child-related personal violence offence;
- murder of a child;
- indecency offences punishable by imprisonment of 12 months or more;
- kidnapping (unless the offender is or has been the child's parent or carer);
- offences connected with child prostitution;
- possession, distribution or publication of child pornography; or
- attempt, conspiracy or incitement to commit the above offences.

A prohibited person includes a Registrable person under the *Child Protection (Offenders Registration) Act 2000*.

A person is convicted if a charge against them is proven in court and recorded as such. It includes a finding that the charge for an offence is proven, or that a person is guilty of an offence, even though the court does not proceed to a conviction.

A person employed in child-related employment before 2 January 2007 who has previously been convicted of a child-related personal violence offence is not a prohibited person in relation to their current position.

7. REPORTABLE CONDUCT

Ombudsman Act 1974 Part 3A

Section 25A: Definitions

Designated non-government agency means any of the following:

- (a) a non-government school within the meaning of the Education Act 1990,
- (b) a designated agency within the meaning of the Children and Young Persons (Care and Protection) Act 1998 (not being a department referred to in paragraph (a) of the definition of designated government agency in this subsection) or a licensed children's service within the meaning of that Act,
- (c) an agency providing substitute residential care for children,
- (d) any other body prescribed by the regulations for the purposes of this definition.

Employee of an agency includes:

- (a) any employee of the agency, whether or not employed in connection with any work or activities of the agency that relates to children, and
- (b) any individual engaged by the agency to provide services to children (including in the capacity of a volunteer).

Head of an agency means the chief executive officer or other principal officer of the agency. The regulations may specify the person who is to be regarded as the head of a particular agency for the purposes of this definition.

The Bishop of Maitland-Newcastle is the Head of Agency for all diocesan instrumentalities (including parishes, Chancery, CatholicCare, Catholic Schools Office and all related Catholic systemic schools) under the Ombudsman Regulation 2005, clause 6.

Reportable allegation means an allegation of reportable conduct against a person or an allegation of misconduct that may involve reportable conduct.

By the act, **reportable conduct** means:

- (1) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence), or
- (2) any assault, ill-treatment or neglect of a child, or
- (3) 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 25CA.

Note Examples of conduct that would not constitute reportable conduct include (without limitation) touching a child in order to attract a child's attention, to guide a child or to comfort a distressed child; a school teacher raising his or her voice in order to attract

attention or to restore order in the classroom; and conduct that is established to be accidental.

Reportable conviction means a conviction (including a finding of guilt without the court proceeding to a conviction), in this State or elsewhere, of an offence involving reportable conduct.

Detailed Definition of Reportable Conduct

SEXUAL OFFENCES

The term 'sexual offence' encompasses all criminal offences involving a sexual element that are **'committed against, with or in the presence of a child'**. Children under 16 years of age are unable to give valid consent, sexual assault refers to sexual intercourse by a person with a child. These offences include (but are not limited to) the following:

- indecent assault
- sexual assault
- aggravated sexual assault
- sexual intercourse and attempted sexual intercourse
- possession/dissemination/production of child pornography
- using children to produce pornography
- procuring children under the age of 16 years for unlawful sexual activity
- deemed non-consensual sexual activity on the basis of special care relationships

Section 73 Crimes Act 1900 defines the particular offence **of sexual intercourse with a child over 16 and under 18 years and under special care**. For those persons providing special care, the age of consent is raised to 18 years. A child is seen to be under special care if the person:

- (a) is the step-parent, guardian or foster parent of the victim, or
- (b) is a school teacher and the victim is a pupil of the offender, or
- (c) has an established personal relationship with the victim in connection with the provision of religious, sporting, musical or other instruction to the victim, or
- (d) is a custodial officer of an institution of which the victim is an inmate, or
- (e) is a health professional and the victim is a patient of the health professional.

Section 66EB Crimes Act 1900, defines the crime of **procuring or grooming children (under 16 years) for unlawful sexual activity**. Grooming is defined as:

- (a) engaging in any conduct that exposes a child to indecent material or provides a child with an intoxicating substance,
- (b) with the intention of making it easier to procure the child for unlawful sexual activity.

SEXUAL MISCONDUCT

Sexual misconduct describes a range of behaviours or a pattern of behaviour that is not criminal in nature but are identifiable as being 'high risk' activity that has a sexual connotation or may be seen as a precursor to committing or attempting to commit a sexual offence. There are two subtypes of sexual misconduct:

(1) **Crossing professional boundaries:**

Involves behaviour that can reasonably be construed as involving an inappropriate and overly personal or intimate relationship with, conduct towards or focus on an individual or group of children

The Ombudsman recommends caution in determining sexual misconduct:

- It is **not** sexual misconduct if an employee, on an isolated occasion, engages in behaviour that involves little more than poor judgement
- It **is** sexual misconduct if an employee engages in persistent less serious breaches of professional conduct in this area, or commits a single serious 'crossing of the boundaries'

(2) **Sexually explicit comments and other sexually overt behaviour:**

Relates to behaviour that involves sexually explicit comments and other sexually overt behaviour, including:

- inappropriate conversations of a sexual nature,
- comments that express a desire to act in a sexual manner,
- unwarranted and inappropriate touching,
- sexual exhibitionism in the presence of a child,
- personal correspondence (including electronic communication) with a child or young person in respect of the adult's sexual feelings for a child or young person,
- exposure of children to sexual behaviour of others including display of pornography, or
- watching children undress, e.g. in change rooms or toilets when supervision is not required or justified.

PHYSICAL ASSAULT

Physical assault refers to the assault and/or non-accidental injury and/or harm to a child by a parent, caregiver or another person responsible for the child or young person. Physical assault is a hostile act towards a child. The assault occurs regardless of the adult's intention to harm and regardless of the child or young person's consent. Assault can include pushing, shoving, throwing objects, hitting, or threatening behaviour (either verbal or actions) that causes the child to fear that an assault is likely to occur.

Physical assault of a child must include all three of the following elements:

- it is an act committed on or towards a child, and
- it involves either the application of force to a child or an act that causes a child to think that immediate force will be used on them, and
- it is either **hostile** or **reckless** (a reckless act is one where a person would reasonably foresee the consequence of or likelihood of inflicting injury or fear, and ignores the risk).

Actual physical harm does not have to occur in order for an assault to have occurred, ie the child does not need to be hurt or injured. Even if the employee did not intend to make contact with the child, it may still constitute an assault if the circumstances indicate the act may have been reckless

(ie being a reasonably foreseeable consequence of their action). Physical contact which is an inevitable or accepted part of everyday life does not amount to an assault.

When deciding whether a reported incident about an employee is a reportable allegation of physical assault, it is important that the employee's alleged behaviour is examined in the context of the behaviour being hostile.

ILL TREATMENT

Ill-treatment of a child occurs where a child is corrected or disciplined in excess of what is reasonable or appropriate for the situation.

Discipline may be considered excessive if it is a disproportionate response to a child's behaviour. Discipline can be considered inappropriate if it is unsuitable for the child for a specific reason such as the child's age, physical ability, developmental level or if the discipline violates community standards. You should consider whether the treatment may affect the long term well-being of the child.

The two principle elements for behaviour to be ill treatment are:

- is it alleged that the employee's punishment of a child was excessive? (That is the alleged punishment was disproportionate to the child's behaviour), and/or
- is it alleged that the employee's punishment of a child was inappropriate? (That is, the punishment was unsuitable for the child because it violated community standards, because of the child's age, physical ability or developmental level, or for another reason).

NEGLECT

Neglect occurs when a child is harmed by the failure to provide basic physical and emotional necessities of life. For example, failure to provide or arrange for adequate and proper food, supervision, nursing, clothing, medical attention or lodging for a child. Generally neglect offences are linked to a person with care responsibilities for a child, such as a foster carer.

Neglect can be ongoing or a single significant incident. However, neglect typically develops as a pattern of behaviour that results in harm to a child over a period of time. For example, accidentally leaving a child locked in a room alone for a short period, and after all standard workplace procedures have been followed, is not considered to be neglect, though it may be inappropriate professional conduct.

Neglect is a failure to take action and by its nature is more difficult to describe or detect than are more visible signs of child abuse. When considering whether a child is being, or has been, neglected, it can be useful to focus on the effect of the situation on the child, that is, whether the situation has affected the physical, emotional or intellectual well-being of the child.

The elements of neglect are:

- were the child's basic physical or emotional needs not met by the employee? and
- did the employee fail to fulfil a duty or obligation arising through statute, common law or policy? and
- did the alleged omission cause or have the potential to cause harm to the child?

PSYCHOLOGICAL HARM

Psychologically harmful behaviour is behaviour that results in significant emotional harm or trauma to a child. There needs to be a causal link between the inappropriate behaviour and the harm. Common types of psychologically harmful behaviour includes

- acts that degrade or belittle a child. (this can be verbal or non-verbal types of behaviour, including harsh criticism, shaming a child for expressing normal emotions or publicly humiliating a child)
- exposing a child to domestic violence
- setting unrealistic expectations with threats of harm or loss if these expectations are not met
- 'isolating' a child by comments/denying the child opportunities to engage in social activities, or unreasonably restricting the child's freedom of movement within the environment
- 'exploiting/corrupting' a child by promoting or exposing the child to self destructive, antisocial, criminal behaviours such as violence or drug use
- persistent failure to care for and support the child, withholding emotional interactions, being detached from the child and interacting only when absolutely necessary.

For a matter to involve reportable conduct of psychological harm, the following must be present:

- a description of persistent and targeted behaviour, eg: scape-goating, humiliation or verbal abuse – although in rare cases the alleged behaviour may be a single incident which is extreme and harmful to a child; and
- signs of harm, eg: displaying patterns of 'out of character behaviour' such as refusal to attend school, sleep disturbances, anxiety, physical symptoms, self harm, and
- an alleged causal link between the behaviour and the harm.

In an employment context, psychological harm is generally characterised by a consistent or repetitive pattern of behaviour by the employee. Isolated incidents generally do not result in significant psychological harm or trauma.

MISCONDUCT THAT MAY INVOLVE REPORTABLE CONDUCT

Misconduct means misbehaviour or wrongdoing. This category involves breaches of an agency's code of conduct that, individually would not be of concern, but when taken collectively may pose significant risk to children.

Allegations of misconduct that may involve reportable conduct need to meet the following criteria:

- does the allegation involve behaviour by the employee that is inappropriate
- or in breach of the agency's code of conduct, policies and procedures? and
- does the allegation relate to a pattern of inappropriate behaviour? and
- does the alleged behaviour pose a significant risk to a child (e.g. grooming behaviour)?

What is Not Reportable Conduct

CONDUCT THAT IS REASONABLE FOR THE PURPOSES OF THE DISCIPLINE, MANAGEMENT OR CARE OF CHILDREN

The Ombudsman Act does not define 'reasonable'. A normative understanding of the term may be used: *'in accordance with reason, not absurd, logical'* (The Australian Oxford Dictionary).

The Diocese's code of conduct will be a cornerstone in defining what is reasonable conduct for any employee.

For behaviour to be excluded from the obligation to notify, the conduct must fulfil the following:

- The conduct must have been ‘reasonable for the purposes of the discipline, management or care of children’.
- Regard must be made to the ‘age, maturity, health or other characteristics of the children’. This requires that all the relevant characteristics of the child who is the subject of the alleged conduct be considered. For example:
 - any forceful physical contact with a child having ‘brittle bone syndrome’ is likely to be unreasonable, and
 - behaviour that may be reasonable if directed at a five year-old child may not be reasonable if directed to a 15-year-old (e.g. cuddling or nurturing a child), even though it is claimed that the conduct had the purpose of caring for the child.
- Regard must be had to ‘*any relevant codes of conduct or professional standards*’. This requirement highlights the importance of agencies having policies and procedures in place that outline what is acceptable and professional conduct, especially regarding disciplining children.

ALLEGATIONS OF PHYSICAL FORCE WHICH, IN ALL CIRCUMSTANCES, ARE TRIVIAL OR NEGLIGIBLE

The terms ‘trivial’ and ‘negligible’ are to be afforded their common, everyday meaning.

Trivial: of very little importance or value; insignificant; commonplace; ordinary

Negligible: so small, trifling, or unimportant that it may safely be neglected or disregarded

The Act states that such allegations are only excused from notification if they are to be investigated and recorded by the Diocese according to workplace employment procedures. This requires the Diocese to conduct an internal investigation into the allegation. The outcomes of this investigation are auditable by the NSW Ombudsman.

CONDUCT OF A CLASS OR KIND THAT IS EXEMPTED FROM BEING REPORTABLE CONDUCT

The Ombudsman has the authority to exempt certain classes or kinds of conduct from the full notification requirement of the Ombudsman Act under s.25CA:

- 1) *The Ombudsman may exempt any class or kind of conduct of employees of an agency from being reportable conduct.*
- 2) *The Ombudsman is to notify the agency concerned of any such exemption.*

In 2010 the Ombudsman and Bishop Michael signed off a revised ‘Class or Kind’ agreement, covering both the Catholic systemic schools managed by the Catholic Schools Office and CatholicCare. From October 2010 the following reportable conduct was exempt from being reported to the Ombudsman:

*No allegation of a **psychical assault**, or a threat of a psychical assault, need be reported to the Ombudsman as a reportable allegation, unless it is alleged that:*

- a) *there was contact with any body part or area of a child that was clearly hostile and forceful, or reckless, and which had the potential to, or resulted in significant harm or injury to the child; or*
- b) *a child believed that the threat would result in significant harm or injury to them.*

*No allegation of **neglect** need to be reported to the Ombudsman as a reportable allegation, unless it is alleged that:*

- a) *the neglect resulted in sexual or significant physical harm to a child or a real and appreciable risk of such harm to a child; or*

b) *a child suffered psychological harm as a result of the neglect.*

No allegation of **ill treatment** need to be reported to the Ombudsman as a reportable allegation, unless it is alleged that:

- a) *The ill treatment resulted in significant physical harm to a child or a real and appreciable risk of such harm to a child; or*
- b) *A child suffered psychological harm as a result of the ill treatment.*

Under the terms of the agreement, the Diocese is obliged to:

- investigate the allegation, including undertaking a risk assessment and making a finding as a result of that investigation,
- take appropriate action as a result of that investigation,
- keep adequate records of the investigation and the reasons for taking or not taking any action as a result of the investigation,
- keep adequate records of those matters covered by this Determination and store these records in a place accessible to the Ombudsman for auditing purposes under section s25B of the Act, and
- provide to the Ombudsman, every six months, the total number and category breakdown of allegations exempted from notification to the Ombudsman under the provisions of this determination.

Should any employee be the subject of a reportable matter in the future and they were the subject of an exempt matter (under the Class and Kind agreement), the Diocese is required to submit all records of the exempt matter with the current notification to the Ombudsman.

DIOCESAN RESPONSIBILITY TO INVESTIGATE AND KEEP RECORDS FOR AUDIT

The Head of Agency has a responsibility to undertake a standard of investigation appropriate for the seriousness of the allegation(s) made. In other words, the Diocese will still undertake an investigation, applying the same investigative principles as those matters that are reported to the NSW Ombudsman.

There is also a requirement for the maintenance of adequate records of any such investigation and having them available to the NSW Ombudsman to audit, as requested by the Ombudsman.

Section 25B: Ombudsman to keep relevant systems under scrutiny

(1) *The Ombudsman is to keep under scrutiny the systems:*

- (f) *for preventing reportable conduct by employees of designated government or non-government agencies or of other public authorities, and*
- (g) *for handling and responding to reportable allegations, or reportable convictions, involving those employees.*

(2) *For that purpose, the Ombudsman may require the head of any such agency to provide information about those systems and their operation*

The last Ombudsman Audit of the Diocese's 'Exempt' matters was held on 8 December 2010, which produced a positive outcome. The interim report found that *"the Diocese has sound systems in place for managing those allegations against employees which are exempt from notification to the Ombudsman."*

Reporting Obligations

Ombudsman Act 1974 Part 3A

Section 25C: Reporting of reportable allegations or convictions to Ombudsman

- (1) *The head of a designated government or non-government agency must notify the Ombudsman of the following:*
 - (a) *any reportable allegation, or reportable conviction, against an employee of the agency of which the head of the agency becomes aware,*
 - (b) *whether or not the agency proposes to take any disciplinary or other action in relation to the employee and the reasons why it intends to take or not to take any such action,*
 - (c) *any written submissions made to the head of the agency concerning any such allegation or conviction that the employee concerned wished to have considered in determining what (if any) disciplinary or other action should be taken in relation to the employee.*
- (2) *The notification must be made as soon as practicable and, in the case of the notification of a reportable allegation or reportable conviction, must be made, in any event, within 30 days of the head of the agency becoming aware of the allegation or conviction (or within such further period as may be agreed to by the Ombudsman).*
- (3) *The head of the agency must make arrangements within the agency to require employees of the agency to notify the head of the agency of any such reportable allegation or conviction of which they become aware.*

Ombudsman Act 1974 Part 3A

Section 25F: Results of investigation and action taken to be reported to Ombudsman

- (2) *This section applies to an investigation concerning a reportable allegation, or reportable conviction, against an employee of a designated government or non-government agency that the Ombudsman monitors under this Part.*
- (3) *The head of the agency must, as soon as practicable after being satisfied that the investigation has been concluded:*
 - (a) *send to the Ombudsman a copy of any report prepared by or provided to the head of the agency as to the progress or results of the investigation, and copies of all statements taken in the course of the investigation and of all other documents on which the report is based, and*
 - (b) *provide the Ombudsman with such comments on the report and statements as the head of the agency thinks fit, and*
 - (c) *inform the Ombudsman of the action that has been taken or is proposed to be taken with respect to the reportable allegation or conviction the subject of the investigation.*
- (4) *After receiving that material and information, the Ombudsman may require the head of the agency or any officer involved in the investigation, or both of them, to provide such additional information as the Ombudsman considers necessary to enable the Ombudsman to determine whether the reportable allegation or conviction was properly investigated and whether appropriate action was taken as a result of the investigation.*
- (5) *In subsection (3), appropriate action includes (without limitation) any penalty for the making of a reportable allegation that is shown to be false and malicious.*

Protections for Reporting

Ombudsman Act 1974 Part 3A

Section 25D: Disclosure to Ombudsman of information about reportable conduct

- (1) *The head or other employee of a designated government or non-government agency may disclose to the Ombudsman or an officer of the Ombudsman, any information that gives the head or other employee reason to believe that reportable conduct by an employee of the agency has occurred.*

Ombudsman Act 1974 Part 3A

Section 25H: Protection and other provisions relating to disclosures of information

- (1) *A provision of any Act or law that prohibits or restricts the disclosure of information does not operate to prevent or restrict the disclosure of information (or affect a duty to disclose information) under this Part.*
- (2) *If a disclosure of information is made under this Part, no liability for defamation or other civil liability is incurred because of the disclosure.*
- (3) *Nothing in this Part affects any obligation or power to provide information apart from this Part.*

Ombudsman's Powers of Monitoring or Investigation

Ombudsman Act 1974 Part 3A

Section 25E: Monitoring by Ombudsman of investigations

- (1) *The Ombudsman may monitor the progress of the investigation by a designated government or non-government agency concerning a reportable allegation, or reportable conviction, against an employee of the agency if the Ombudsman considers it is in the public interest to do so.*
- (2) *The Ombudsman or an officer of the Ombudsman may be present as an observer during interviews conducted by or on behalf of the agency for the purpose of the investigation and may confer with the persons conducting the investigation about the conduct and progress of the investigation.*
- (3) *The head of the agency is to provide the Ombudsman with such documentary and other information (including records of interviews) as the Ombudsman may from time to time request with respect to the investigation.*

Ombudsman Act 1974 Part 3A

Section 25G: Investigation of reportable conduct by Ombudsman

- (1) *The Ombudsman may conduct an investigation concerning any reportable allegation, or reportable conviction, against an employee of a designated government or non-government agency of which the Ombudsman has been notified under this Part or otherwise becomes aware.*
- (2) *The Ombudsman may also conduct an investigation concerning any inappropriate handling of or response to any such reportable allegation or reportable conviction, whether on the Ombudsman's own initiative or in response to a complaint.*

- (3) *The Ombudsman may exercise any conciliation or other relevant powers under this Act in connection with an investigation by the Ombudsman.*
- (4) *The head of the agency is to defer an investigation into the matter if the Ombudsman notifies the head that the Ombudsman intends to investigate the matter under this Act and that the investigation by the agency should be deferred.*
- (5) *At the conclusion of an investigation by the Ombudsman, or on a decision by the Ombudsman to refer the matter back to the agency, the Ombudsman is to provide the agency with any recommendations for action to be taken with respect to the matter, together with any necessary information relating to the recommendations.*

Ombudsman Act 1974 Part 3

Section 13: Decision for investigation

Section 5, has a definition of a *Public authority* that includes subsections (f) and (h) that allows for the inclusion of community agencies that act on behalf of or receive funds from public authorities (e.g. out-of-home care agencies).

- (1) *Where it appears to the Ombudsman that any conduct of a public authority about which a complaint may be made under section 12 may be conduct referred to in section 26, the Ombudsman may, whether or not any person has complained to the Ombudsman about the conduct, make the conduct the subject of an investigation under this Act.*
- (2) *Subsection (1) has effect notwithstanding anything in any Act passed before the passing of this Act.*
- (3) *The Ombudsman may discontinue an investigation under this Act.*
- (4) *Where any person has complained to the Ombudsman under section 12 about the conduct of a public authority, the Ombudsman, in deciding whether to make that conduct the subject of an investigation under this Act or whether to discontinue an investigation commenced by him or her under this Act:*
 - (a) *may have regard to such matters as he or she thinks fit, and*
 - (b) *without limiting paragraph (a), may have regard to whether, in his or her opinion:*
 - (i) *the complaint is frivolous, vexatious or not in good faith,*
 - (ii) *the subject-matter of the complaint is trivial,*
 - (iii) *the subject-matter of the complaint relates to the discharge by a public authority of a function which is substantially a trading or commercial function,*
 - (iv) *the conduct complained of occurred at too remote a time to justify investigation,*
 - (v) *in relation to the conduct complained of there is or was available to the complainant an alternative and satisfactory means of redress, or*
 - (vi) *the complainant has no interest or an insufficient interest in the conduct complained of.*

Ombudsman Act 1974 Part 3

Section 13AA: Preliminary inquiries

- (1) *The Ombudsman may make preliminary inquiries for the purpose of deciding whether to make particular conduct of a public authority the subject of an investigation under this Act.*
- (2) *The inquiries may be made whether or not any person has complained to the Ombudsman about the conduct under section 12.*

- (3) *If a complaint has been made under section 12 (whether in writing or otherwise), the Ombudsman may, by way of a preliminary inquiry with respect to the complaint, require the complainant to provide further written particulars of the complaint within the time specified by the Ombudsman.*

8. RELEVANT CHURCH PRINCIPLES, PROCEDURES & STANDARDS

The Australian Catholic Bishops Conference and the Australian Conference of Leaders of Religious Institutes established the National Committee for Professional Standards to oversee the development of policy, principles and procedures in responding to Church-related abuse complaints.

The National Committee have produced two key documents that guide Church bodies in managing issues of child protection:

- ***Towards Healing***, and
- ***Integrity in Ministry***

Both documents have a number of identical principles, including recognising the pre-eminence of state and federal laws:

In the case of an alleged criminal offence, if the complainant does not want to take the matter to the police, all Church personnel should nonetheless pass details of the complaint to the Director of Professional Standards, who should provide information to the Police other than giving those details that could lead to the identification of the complainant.

(Towards Healing: section 37.4 p.18)

Church personnel who are required by law to report suspected child abuse shall conscientiously comply with their obligations. State or Territory law regarding the reporting of knowledge of a criminal offence must also be observed. The appropriate Church Authority shall also be notified of any such report.

(Towards Healing: section 37.5 p.18)

However, the Committee reminds those to whom Integrity in Ministry applies of their serious obligation to comply with legislation relating to such matters as Privacy, Discrimination, Harassment and the Protection of Children. It is incumbent on clergy and religious to familiarize themselves with the relevant legislation and to abide by such legislation.

(Integrity in Ministry, Preamble p.7)

It is essential that clergy and religious abide by the requirements of mandatory reporting and other relevant civil legislation. They also take care to ensure that the proper processes of law are not interfered with, nor hindered. Notwithstanding the civil law requirements, clergy and religious are required to alert Church authorities in accordance with section 5.3.

(Integrity in Ministry, section 5.3 p.14)

Further, both documents were written with reference to, and are based on canon law:

Consideration of the requirements of Canon Law was also part of the revision, so that decisions made through Towards Healing could be securely implemented.

(Towards Healing, Introduction, p.1)

The provisions of Integrity in Ministry go beyond the provisions of the Code of Canon Law and yet they are based on the Code.

In short, Integrity in Ministry is not in itself canon law and it does not take the place of canon law. At the same time, it will be of assistance in implementing, interpreting and applying canon law. It will do this in cases of perceived misconduct, but its more important role will be to help clerics and religious fulfil their roles in the Church and to know that they are fulfilling their roles.

(Integrity in Ministry, Appendix 1, p.21)

Towards Healing

In December 1996 the original version of *Towards Healing* was published and versions in 2000 and 2007, the current version was released in January 2010. In the introduction, it states:

As bishops and leaders of religious institutes of the Catholic Church in Australia, we acknowledge with deep sadness and regret that a number of clergy and religious and other church personnel have abused children, adolescents and adults who have been in their pastoral care. To these victims we again offer our sincere apology.

*Like the earlier documents, this revised document restates public criteria according to which the community may judge the resolve of Church leaders to address issues of abuse within the Church. **If we do not follow the principles and procedures of this document, we will have failed according to our own criteria.***

(Introduction, p.1)

In *Towards Healing* the Catholic Church in Australia (excluding Melbourne Arch Diocese) commits itself to achieving seven key goals:

1. truth,
2. humility,
3. healing for the victims,
4. assistance to other persons affected,
5. a just response to those who are accused,
6. an effective response to those who are guilty of abuse, and
7. prevention of abuse

Towards Healing consists of three parts:

- Definitions
- Principles for Dealing with Complaints of Abuse
- Procedures for Dealing with Complaints of Abuse

THE FUNCTIONS OF TOWARDS HEALING

Towards Healing is a means for the Church to respond to allegations of abuse (referred to as complaints in *Towards Healing*). As a general rule, it is designed to deal with historic matters where the alleged victim is now an adult.

Often in these circumstances, the alleged victim is not prepared to go to the Police with the allegation or perhaps the accused is deceased, so the Police are unable to launch an investigation.

Towards Healing provides a standardised methodology for conducting investigations into these complaints and making a determination on the balance of probabilities, whether the complaint is deemed 'true'.

In each state, there is a Director of Professional Standards who, in consultation with the local diocese or relevant religious institute, engages or ensures that an independent assessor is engaged to conduct the investigation. The Director usually reviews the assessor's report, findings

and recommendations and these findings are provided to the relevant Bishop or Leader of the religious institute responsible for the accused.

The expectations in Towards Healing for the Church to make amends for harm caused does not require completion of a Towards Healing investigation/assessment process:

In the event that the Church Authority is satisfied of the truth of the complaint, whether through admission of the offender, a finding of a court, a penal process under canon law, an assessment under these procedures or otherwise, the Church Authority shall respond to the needs of the victim in such ways as are demanded by justice and compassion. Responses may include the provision of an apology on behalf of the Church, the provision of counselling services or the payment of counselling costs.

Financial assistance or reparation may also be paid to victims of a criminal offence or civil wrong...

(Outcomes Relating to the Victim, ss.41.1 & 41.1.1, p.24)

Towards Healing expects that an agreed settlement will be achieved between victim and Church through facilitation, involving an independent third party facilitator. The victim may also be given the opportunity to be assessed psychologically or psychiatrically, to quantify what the impact of the abuse may have been to the victim. If a Deed of Release is part of the settlement process, the Church will ensure that the victim will obtain independent legal advice, prior to signing any deed of release. The Church will meet all costs related to the investigation and settlement phases of Towards Healing.

Towards Healing is clear that persons who are accused are afforded natural justice:

All persons are presumed innocent unless and until guilt is either admitted or determined in accordance with the requirements of the law governing their position. Proper consideration should be given to the importance of confidentiality in the handling of the complaint, particularly prior to the conclusion of an assessment. If Church personnel accused of abuse are asked to step aside from the office they hold while the matter is pending, it is to be clearly understood that they are on leave and that no admissions or guilt are implied by this fact. Every effort should be made to conclude inquiries as quickly as possible in relation to a person who has been asked to step aside from a position. Unless and until guilt has been admitted or proved, those accused should not be referred to as offenders or in any way treated as offenders

(A Response to Those Accused, s.26, p.10)

THE MEANING OF ABUSE IN TOWARDS HEALING

Towards Healing provides a brief definition of abuse:

- *Sexual assault, sexual harassment or any other conduct of a sexual nature that is inconsistent with the integrity of the relationship between Church personnel and those who are in their pastoral care.*
- *Intentional acts by a person with responsibility for a child or young person causing significant physical injury, or other behaviour which causes serious physical pain or mental anguish without any legitimate disciplinary purpose as judged by the standards of the time when the behaviour occurred.*

(Definitions, p.3)

However, the Principles give a more detailed, contextualised discussion as to the nature of abuse:

Sexual Abuse

1. *Clergy and religious are in a special position of trust and authority in relation to those who are in their pastoral care, for example, those in their parish, people seeking advice, or students at a Catholic school. Any attempt to sexualise a pastoral relationship is a breach of trust, an abuse of authority and professional misconduct. Such sexualisation may take the form not only of sexual relations, but also harassment, molestation, and any other conduct of a sexual nature which is inconsistent with the integrity of a pastoral relationship. Compliance by the other person does not necessarily imply meaningful consent. Even when the other person concerned is the one who seeks to sexualise the relationship, it is the professional responsibility of clergy or religious to guard the boundary against sexual contact.*
2. *Other people who are employed by an official agency of the Catholic Church or appointed to voluntary positions may also be in a pastoral role. This includes, for example, pastoral workers in parishes, teachers in Catholic schools, counsellors in Catholic welfare organisations, health care professionals, youth workers, staff in child care centres, and volunteers conducting religious education classes in schools or parishes. Any attempt to sexualise a pastoral relationship is professional misconduct.*
3. *Any form of sexual behaviour with a child or young person, is always sexual abuse. It is both immoral and criminal.*
4. *Sexual abuse by clergy, religious, or other Church personnel of adults in their pastoral care may be subject to provisions of civil or criminal law. Even when there are no grounds for legal action, we recognise that serious harm can be caused, including damage to a person's faith and trust in God.*

Physical and Emotional Abuse

5. *Physical and emotional cruelty also constitute an abuse of power. Where a cleric, religious or another person appointed to a position of pastoral care by an agency of the Church has acted towards a child or young person in a way which causes serious physical pain or mental anguish without any legitimate disciplinary purpose, as judged by the standards of the time when the incidents occurred, then this constitutes abuse.*

(Part One: Principles for Dealing with Complaints of Abuse, p.7)

THE SCOPE OF TOWARDS HEALING

Towards Healing is written for the '**Church body**', which is defined as:

...a diocese, religious institute and any other juridical person, body corporate, organisation or association, including autonomous lay organisation, that exercises pastoral ministry within, or on behalf of, the Catholic Church.

(Definitions, p.3)

Clearly, Towards Healing is written with Clergy and Religious particularly in mind; nevertheless, it is a document that is intended to be globally applicable for **all Church personnel** which includes:

...any cleric, member of a religious institute or other persons who are employed by the Church body, or appointed by a Church body to voluntary positions in which they work with children or young people, or engage in other forms of pastoral care.

(Definitions, p.3)

Both school and out of home care settings are specifically referred to when discussing 'inappropriate care practices' which is defined as:

allegations of harsh or inappropriate disciplinary practices, bullying and deficiencies in providing care such as in the provision of food, clothing or medical attention, as judged by the standards of the time.

(Definitions, p.4)

Integrity in Ministry

Integrity in Ministry is the Code of Conduct for "deacons, priests and religious throughout the Catholic Church in Australia."

Integrity in Ministry identifies the role of a code of conduct in the following terms "a set of behavioural standards to ensure that professionals themselves preserve their own dignity and respect the human dignity of all to whom they relate in the exercise of their profession"

Integrity in Ministry's objectives are:

- to offer a theology of Church as the context for shaping and measuring behavioural standards for religious and clergy;
- to encourage clergy and religious in their vocation as witnesses and ministers of the reign of God through lives of respect, service, integrity and selfless love;
- to support clergy and religious in their efforts to care for themselves and one another;
- to support religious and clergy in their efforts to be visibly accountable as witnesses and ministers of the Church's mission;
- to support clergy and religious in their concern to protect children and adults from all abuses of power, including sexual abuse and harassment;
- to support the Church in responding to instances of sexual abuse and professional misconduct, in the best interests of those who have been harmed, the wider community, and the offender.

Integrity in Ministry has 8 chapters:

1. A Communion of Love
In their lives and ministries clergy and religious witness God's love for every human person by sensitivity, reverence and respect in their relationships.
2. At the Service of Communion
Jesus served God's plan by serving the men and women of his time. He came 'as one who serves...Religious and clergy witness to that spirit of service by their way of life and by their pastoral conduct
3. Ministers of Communion: A Life of Commitment
Following in Jesus' footsteps, religious and clergy promise their lives to the service of God's plan...a vocation and a way of life that continually invites openness, growth, humble reverence and ongoing commitment
4. Ministers of Communion: Developing and Maintaining Competence
In addition to love and faith, many of these situations call for the pastoral application of professional skills...religious and clergy develop and maintain the skills their particular ministry or way of life requires...also means that ministers recognise the limitations of their skills...

5. Ministers of Communion: Commitment to Justice
Clergy and religious serve as witnesses and agents of God's justice by living and ministering justly in all things
6. Ministers of Communion: Integrity in Administration
Religious and clergy who have responsibility for property and finance recognise that they are stewards, not owners of those goods. In the spirit of the first disciples they administer their responsibilities with justice and integrity
7. Ministers of Communion: Responsibility for Personal Well-Being
Each recognises in themselves and in each other the 'image of God' and a 'temple of the Spirit.' Because of this we are moved to care for ourselves and one another, recognising that our physical, emotional and spiritual health are gifts from God
8. When Communion is Broken
...the Church will seek to restore communion as quickly and fully as possible. That responsibility lies with the whole community, and in a particular way with the bishops and religious leaders of the Church. Their first concern is for the healing and care of those who have been hurt by the Church's ministers. Their next concerns are for justice and the healing of the community of the Church, its relations with the wider human community, and for the healing and well-being of those who have caused damage by their behaviour.

This will always mean full cooperation with civil authorities and processes in the cases where that is required, and will sometime mean that a cleric or religious is relieved of pastoral duties and responsibilities, depending on the nature of the harm that has been done...

STANDARDS RELATING TO CHILD PROTECTION

There are elements relevant to child protection throughout Integrity in Ministry. A clear code of conduct that is supportive of safe practices and clear boundary setting is one of the fundamental protective strategies in abuse prevention thinking.

A Communion of Love (Chapter 1) contains two specific standards and related behaviours when ministering to children or young people that address issues of child protection:

1.4 Pastoral love requires that clergy and religious respect the physical and emotional boundaries appropriate to relationships with adults and minors.

Among the behavioural standards that follow from this principle are:

- *exercising sensitivity with regard to the physical and emotional space others require in pastoral encounters;*
- *exercising a prudent judgment, that has the well-being of the other as its goal, in initiating and responding to physical contact, such as giving a comforting hug or an affirming touch;*
- *providing pastoral ministry only in places that offer a sufficiently safe environment where there is openness and visibility;*
- *exercising prudent judgment in the expression of affection and regard, and in the giving of gifts.*

To safeguard integrity, and to preserve clarity of sexual and professional boundaries with regard to this principle, it is essential that clergy and religious:

- *do not provide pastoral ministry in the sleeping quarters/bedrooms of one's community house or of the presbytery/parish house.*

1.5 Religious and clergy witness to God's care for the most vulnerable by their concern for the dignity and safety of children and youth

Among the behavioural standards that follow from this principle are:

- *avoiding any form of over-familiarity or inappropriate language;*
- *ensuring whenever reasonably possible that another adult is present or close by when providing pastoral ministry to a minor;*
- *avoiding, whenever reasonably possible, being alone with a minor or group of minors in sleeping, dressing or bathing areas, making sure to exercise prudent judgment and behaviour when another adult cannot be present;*
- *familiarising oneself with the causes and signs of child abuse or neglect, the steps to be taken for the protection of children, and the procedures to follow if abuse or neglect is suspected or observed;*
- *familiarising oneself with the procedures outlined in the document Towards Healing*

To safeguard integrity, and to preserve clarity of sexual and professional boundaries, it is essential that clergy and religious in the exercise of their ministry:

- *behave with due prudence, not staying overnight in the same room as a minor or vulnerable person unless it is impossible to avoid. In that circumstance every provision needs to be made to provide a safe environment, e.g. the permission of a parent or guardian, and appropriate openness and visibility;*
- *never administer corporal punishment;*
- *use electronic and print media responsibly;*
- *do not supply or serve alcohol or any controlled substance to a minor without the express permission of a parent or guardian.*

(Chapter 1, pp.3-4)

9. MAKING THE DECISION TO REPORT CHILD PROTECTION CONCERNS

All employed staff, contractors and volunteer who work in parishes, CatholicCare, Catholic Schools Office and Catholic systemic schools, the Chancery and any other group or programme that is associated with the Diocese of Maitland-Newcastle is required to abide by the **Reporting Child Protection Concerns Policy (2010)** which is included in this information book (refer Chapter 10).

Determining That You Should Make a Report

The Children and Young Persons (Care and Protection) Act 1998 requires that a reporter has:

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

For all Diocesan staff and management, you are encouraged to ring Zimmerman House if you are in doubt whether something should be reported to Community Services, or you wish to discuss a situation, or obtain advice.

To contact Zimmerman House

Office Hour Phone:		4940 8091
24 Hour Call Line		1800 234 050
Facsimile:		4940 8087
E-Mail		child.protection@mn.catholic.org.au

WHAT DOES 'REASONABLE GROUNDS' MEAN?

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

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

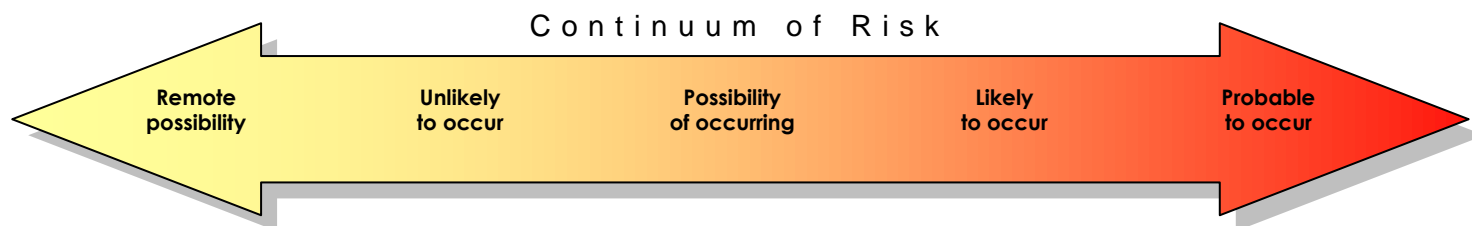
It does not mean that reporters are required to confirm their suspicions or provide incontrovertible proof before making a report to Community Services. A useful rule of thumb is to consider whether another person, when faced with similar information, would also draw the same conclusion.

WHAT DOES 'RISK' MEAN, WHAT DOES 'SIGNIFICANT HARM' MEAN?

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

- what constitutes risk
- what constitutes harm.

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



The NSW Government has accepted Community Services' policy definition of "significant harm":

What is meant by 'significant' in the phrase 'to a significant extent' is that which is sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent.

What is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare or well being.

In the case of an unborn child, what is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child after the child's birth.

Significance can result from a single act or omission or an accumulation of these.

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

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

Consider also factors that may heighten risk of significant harm. These are not grounds for current concerns in themselves, but may be relevant when thinking about the level of risk and the degree of harm:

- Access to financial and other resources
- Social isolation
- Presence of disability
- Absence of educational opportunity

WHAT DOES 'CURRENT CONCERNS' MEAN?

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

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

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

Making a Report to Community Services**ONLINE MANDATORY REPORTER GUIDE**

In conjunction with a US research company (Children's Research Centre), the Department has developed a comprehensive set of criteria that 'feed into' a structured decision making tool that supports both mandatory and other reporters in making a determination as to whether the concerns held constitute risk of significant harm.

The NSW Online Mandatory Reporter Guide is available at:
<http://sdm.community.nsw.gov.au/mrq/app/summary.page>




The Diocesan strongly recommends that any employee, who believes that they should be making a report to Community Services, should use the Mandatory Reporter's Guide and obtain a print out of the outcome.

HELPLINE

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

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

To Make a risk of significant harm Report to the Helpline you may:

General public Phone Number:		132 111
Mandatory Reporter Phone Number:		13 3627 (13 DoCS)
Fax for Mandatory Reporters:		9633 7666

Information Required to Make a Report to Community Services Helpline

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

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

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

DEMOGRAPHIC INFORMATION	
<i>Child's Information</i>	<i>Family's Information</i>
<ul style="list-style-type: none"> • Name of child or young person (or alias) or other means of identifying them • Age and date of birth (or approximation) • If child is Indigenous – Aboriginal, Torres Strait Islander or both • Language, religion and other cultural factors • Name, age of other household children or young people • Address of child and family • School or child care details (if known) • If child has a disability – nature/type, severity, impact on functioning 	<ul style="list-style-type: none"> • Name, age of parents and household adults • Home and/or mobile phone number • Language, religion and other cultural factors • Information about parental risk factors and how they link to child's risk of significant harm <ul style="list-style-type: none"> ○ domestic violence ○ alcohol or other drug misuse ○ unmanaged mental illness ○ intellectual or other disability • Protective factors and family strengths • Non-offending carers' capacity to protect child • Any previous suspicious death of a child or young person in the household
<i>Reporter's Details</i>	<i>Other Information</i>
<ul style="list-style-type: none"> • Name, agency address, phone and email details • Position • Reason for reporting today • Nature of contact with child or family • Nature of ongoing role with child or family (include frequency, duration and type) • If report is being made by someone else in the agency, name of the agency worker who sourced the report 	<ul style="list-style-type: none"> • Services involved with child/family if known • Principal language of family and whether an interpreter or signing is required • If parent knows of report and their response • If child or young person knows about the report and their views • Information related to worker safety issues (if known)

RISK OF SIGNIFICANT HARM ISSUES	
<i>Neglect</i>	<i>Psychological Harm</i>
<ul style="list-style-type: none"> • Description of neglect – who, what, when: <ul style="list-style-type: none"> ○ inadequate provision of food/shelter ○ inappropriate clothing or hygiene ○ inadequate supervision ○ failure to provide medical treatment ○ emotional needs unmet • Implications/impact of neglect on child 	<ul style="list-style-type: none"> • Description of harmful parenting practices and frequency (e.g. rejection, criticism, scape-goating, isolating, ignoring, blaming) • The impact on the child's behaviour • Description of exposure to domestic violence, its nature and frequency • Reason to suspect risk of serious psychological harm
<i>Physical Abuse</i>	<i>Sexual Abuse</i>
<ul style="list-style-type: none"> • Description of injury – who, what, when: <ul style="list-style-type: none"> ○ site, size and colour of injury ○ who allegedly caused injury (if known) and how ○ medical treatment – what, when, who • Suspicions regarding future risk of significant harm • Did child/parents disclose/ – What did they say? 	<ul style="list-style-type: none"> • Description of harm incident or risk of significant harm, including what occurred and when • Did child disclose? – What was said (use direct quotes of child), to whom, when? • Description of behaviours • Who/where is the alleged perpetrator (if known)? • Response of the non-offending parent

Diocese of Maitland-Newcastle
Reporting Child Protection Concerns Policy



Effective date	21 October 2010
Applies to	All Members of the Diocese of Maitland-Newcastle

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Approved by: Bishop Michael Malone & the Combined Diocesan Executive

Date: 21 October 2010

Review Date: October 2011

Version 1.0 – The version of this document held on the Intranet supersedes all printed copies

Aim

This policy sets out the expectations and methodology for all 'members' of the Diocese of Maitland-Newcastle (the Diocese), to report child protection concerns.

Rationale

The Catholic Church in Australia has made an unambiguous commitment to promoting the protection of children. NSW legislation and Church regulations set out a range of personal, professional and organizational requirements for the promotion of child protection, reporting concerns and conducting investigations. The Diocese of Maitland-Newcastle has a legal and moral obligation to promote the protection of children from abuse or neglect.

One of the cornerstones of protecting children is to report concerns relating to their safety, welfare or well being. There is a complex interrelationship in NSW between child protection concerns and matters that may require reporting to and investigation by internal Diocesan resources or external authorities, including the NSW Police Force, Department of Human Services (previously DoCS) and the NSW Ombudsman.

Zimmerman House is a child protection unit established by the Bishop to act as a specialist resource for the Diocese. Zimmerman House will assist Diocesan members in meeting their reporting obligations and ensure that there is an appropriate record kept of any concerns raised.

Application

This policy applies to the following:

- | | |
|-------------------------------------------------------------|----------------------------------------------|
| <input checked="" type="checkbox"/> Catholic Schools Office | <input checked="" type="checkbox"/> Parishes |
| <input checked="" type="checkbox"/> CatholicCare | <input checked="" type="checkbox"/> Chancery |

This policy applies to the following members of the Diocese:

- | | |
|----------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Clergy and Religious | <input checked="" type="checkbox"/> Visitors |
| <input checked="" type="checkbox"/> Contractors (<i>including consultants under contract to the Diocese</i>) | <input checked="" type="checkbox"/> Volunteers (<i>including authorised carers</i>) |
| <input checked="" type="checkbox"/> Students and trainees | <input checked="" type="checkbox"/> Wage and salaried employees |
-

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Definitions

Child refers to persons under the age of 18 years.

Under the Children and Young Persons (Care and Protection) Act 1998, there is a differentiation between children (0-15 yrs) and young people (16-17 yrs). However, the Crimes Act 1900, the Ombudsman Act 1974 and the Commission for Children and Young People Act 1998 all define children as any persons under 18 years.

Child protection concern is a term used to capture a wide range of possible concerns held by members of the Diocese for the safety, welfare and well being of children. Child protection concerns include those matters:

- that would constitute risks of significant harm; or
- that do not meet the threshold for significant harm but where a Diocesan member has anxiety, concern or fears for one or more children ; or
- that may constitute reportable conduct under the NSW Ombudsman's Act 1974.

The **Diocese of Maitland-Newcastle** is inclusive of all parishes, services, programmes and agencies that are under the authority of the Bishop of Maitland-Newcastle. The Bishop takes his authority from Canon Law (cannons 375-402) and his status as 'head of agency' from clause 6 of the Ombudsman Regulation 2005.

The Diocese is not wholly geographic in nature. There are elements of the Catholic Church operating within the geographical boundaries of the Diocese that do not fall under the authority of the Bishop, do not have him as 'head of agency' and are not a part of the Diocese of Maitland-Newcastle.

An **Entity** refers to the principle internal administrative structures within the Diocese of Maitland-Newcastle, which consist of:

- Catholic Schools Office for the Diocese of Maitland-Newcastle includes the Catholic systemic schools that are answerable to the Director of Schools or delegates.
- CatholicCare and all directorates, programmes and service outlets that are answerable to the Chief Executive Officer of CatholicCare Hunter-Manning or delegates.
- The Chancery and all departments answerable to the Bishop of Maitland-Newcastle or delegates.

Each parish is a unique entity, as articulated in Canon 515(3).

A **Mandatory Reporter** is:

- 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

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- 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.

A **Member of the Diocese** means any person engaged with the Diocese of Maitland-Newcastle, under the broad meaning of employment as defined by the Commission for Children and Young People Act 1998. This includes:

- performance of work under a contract of employment; or
- performance of work as a self-employed person or as a subcontractor; or
- performance of work as a volunteer for an organisation; or
- undertaking practical training as part of an educational or vocational course; or
- performance of work as a minister, priest, rabbi, mufti or other like religious leader or spiritual officer of a religion or other member of a religious organisation; or
- performance of the duties of an authorised carer within the meaning of the Children and Young Persons (Care and Protection) Act 1998.

A **Reportable Allegation** means an allegation of reportable conduct or a reportable conviction against a member of the Diocese or an allegation of misconduct that may involve reportable conduct.

Reportable Conduct is:

- (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,

A **Reportable Conviction** is defined in s.25A of the Ombudsman Act as a conviction (including a finding of guilt without the court proceeding to a conviction), in this State or elsewhere, of an offence involving reportable conduct. Appendix A of this policy lists the reportable convictions for NSW.

A child is at **Risk of Significant Harm** if current concerns exist for the safety, welfare or well-being of the child because of the presence, to a significant extent, of any one or more of the following circumstances:

- (a) the child's basic physical or psychological needs are not being met or are at risk of not being met,

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- (b) the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child to receive necessary medical care,
- (b1) in the case of a child who is required to attend school in accordance with the Education Act 1990—the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child to receive an education in accordance with that Act,
- (c) the child has been, or is at risk of being, physically or sexually abused or ill-treated,
- (d) the child is living in a household where there have been incidents of domestic violence and, as a consequence, the child is at risk of serious physical or psychological harm,
- (e) a parent or other caregiver has behaved in such a way towards the child that the child has suffered or is at risk of suffering serious psychological harm,
- (f) the child was the subject of a pre-natal report under section 25 and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.

Risk of significant harm may occur from a single act or omission or to a series of acts or omissions.

The meaning of **Significant** in the phrase '*to a significant extent*' is that which is sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent. What is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child's safety, welfare or well being.

In the case of an unborn child, what is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child after the child's birth. Significance can result from a single act or omission or an accumulation of these.

The functional meaning of 'risk of significant harm' will be achieved through the application of the Department of Human Services' (Community Services) structured decision making tool.

Senior management means a supervisor who oversees other management roles and would include:

- in the Chancery – Vice Chancellors and Chancellor;
- in Catholic Schools Office – Heads of Services and the Director of Schools;
- in Catholic Systemic Schools – Principals and Assistant Directors of Schools; and

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- in CatholicCare –Directors of Services, other members of the executive and the Chief Executive Officer.

For parishes, the Parish Priest may use his discretion to determine whether the relevant Dean, Vicar General or other member of the Chancery should be informed as a senior manager.

A **Supervisor** means a member of the Diocese who is in a position of direct authority over another Diocesan member. Direct authority means the supervisor has the ability to assign work to, or direct a member of the Diocese’s work activities, or they have administrative responsibility for the member of the Diocese in such matters as certifying timesheets (where applicable), approving leave or providing supervision.

Supervisory roles within the Diocese include:

- in Parishes – the Parish Priest;
 - in the Chancery – the Bishop, Vicar General, Chancellor, Vice Chancellors, directors or managers of service;
 - in Catholic Schools Office – the Director of Schools, Assistant Directors or Heads of Service (e.g. Religious Education and Spirituality, Teaching and Learning, Financial or Employee);
 - in Catholic Systemic Schools – the Principal, Assistant Principals, or service coordinators (e.g. Ministry, Religious Education, Study or Primary); and
 - in CatholicCare – the Chief Executive Officer, Directors of Service, Programme Managers, service or site managers.
-

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Procedure for Members of the Diocese to Report Child Protection Concerns

Members of the Diocese will maintain an appropriate ongoing professional dialogue with their supervisor in relation to all relevant work matters, including working with children.

It is a member of the Diocese's responsibility to report child protection concerns to their supervisor.

Reporting child protection concerns may be done either verbally or in writing.

A verbal report may be in person or by phone. However, the member of the Diocese must speak directly to their supervisor and confirm that the supervisor is fully aware of the issues. Leaving a message, either with a third party (e.g. administrative assistant) or on an answering service does not constitute making a report. Employees must follow-up with further attempts at direct verbal contact or prepare a written report.

It is prudent for the member of the diocese who is verbally reporting their child protection concerns, to make a written note of their verbal report. A case note, diary entry or other form of private written record will suffice.

A written report can be made using the **Diocese of Maitland-Newcastle Child Protection Report**. A copy is available in Appendix B. Particular diocesan entities or programmes within entities may have specific reporting forms that vary from the Diocese of Maitland-Newcastle Child Protection Report form. As long as the local variant of the form captures the salient information, please use the form most appropriate for your service and in accordance with local procedure.

Alternatively, a written report can be made using Community Services' **Risk of Significant Harm Report** (available in Appendix C). If you have formed a view that the concerns you have, constitutes a report of risk of significant harm (refer page 9 for **Additional Reporting Procedure for Members of the Diocese Who Are Mandatory Reporters**) then the Risk of Significant Harm Report should be used. Community Services will want their form completed (if reporting to the Helpline).

Do not complete multiple forms, duplication is unnecessary. For diocesan purposes, a single report, using the Community Services' report or one of the internal reports will suffice.

A verbal or written report should contain adequate information to describe the issues of concern and identify the persons involved, (**Who** did **What** to **Whom**, **Where** and **When**).

Dependent on the nature of the concerns, it may be necessary for a member of the Diocese to report as a matter of urgency. If a member of the Diocese believes a child is at imminent risk, they should make a verbal report immediately. Regardless, a member of the Diocese should report any child protection concerns within 24 hours.

Where a member of the Diocese's supervisor is unavailable or they believe their supervisor may have a conflict of interest in relation to the concerns, the member of the Diocese should report their concerns to an appropriate person.

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An **Appropriate Person** includes their supervisor's manager or other senior management within their Entity (i.e. Catholic Schools Office, CatholicCare or Chancery). For Parishes, an appropriate person would include an Associate Pastor, the Regional Moderator or Dean.

Where the member of the Diocese is unable to identify a supervisor or contact any other appropriate person, a member of the Diocese may report their child protection concerns directly to a staff member of Zimmerman House. Zimmerman House is contactable by during **office hours** phone (**4940 8091**) or **after hours** (**1800 234 050**).

If a member of the Diocese believes that a child, class of children or other persons face immediate danger, the member must contact 000 immediately.

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Additional Reporting Procedure for Members of the Diocese who are Mandatory Reporters

If a Diocesan member is a mandatory reporter and:

- they have reasonable grounds to suspect that a child is at risk of significant harm, and
- those grounds arise during the course of or from the member of the Diocese's work,

it is the individual member of the Diocese's duty to report, as soon as practicable, to the Department of Human Services, Community Services.

Mandatory reporters should use the NSW Mandatory Reporter Guide to support their decision whether their concerns constitute risk of significant harm. It is recommended that the **Online Mandatory Reporter Guide** be used and is available at:

<http://sdm.community.nsw.gov.au/mrg/app/summary.page>

It is recommended that the determination of what concerns constitute risk of significant harm is made in conjunction with the member of the Diocese's supervisor, an appropriate person or a member of Zimmerman House. Zimmerman House is contactable by during **office hours** phone (4940 8091) or **after hours** (1800 234 050).

On completing the Online Mandatory Reporter Guide, the member of the Diocese should request a copy of the **NSW Online Mandatory Reporter Guide - Decision Report**, which is a written record of the Guide's recommendations. The Report should be saved to the member of the Diocese's computer and printed out.

The member of the Diocese may choose to make a verbal report to Community Services' **Helpline** by **phone** (133 627 or 132 111).

Alternatively, the member of the Diocese may choose to complete a Community Services' **Risk of Significant Harm Report** and **fax** it to the **Helpline** (9633 7666). A copy of the Report is available in Appendix C.

Dependent on the nature of the concerns, it may be necessary for the member of the Diocese to report to Community Services as a matter of urgency. The Online Mandatory Reporter Guide will advise the user if the assessed risk requires an immediate report to the Helpline. If the Online Mandatory Reporter Guide recommends "*Immediate report to Community Services*", the supervisor must contact the Helpline immediately by phone (133 627 or 132 111).

Reporting to Community Services does not relieve the member of the Diocese of their responsibility to report their concerns to their supervisor.

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Procedure for Supervisors Managing Reports of Child Protection Concerns

Supervisors will maintain appropriate ongoing professional dialogue with their staff in relation to all relevant work matters, including working with children.

When a member of the Diocese reports child protection concerns to the supervisor, that supervisor has the responsibility to check whether the member of the Diocese has made a determination that the concerns constitute risk of significant harm and that they have made a report to Community Services.

If the member of the Diocese has not, the supervisor will assist in making that determination, using the NSW Mandatory Reporter Guide to support their decision whether their concerns constitute risk of significant harm. It is recommended that the **Online Mandatory Reporter Guide** be used and is available at:

<http://sdm.community.nsw.gov.au/mrg/app/summary.page>

On completing the Online Guide, supervisors should request a copy of the **NSW Online Mandatory Reporter Guide - Decision Report**, which is a written record of the Guide's recommendations. The Report should be saved to the supervisor's computer and printed out.

Supervisors are encouraged to contact Zimmerman House to assist in their decision making, during **office hours** phone (4940 8091) or **after hours** (1800 234 050).

If the supervisor forms the view that the child protection concerns constitute risk of significant harm, the supervisor is responsible for ensuring that a report is made to Community Services' Helpline immediately.

The supervisor may choose to make a verbal report to the **Helpline** by **phone** (133 627 or 132 111).

Alternatively, the supervisor may choose to complete or direct the member of the Diocese to complete a Community Services' **Risk of Significant Harm Report** and **fax** it to the **Helpline** (9633 7666). A copy of the Report is available in Appendix C.

Dependent on the nature of the concerns, it may be necessary for the supervisor to report as a matter of urgency. The Online Mandatory Reporter Guide will advise the user if the assessed risk requires an immediate report to the Helpline. If the Online Mandatory Reporter Guide recommends "*Immediate report to Community Services*", the supervisor must contact the Helpline immediately by phone (133 627 or 132 111).

If the supervisor believes that a child, class of children or other persons face immediate danger, the supervisor must contact 000 immediately.

If the person alleged to be the cause of the child protection concerns, is a member of the Diocese, the supervisor must contact Zimmerman House within 5 working days. This includes programmes and services that have alternate reporting arrangements (refer p.15).

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Contact with Zimmerman House should be made sooner if the concerns expressed are of a more serious nature.

Contact Zimmerman House during **office hours** phone (**4940 8091**) or **after hours** (**1800 234 050**).

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Procedure for Contacting 000 Emergency

000 is a free national emergency hotline service to contact the Police, Ambulance or Fire Services in case of urgent time critical, life threatening situations or other emergencies.

A member of the Diocese may form the view that a child, class of children or other persons face immediate danger if:

- there is a fire;
- there is a hazardous material spillage;
- one or more persons are trapped and require rescue;
- there are other emergency situation, such as a medical emergency;
- there are criminal or other incidents -
 - that are actually occurring at the time of the call,
 - where offenders are still on the scene,
 - that involve violence (eg. domestic violence, assault and rob, brawl),
 - where a crime has just occurred (eg. disturbing offenders breaking into a house), or
- there are credible fears for their safety.

Emergency calls are free on all mobile phones. Many newer digital phones may require the member of the diocese to dial 112. The Emergency Operator will ask for the mobile from which the call is made. Ensure that the mobile phone number is known prior to ringing 000.

Ensure that clear, accurate information is provided. Allow the Emergency Operator to guide the 000 call. Ensure that the following information is ready for the Emergency Operator:

- The nature of the emergency e.g. house fire, bush fire, car accident, hazardous material spillage, medical emergency etc.
- Location of the incident. This should include a house or flat number, street name and the name of the town, suburb or city.
- The name of the nearest cross street or distinguishing landmark. The nearest cross street is the nearest intersecting street. This does not mean the nearest main road, or any street nearby.
- If there are any people trapped or injured.

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Procedure for Advising Senior Management

It is the supervisor's responsibility to make a determination whether the child protection concerns warrant advising relevant senior management.

The criteria for making the decision to advise senior management includes:

- a child was in immediate danger and a member of the Diocese or the supervisor has made contact with 000, or
- the concerns were assessed as involving risk of significant harm, the concerns are a consequence of the actions or inaction of a Diocesan member and it appears probable that statutory intervention by Police, JIRT or Community Services will occur.

If 000 was contacted or the concerns are such that the statutory intervention is likely to occur as a matter of immediacy, the supervisor must inform their agency's senior management immediately.

Regardless, supervisors are required to advise their senior management within 24 hours of the report having been made to the Helpline.

If the child protection concern involves a member of clergy or religious, the Bishop must be advised immediately.

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Procedure for Reporting Child Protection Concerns to Zimmerman House

It is the Bishop's responsibility (as Head of Agency) to determine whether a child protection concern constitutes a reportable allegation, which may require a separate report to the NSW Ombudsman. Zimmerman House acts as the Bishop's delegate.

Supervisors must advise Zimmerman House of any child protection concerns within 5 working days of becoming aware of the concerns; unless there are alternate reporting arrangements (refer p.15).

If the person alleged to be the cause of the child protection concerns, is a member of the Diocese, the supervisor must contact Zimmerman House within 5 working days. This includes programmes and services that have alternate reporting arrangements. Contact with Zimmerman House should be made sooner if the concerns expressed are of a more serious nature.

The supervisor may advise Zimmerman House in writing by *e-mail* (child.protection@mn.catholic.org.au) or by *fax* (4940 8087). Include the following documents:

1. a copy of the NSW Online Mandatory Reporter Guide - Decision Report; **and**
2. either a copy of the Diocese of Maitland-Newcastle Child Protection Report; **or**
3. a copy of the Department of Human Services Risk of Significant Harm Report (if available).

The supervisor may verbally advise Zimmerman House by phoning during **office hours (4940 8091)** or **after hours (1800 234 050)**.

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Procedure for Establishing and Reporting Under Alternate Reporting Arrangements

Particular services and programmes within the Diocese work with children who are in crisis or otherwise unsettled. These services or programmes generate a significant number of child protection concerns. These concerns relate mostly to the risk taking behaviours of the children themselves and verbal advice is provided to Community Services caseworkers or as risk of significant harm to the Helpline, as a matter of course.

For services or programmes that fit these criteria, it is possible to establish alternate reporting arrangements.

The Manager Zimmerman House and either, the Chief Executive Officer for CatholicCare services or the Director of Schools for Catholic Schools Office, must be satisfied that the supervisors of the service or programme can demonstrate adequate knowledge of the reporting requirements of both the Children and Young Persons (Care and Protection) Act 1998 and the Ombudsman Act 1974.

Once satisfied, the Manager Zimmerman House and either the Chief Executive Officer or Director of Schools for Catholic Schools Office, co-sign an ***alternate reporting authorisation*** which allows the specified service or agency to determine whether a child protection concern involves a member of the Diocese. An alternate reporting authorisation may last for a maximum of 2 years.

If a child protection concern involves a member of the Diocese, the supervisor must follow the Procedure for Reporting Child Protection Concerns to Zimmerman House (refer p.14).

If a child protection concern does not involve a member of the Diocese, the supervisor may use their discretion whether to forward the report to Zimmerman House for review.

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Supporting Material

Civil	Church
<p>Legislation</p> <p>Children and Young Persons (Care and Protection) Act 1998 and Regulation 2000</p> <p>Commission for Children and Young People Act 1998 and Regulation 2009</p> <p>Ombudsman Act 1974 (Part 3A) and Regulation 2005</p> <p>Statutory Guidelines</p> <p>Child Protection in the Workplace: Responding to allegations against employees (June 2004)</p> <p>New South Wales Interagency Guidelines for Child Protection Intervention (2006)</p> <p>Structured Decision Making System New South Wales: Mandatory Reporter Guide (December 2009)</p> <p>Working With Children Check Guidelines (February 2010)</p>	<p>Canon Law</p> <p>Book II, Part II, Section II, Title I, Chapter II:</p> <p>Article 1: Bishops in General, canons 375-380 and Article 2: Diocesan Bishops, canons 381-402</p> <p>Title III, Chapter IV: Parishes, Pastors, And Parochial Vicars, canons 515-552</p> <p>Church Guidelines</p> <p>Integrity in Ministry (June 2004)</p> <p>Towards Healing (January 2010)</p>

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Sign Off

I have read, understood and am prepared to abide by the Reporting Child Protection Concerns Policy.

I understand the following procedures (*mark all relevant boxes*) apply to me in my role:

- Procedure for Members of the Diocese Reporting Child Protection Concerns
- Additional Reporting Procedure for Members of the Diocese Who Are Mandatory Reporters
- Procedure for Supervisors Managing Reports of Child Protection Concerns
- Procedure for Contacting 000 Emergency
- Procedure for Advising Senior Management
- Procedure for Reporting Child Protection Concerns to Zimmerman House
- Procedure for Establishing and Reporting Under Alternate Reporting Arrangements

Employee's

Full Name: _____

Role: _____

Signature: _____

Date: _____

Revision History

Version	Date	Author	Description of Changes
1.0			

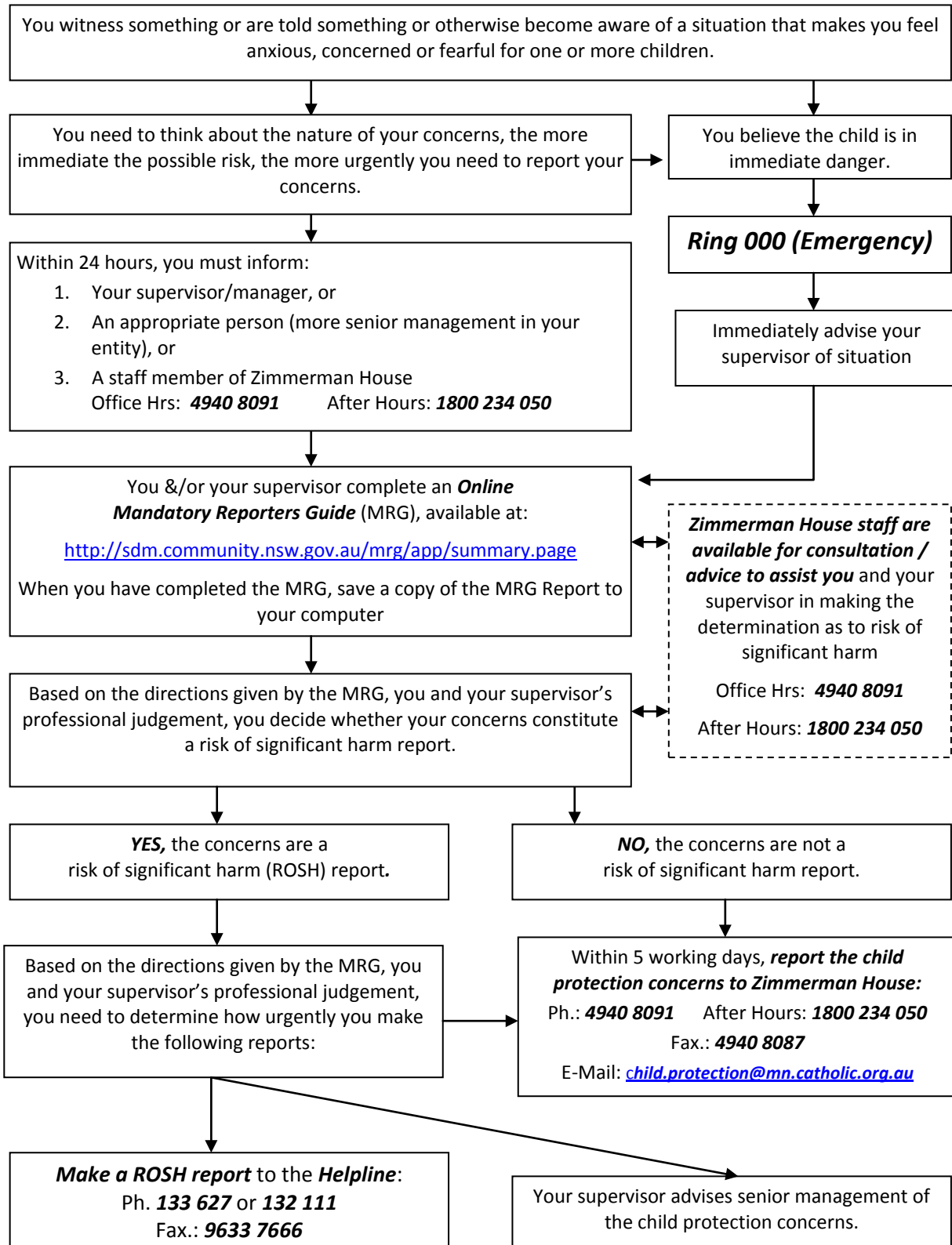
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**Quick Reference:
Flowchart for Reporting Child Protection Concerns**



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Appendix A: Reportable Convictions

In NSW, a description of the offences which may be reportable to the Ombudsman may be found in the Crimes Act and in the Children and Young Persons (Care and Protection) Act 1998:

Children and Young Persons (Care and Protection) Act 1998		Crimes Act 1900	
227	Child and young person abuse	66D	Attempting, or assaulting with intent, to have sexual intercourse with child between 10 and 16
228	Neglect of children and young persons	66EA	Persistent sexual abuse of a child
229	Unauthorised removal of children and young persons	66F	Sexual intercourse – intellectual disability
231	Leaving children unsupervised in motor vehicles	73	Sexual intercourse with child between 16 and 18 under special care
Crimes Act 1900		78A	Incest
		78B	Incest attempts
61H	Definition of sexual intercourse and other terms	78E	Rape or attempt – verdict of incest or attempt
61I	Sexual assault	78G	Definition of ‘homosexual intercourse’ for ss. 78H – 78Q
61J	Aggravated sexual assault	78J	Trial for homosexual intercourse offence – male in fact between 10 and 18 (cf. ss. 69, 70)
61JA	Aggravated sexual assault in company	78K	Homosexual intercourse with male between 10 and 18 (cf. s.71)
61K	Assault with intent to have sexual intercourse	78L	Attempt, or assault with intent, to have homosexual intercourse with male between 10 and 18 (cf. s.72)
61L	Indecent assault	78N	Homosexual intercourse by teacher etc. (cf. s. 73)
61M	Aggravated indecent assault	78O	Attempt, or assault with intent, to have homosexual intercourse with pupil etc. (cf. s.74)
61N	Act of indecency	78Q	Acts of gross indecency (cf. s. 81A)
61O	Aggravated act of indecency	80A	Sexual assault by forced self-manipulation
61P	Attempt to commit offence under ss. 61I-61O	91D	Promoting or engaging in acts of child prostitution
65A	Sexual intercourse procured by intimidation, coercion and other non-violent threats	91E	Obtaining benefit from child prostitution
66	Procuring etc. carnal knowledge by fraud	91F	Premises not to be used for child prostitution
66A	Sexual intercourse – child under 10	91G	Children not to be used for pornographic purposes
66B	Attempting, or assaulting with intent, to have sexual intercourse with child under 10	578B	Possession of child pornography
66C	Sexual intercourse – child between 10 and 16	578C	Publishing child pornography and indecent articles

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Appendix B: Diocese of Maitland-Newcastle Child Protection Report

Entity

- Chancery / Parish Catholic Schools Office / Systemic school
 Catholic Care Other

Details of Employee Making Report

Name:
Role/Function:
Mobile/Phone:

Employee's Team/Programme/Parish/School

Name:
Address:

When did the member of the Diocese become aware of the child protection concerns:

Date: Time:

Report Directed

To (Internal): Supervisor Appropriate Person Zimmerman House

Name: Mobile/Phone:
Role/Function: Fax (if used):

Report Directed (Tick ALL relevant boxes & complete details)

To (External):

Report to Community Services Helpline (Risk of Significant Harm) Helpline Report No:
 NSW Police Force (allegation of criminality) CoPS Event No:

DETAILS OF THE CHILD PROTECTION CONCERNS

1 Details of the people involved in the child protection concerns:

(List as much identifying detail as possible, e.g. full names, gender, dates of birth, home or work addresses, their roles in the Diocese, any special medical or other conditions relating to the persons, etc)

Child(ren) or Young person(s):

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Person(s) alleged to have caused the child protection concerns:

Witnesses (if any):

2 Details of the alleged incident(s):

- *Who did it?*
- *What did they do?*
- *Who did they do it to?*
- *Where did it happen? (location)*
- *When did it happen? (time and date)*

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3 Other Information / Corroboration (if any):

(List any other information that may be of relevance. Consider any objects or other 'physical proof that the alleged incident occurred – a detailed description of the object, where it is and who has control/possession/ownership of the object)

SIGNATURES

Employee's Signature

Supervisor's Signature

Date:

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Appendix C: Human Services Risk of Significant Harm Report



RISK OF SIGNIFICANT HARM REPORT

**BEFORE YOU FAX THIS REPORT TO THE CHILD PROTECTION HELPLINE,
PLEASE READ THE FOLLOWING:**

The **Mandatory Reporter Guide (MRG)** has been written to assist professionals make a decision about whether their concerns about a particular child or young person are likely to meet the risk of significant harm threshold. It also provides useful advice about any other actions you can take to assist the child, young person or family.

The MRG gives clear advice about the threshold for risk of significant harm. You are encouraged to use the MRG for reporting all child protection concerns - it is located on the KTS website www.keepthemsafe.nsw.gov.au.

1. Have you completed the MRG? Yes No
2. Have you consulted and were subsequently referred to the Child Protection Helpline via your Child Wellbeing Unit (CWU) if available, or via another professional? Yes No

PLEASE DO NOT COMPLETE THE FAX FORM:

If the outcome of the MRG is

“Immediate Report to Community Services”

OR

If you have concerns of a high risk of significant harm and/or imminent risk of significant concerns for the safety of a child or young person.

In this case you MUST make your report by telephone on 133 627.

PLEASE COMPLETE A FAX FORM

If your concern meets the Risk of Significant Harm threshold but it is non-imminent OR you believe your concern is about a matter that requires a Community Services response

Fax to: Child Protection Helpline on 9633 7666

Approved by: Bishop Michael Malone & the Combined Diocesan Executive

Date: 21 October 2010

Review Date: 21 October 2011

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PLEASE TYPE OR PRINT CLEARLY

Please make sure all pages are sent

1. YOUR DETAILS			
Reporter's name		Position	
Service / Agency			
Contact phone no.		Fax no.	
Business Address			
Was a message left on the Child Protection Helpline telephone system?	<input type="checkbox"/> No <input type="checkbox"/> Yes	If yes →	Date _____ Time _____
COPS Event No. (Police only)			
Is the parent / carer / alleged offender on the NSW Child Protection Register?(Police only - tick if applicable)	<input type="checkbox"/> Yes	In relation to this report, are you an Opioid treatment prescriber? (Health only)	<input type="checkbox"/> Yes
2. DETAILS ABOUT THE CHILD OR YOUNG PERSON			
Child or young person's name			
Date of birth (or expected date)		Age or approximate age	<input type="checkbox"/> Unborn
Gender	<input type="checkbox"/> Male	<input type="checkbox"/> Female	<input type="checkbox"/> Not known
Tick if applicable	<input type="checkbox"/> Aboriginal	<input type="checkbox"/> Torres Strait Islander	<input type="checkbox"/> Both
Cultural background			
School / Pre-School attended or other child care (Family Day Care / nanny arrangements etc)			
Child or young person's name			
Date of birth (or expected date)		Age or approximate age	<input type="checkbox"/> Unborn
Gender	<input type="checkbox"/> Male	<input type="checkbox"/> Female	<input type="checkbox"/> Not known
Tick if applicable	<input type="checkbox"/> Aboriginal	<input type="checkbox"/> Torres Strait Islander	<input type="checkbox"/> Both
Cultural background			
School / Pre-School attended or other child care (Family Day Care / nanny arrangements etc)			
Child or young person's name			
Date of birth (or expected date)		Age or approximate age	<input type="checkbox"/> Unborn
Gender	<input type="checkbox"/> Male	<input type="checkbox"/> Female	<input type="checkbox"/> Not known

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Tick if applicable	<input type="checkbox"/> Aboriginal	<input type="checkbox"/> Torres Strait Islander	<input type="checkbox"/> Both
Cultural background			
School / Pre-School attended or other child care (Family Day Care / nanny arrangements etc)			
Child or young person's name			
Date of birth (or expected date)		Age or approximate age	<input type="checkbox"/> Unborn
Gender	<input type="checkbox"/> Male	<input type="checkbox"/> Female	<input type="checkbox"/> Not known
Tick if applicable	<input type="checkbox"/> Aboriginal	<input type="checkbox"/> Torres Strait Islander	<input type="checkbox"/> Both
Cultural background			
School / Pre-School attended or other child care (Family Day Care / nanny arrangements etc)			

3. FAMILY DETAILS

Family's address			
Suburb		Postcode	
Home phone			
Interpreter required	<input type="checkbox"/> No <input type="checkbox"/> Yes	→	Please identify language spoken
Disability issues			
Current whereabouts of child / young person			

4. NAME OF PARENTS/ CARERS & THEIR RELATIONSHIP TO THE CHILD OR YOUNG PERSON

Name	
Address (if different from above)	
Phone (if different from above)	
Relationship	
Name	
Address (if different from above)	
Phone (if different from above)	
Relationship	
Significant others close to the child and/or family (eg. grandparents/ aunts/ uncles)	

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5. SAFETY CONCERNS

Known relevant criminal history of parents/carers			
Current Apprehended Violence Order (AVO)	<input type="checkbox"/> Yes ↓	<input type="checkbox"/> No	<input type="checkbox"/> Not known
Who is the AVO against?			
Who is protected by the AVO?			
Family Law Court Orders (please provide details)			
Any known worker safety issues	<input type="checkbox"/> No	<input type="checkbox"/> Yes (please provide details)	

AS PER THE ACT, A CHILD IS DEFINED AS A PERSON WHO IS UNDER THE AGE OF 16 YEARS, AND A YOUNG PERSON IS DEFINED AS 16 YEARS AND ABOVE, BUT IS UNDER THE AGE OF 18 YEARS.

What is the reason for reporting under the <i>Children and Young Persons (Care and Protection) Act 1998</i> ?	<input type="checkbox"/> Request for Assistance (Sect 21/113)	<input type="checkbox"/> Prenatal (Sect 25)
	<input type="checkbox"/> Risk of Significant Harm (Sect 23/24)	<input type="checkbox"/> Homelessness (Sect 120/121/122)

Please provide details of your ROSH concern for the safety and/or welfare of the child/ren and/or young persons. Also include any concerns you may have in regards to: <ul style="list-style-type: none"> • issues of domestic violence • carer's alcohol or other drug misuse • carer's mental health issues 	
What have you noticed about the child/ren and/or young person's appearance and behaviour?	
Did this incident result in a physical injury to a Child/Young Person?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
Did this incident result in a physical injury to another person?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:

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Did this incident result in medical attention/treatment?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details:
What is the nature of your ongoing professional role, if any, with the child/ren, young person/s and their parents/carers, and the frequency, duration and type (if applicable)?	
What other services or supports are currently in place to support the child/ren, young person/s and their parents/carers (if known)?	

<p>Is the family, child or young person aware that this report has been made? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Do you consent for your identifying information to be provided to JIRT (NSW Police and NSW Health) or NSW Police (LAC) and/or NSW Health in the event that JIRT does not accept the report for action? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If the report is referred to NSW Police, the same protections and confidentiality relating to your identity will continue to apply as per Section 29 of the <i>Children and Young Persons (Care and Protection) Act 1998</i>.</p>

Reporter's name (please print clearly)	
Signature	
Date and time	

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