

THE DEPARTMENT FOR CHILD PROTECTION AND NON-GOVERNMENT PLACEMENT AGENCIES PROTOCOL FOR ABUSE IN CARE JUNE 2009

The primary objective of the Department for Child Protection (the Department) and Non Government Placement Agencies (Placement Agencies) as those with responsibility for children in the CEO's care; is to act in the child's best interest, for the child's benefit, and with the child's safety and well-being as paramount considerations. This objective is supported by the *Children and Community Services Act 2004*.

To further this objective, the Department and the Placement Agencies have agreed to work together, through the use of these protocols whenever a concern arises of abuse or neglect of a child or young person in agency care. The protocols establish a joint understanding of the processes, procedures, roles and responsibilities of the Department for Child Protection and Non Government Placement Agencies.

The Department, and in some instances the Police, has the statutory responsibility for investigating and assessing any allegation or suspicion of abuse or neglect.¹ This can include a range of situations where the abuse may have occurred, including outside of the home, at school or on contact visits with family; as well as abuse by another child or young person; or a carer or other agency worker. The allegations may relate to abuse or neglect which has occurred recently or which occurred some time ago and the child has since left care.

If allegations involve Placement Agency carers, members of the carer's household, staff or volunteers, the Placement Agency will contribute to and support any Departmental assessment process; provide support to the carer through the process; and assist to ensure the safety of that child and any other children in their care.

In addition to the development of the Abuse in Care Protocols and internal abuse in care policies; agencies will endeavour to minimise the risk to children in their care. This will occur through practices such as developing the agency as a child safe organisation; conducting robust assessment and training of carers, staff and volunteers; maintaining appropriate levels of criminal recording checking, Working with Children requirements; ensure all carers are registered through the Central Carer Register and providing quality support to carers in their role.

The Department will ensure sound processes for the identification and assessment of Abuse in Care; ensuring children are safe and protected. The Department will ensure children subject to abuse are referred for appropriate legal advice and representation.

GUIDING PRINCIPLES:

- The safety and well-being of the child or young person is the paramount consideration at all times.
- The working relationship between Placement Agencies, carers and Departmental staff is characterised by mutual respect, honesty, and fairness.
- Any concern that a child has been or is likely to be abused or neglected whilst in care must be assessed by the Department.
- The Department has final decision-making authority with regard to the placement of children.
- Carers are entitled to support and guidance when issues or concerns arise about the care they provide.

¹ See Appendix one for Department for Child Protection definitions of abuse and neglect.

- A commitment to collaboration, teamwork, and problem solving are essential conditions for resolving differences.
- There is a commitment to clear communication by all parties.
- All actions under these protocols are carried out in an objective and timely manner.
- There is an awareness of and responsiveness to cultural issues where a child is Aboriginal or Torres Straight Islander, or is from a Culturally and Linguistically Diverse Background.

IMPLEMENTATION

- These protocols will be made known to all relevant Placement Agency staff, carers and volunteers on commencement with the agency.
- The Abuse in Care Protocols will be referred to in the Department's Casework Practice Manual.
- The protocols form a part of the Better Care Better Services standards, which Placement Agencies meet as part of their Service Agreement requirements.
- The Department and Placement Agencies will apply these Abuse in Care Protocols within their procedures for staff.

PROCEDURES

The following processes provide guidance for agreed procedures for managing an Abuse in Care allegation. These processes are further outlined in the flow chart following.

Allegations or concerns that a child may be subject to abuse or neglect may come from a range of sources. These may be made to the carer or other agency staff; or may come to the case manager or others in the Department.

These concerns will be actioned as outlined in the Case Practice Manual as most will constitute a Concern for the Child's Wellbeing (CCW).

Where the notification/report does not meet the threshold for assessment of an allegation of abuse/neglect in care, a discussion will occur with the agency on the most appropriate response to the concern. The agency should advise the Department of these incidents and keep a record of the concern as a 'critical incident' rather than an allegation of abuse.

Where it is decided the concern meets the department's threshold for the definition of abuse/neglect, the Field Worker and Team leader will seek endorsement from the District Director for a 'Duty of Care Incident Notification'. The Field Worker needs to ensure that a copy is placed on the client file.

Disclosures of abuse or neglect, including those from persons who have since left care, may be received by the Placement Agency or third parties such as teachers, psychologists, other personnel working with the child/ren, parents, and other children and passed on to the agency.

Advising the Department

Placement Agencies will develop internal processes to manage when the agency becomes aware of or holds concerns about abuse or neglect and will, on request, make these available to the Department.

The Placement Agency will immediately advise the Department of the concern, allegation or disclosure, via the child's case manager. If the case manager is not available or the allegation involves a child without a current case manager, the Placement Agency will advise the Team Leader or the District Director. If the Placement Agency becomes aware of an allegation after hours, the agency will inform the Crisis Care Unit.

The Department will decide whether or not an assessment is required as per the processes outlined above, and will advise the agency on what information can be provided to the carer.

Where the Department receives information of an allegation or concern about abuse in care from another source, they will immediately inform a senior officer of the Placement Agency, and advise what information about the allegation/concern can be provided to the carer. Where criminal offences may have occurred, the Police will be informed.

It is not the role of the agency to raise the allegations or concerns with the carer or the child prior to consultation with the Department, as this could compromise the assessment and could lead to a contamination of evidence. This may leave a child unsafe, or a carer unable to have a process of natural justice. Whilst supporting the carer, agencies will remain open and objective.

Disclosures or allegations of abuse

A child may disclose information about abuse or neglect directly to an agency carer or other staff. Where this occurs basic processes include: listening without asking clarifying or follow-up questions; believing the child and acting on the information. It is not the role of the agency to determine if the disclosure is 'true'. The child should be reassured and supported throughout, but is not to be questioned further by Placement Agency staff.

The Placement Agency may become aware of or suspect that abuse or neglect has occurred without the child having made a disclosure. In such circumstances the Placement Agency will advise the child's Departmental case manager and consult on the best way to proceed.

If the child concerned is not a child in the CEO's care, but is in a placement for other reasons, the Agency will advise and consult with the Department's District Intake Duty Team Leader or Duty officer on how the situation will be managed.

Ensure the child is safe and supported

The Placement Agency in consultation with the Department will endeavour to ensure that the child does not remain in a situation of risk pending further assessment. Where abuse is alleged to have occurred between children living in the same house, the children may need to be placed separately. There may also be instances which involve removing all the children in a Family Group Home or Residential Care Setting or the carer, rather than removal of one child.

The child may have feelings of ambivalence, anxiety, fear, depression, mistrust or marginalisation after having made a disclosure or having been subject to abuse or neglect. It is important for the child to feel protected, valued and nurtured. The Departmental case manager will take the role of supporting the child. Where an interview of the child by the Department is undertaken, either by the District or the Duty of Care Unit, it may be appropriate for the case manager to be involved as a support to the child.

Initial planning developed

As soon as possible after being advised, the Department for Child Protection will hold an initial planning meeting which will determine processes, roles, responsibilities and timeframes. This will involve Team Leader, Case Manager, Duty of Care Unit representative, Placement Agency representative and on occasion, the District Director. Given the tight response timeframes a teleconference may be preferred.

It is important to recognise Placement Agencies form a partnership with the Department in caring for children in the CEO's care and should be consulted and advised accordingly.

The Duty of Care Unit will be involved in the development of the initial plan and where resources allow, will undertake the assessment. The Duty of Care Unit prioritises cases involving foster carers.

The initial planning meeting will consider:

- immediate safety of child and or children;
- clarification and summary of the concerns
- what information is provided to the carer and by whom;
- what information is provided to the parents or significant others;
- who will undertake the assessment (Duty of Care Unit or District);
- Police involvement if required²;
- status of registration with Central Carer Register; depending on the nature of the allegation and until the assessment of the carer is complete the carer's status is recorded as "under review"
- safety of any other children with the carer; including their own children;
- support to carer(s) and or agency;
- who is to be provided with the plan;
- what reports or other information will be forthcoming;
- allocation of tasks; and
- timeframe for actions.

Support to carers

Support processes for the carer(s) are put into place by the Placement Agency as soon as the matter is referred to the Department and to continue throughout the process. Support will be provided to the carer whether the alleged abuse relates to the carer, relates to alleged abuse between children, or to abuse which has occurred outside of the care setting.

The main support that can be given to the carer is to keep them as informed as possible. However, the assessment may require that certain information is withheld from the carer. The carer needs to understand that the amount and timing of release of information to them will depend upon the nature of the allegation, the police assessment if there is one, and other factors.

The Placement Agency may consider it appropriate to involve others in the provision of support, such as the Foster Care Association of Western Australia.

The Department for Child Protection assessment

The Department for Child Protection (either the District or Duty of Care Unit) will undertake the assessment. If the allegation involves Aboriginal or Torres Strait Islander people, the Aboriginal Practice Leader will be consulted. In complex situations, and a child is from a Culturally and Linguistically Diverse (CALD) background the Department's Senior CALD Advisors may be consulted if necessary. Where there is an abuse in care relating to a number of children one worker may have the responsibility for undertaking these assessments. Such details of the assessment will be determined at the initial planning meeting.

Throughout this process, the Placement Agency representative will be kept informed and share information as to progress on each point of the agreed plan.

² Western Australia Police Service Responsibilities regarding Child Protection Matters – see Appendix 2

The assessment process provides an opportunity for carers and if appropriate, agencies to give their account in relation to any allegations. The carer may prefer an agency representative be present for support at interviews with the Department; however this is the carer's choice.

Other tasks related to the initial plan will be undertaken at this stage.

Progress reporting

The initial plan is to be reviewed in accordance with any time frames determined, and an evaluation of progress provided to the Placement Agency representative verbally and possibly at a progress meeting. If the assessment has not revealed new information and the Placement Agency has been consulted and advised progressively a meeting might not be required.

Assessment conclusions

The outcome of the assessment will be a report with clear actions and recommendations for both the Placement Agency and the Department.

The Placement Agency and the carer will be informed of the outcome and recommendations of the assessment verbally and in writing.

At the conclusion of the assessment any future action should be discussed. This would include:

- decisions and plans for the subject child or children;
- Placement Agency decisions in relation to the carer(s) or others concerned, based on the Department for Child Protection's recommendations;
- status of registration on Central Carer Register;
- planning for any other children with carer;
- supports and training put in place for the carer;
- other recommendations for the Placement Agency and/or the Department.

In the case of any disagreement, the Department's Complaints Management System will be followed. Details of this can be found at:

http://www.community.wa.gov.au/DCP/ContactUs/Complaints+Management+Unit/Resolving_your_complaints.htm

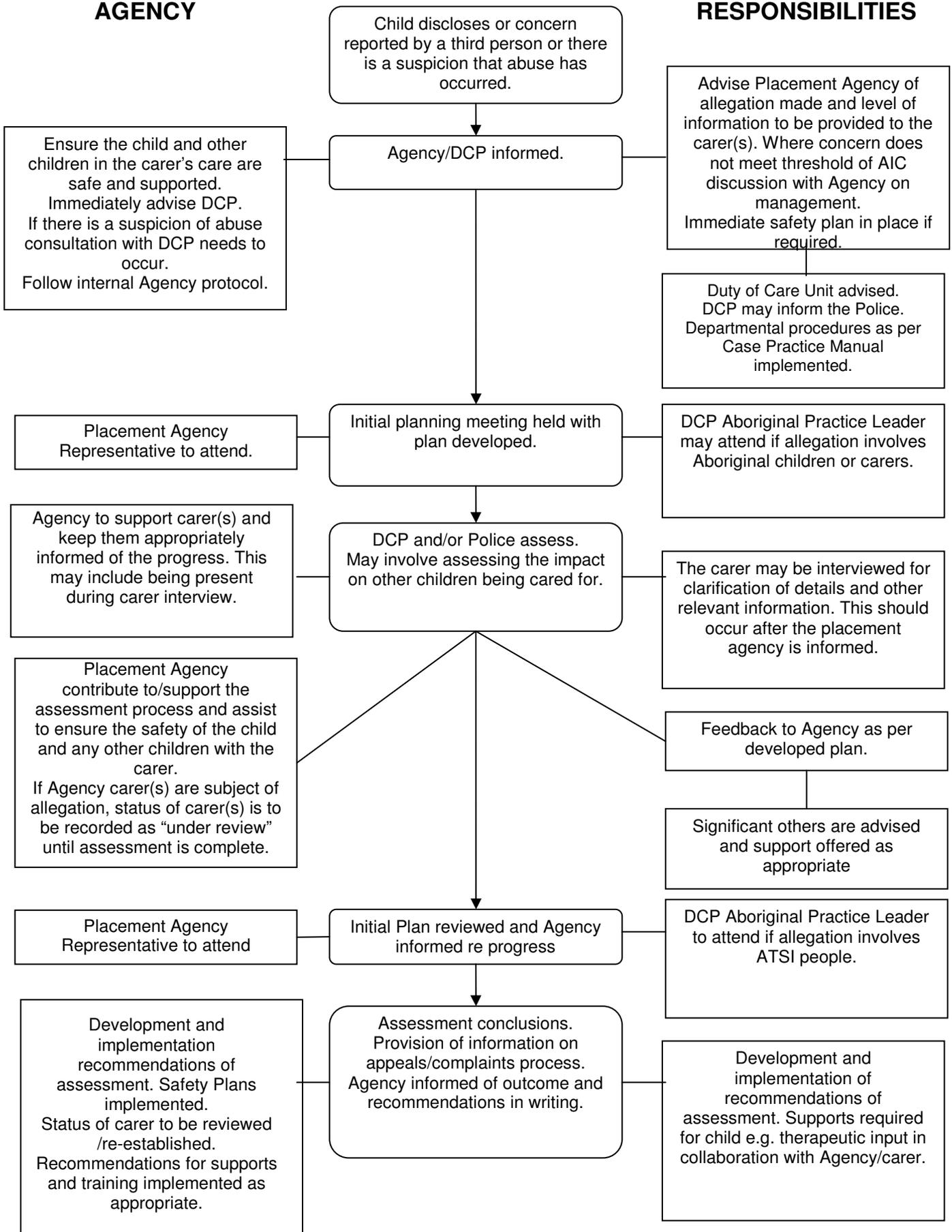
MANAGEMENT PROCESS

Please refer to flow chart attached to determine the process for action.

PLACEMENT AGENCY

ACTIONS

DCP RESPONSIBILITIES



APPENDICES

Appendix 1

Definitions³

Physical Abuse

Physical abuse occurs when a child has experienced severe and/or persistent ill-treatment through behaviours such as beating, shaking, inappropriate administration of alcohol and drugs, attempted suffocation or excessive discipline or physical punishment.

The harm experienced by a child as a result of these behaviours needs to be, or likely to be, detrimental in effect and significant in nature on the child's wellbeing. Harm that a child may experience as a result of physical abuse can include, but is not limited to, injuries such as cuts, bruises, burns, bites and fractures. The injury resulting from physical abuse is considered to be non-accidental.

Sexual Abuse

Sexual abuse occurs when a child has been exposed or subjected to sexual behaviours that are exploitative and/or inappropriate to his/her age and developmental level. Examples include sexual penetration, inappropriate touching, exposure to sexual acts or pornographic materials, using the internet for grooming and soliciting children for sexual exploitation.

Harm which may result from sexual abuse includes significant emotional trauma, physical injury, infections and impaired emotional and psychological development.

Consideration is given to contextual elements in determining if a situation is abusive, such as parental behaviours that enable child sexual abuse to occur or the role of coercion or unequal power in a relationship. This is particularly important in relation to sexual behaviour between children, where the children's respective ages, developmental level and the nature of the relationship are important considerations. Sexual activities between young people are not considered as sexual abuse unless:

- it is non-consensual or there are concerns about the young person's capacity to give consent; or
- there are factors such as bribery, coercion, threats, exploitation or violence; the child has less power than the other person; there is significant disparity in the developmental function or maturity.

Legislative inclusive definition of child sexual abuse

Section 124A of the *Children and Community Services Amendment (Reporting Sexual Abuse of Children) Act 2008* provides the following inclusive definition of 'sexual abuse' to be reported by mandatory reporters (doctors, nurses and midwives, teachers and police).

'Sexual abuse', in relation to a child, includes sexual behaviour in circumstances where:

(a) the child is the subject of bribery, coercion, a threat, exploitation or violence; or

(b) the child has less power than another person involved in the behaviour; or

(c) there is a significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.

³ Department for Child Protection Case Practice Manual

Emotional Abuse

Emotional abuse is the sustained, repetitive, inappropriate, ill treatment of a child or young person through behaviours including threatening, belittling, teasing, humiliating, bullying, confusing, ignoring and inappropriate encouragement.

The harm experienced by a child as a result of these behaviours needs to be, or likely to be, detrimental in effect and significant in nature on the child's wellbeing. Children who have been emotionally abused are likely to have a reduced capacity to experience a range of emotions, to express emotion appropriately and to modulate their emotional experience. Children who have been emotionally abused are likely to be fearful, withdrawn and/or resentful, distressed and despairing.

Psychological Abuse

Psychological abuse is the sustained, repetitive, inappropriate, ill treatment of a child or young person through behaviours including threatening, isolating, neglecting, discrediting, misleading, disregarding, ignoring and inappropriate encouragement.

Psychological abuse damages a child's intellectual faculties and processes, including intelligence, memory, recognition, perception, attention, imagination and moral development. The harm experienced needs to be assessed to be or likely to be detrimental in effect and significant in nature on the child's wellbeing. Children who have been psychologically abused are likely to feel worthless, flawed, unloved, unwanted, endangered or only of value in meeting another's needs.

Neglect

Section 28(1) of the *Children and Community Services Act 2004* defines neglect of a child who is in need of protection as 'neglect includes failure by a child's parents to provide, arrange, or allow the provision of (a) adequate care for the child; or (b) effective medical, therapeutic or remedial treatment for the child'.

Neglect is when a child is not provided with adequate food or shelter, effective medical, therapeutic or remedial treatment, and/ or care, nurturance or supervision to a severe and/or persistent extent. The deliberate deprivation of a child's basic needs should be considered within the context of physical, emotional or psychological abuse. For a child to be considered in need of protection, the level of harm must be detrimental in effect and significant in nature to the child's wellbeing. This can be due to the refusal or inability of the child's parents or carers to respond appropriately resulting in significant, immediate or potential risk of harm.

Neglect can be further described on a continuum of episodic, reactive or chronic. It can also be categorised as:

- Physical neglect of basic needs and abandonment, including poor supervision, malnutrition and dehydration, exposure to infection through poor hygiene and medical neglect. This can lead to poor physical health, developmental delays, serious injury or death.
- Supervisory neglect can result in serious accidents or accidental deaths including drowning, gun accidents, choking, ingestion of pills or fires. Supervisory neglect of very young children is of particular concern because of their increased vulnerability.
- Emotional neglect consists of inadequate nurturance or affection, permitted maladaptive behaviour and other emotional neglect. This can lead to inappropriate self-soothing behaviours and aggression in children.
- Psychological neglect includes the lack of any emotional support and love, chronic inattention to the child, exposure to family and domestic violence or

alcohol and drug abuse. Children who experience psychological neglect may show signs such as neurological impairment and high anxiety level.

- Educational neglect relates to permitted chronic truancy, failure to enrol and inattention to special educational needs. This can lead to cognitive, language and communication delays. However referrals are not usually accepted by the Department where educational neglect is the only concern. Consistent with the *School Education Act 1999*, schools are responsible for addressing non-attendance issues with families.

Appendix 2

The Western Australia Police has the responsibility for investigating the following matters:

- sexual abuse of a child in an intra familial setting;
- sexual abuse of children by a person in authority (ie. includes teachers, police officers, foster carers, social workers, priests, youth workers, voluntary youth leaders, doctors etc);
- physical abuse in an intra familial setting;
- physical abuse of children by a person in authority (ie. includes teachers, police officers, foster carers, social workers, priests, youth workers, voluntary youth leaders, doctors etc);
- criminal neglect of a child where there is a disregard for responsibility of a parent/caregiver to provide the necessities of life
- assessment of paedophile offenders (includes multiple offender situations, paedophile networks, unknown offenders);
- assessment of all matters involving child pornography;
- assessment of child pornography matters in conjunction with other agencies;
- assessment of offences pursuant to the Commonwealth Crimes (Child Sex Tourism) Amendment Act;
- historic complaints relative to the above; and
- assessment of child abuse/paedophile matters as requested by an interstate or international law enforcement agency.