

Appendix 1: Detailed tables

Child protection

Table A1.1: Children in substantiations: type of abuse or neglect, by sex and State and Territory, 2001–02

Sex and type of abuse or neglect	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
Males								
Physical	1,157	932	938	157	287	37	24	78
Sexual	509	208	109	71	32	6	2	4
Emotional	371	1,634	1,189	60	203	3	41	32
Neglect	660	868	1,464	186	333	19	29	60
Other ^(a)	519	..	..	..	..	..	..	..
Total	3,216	3,642	3,700	474	855	65	96	174
Females								
Physical	1,026	888	858	148	268	27	34	68
Sexual	1,582	328	336	256	128	36	9	25
Emotional	403	1,516	1,137	52	213	6	41	23
Neglect	581	748	1,361	183	296	17	23	43
Other ^(a)	594	..	..	..	..	..	..	..
Total	4,186	3,480	3,692	639	905	86	107	159
Unknown								
Physical	—	25	—	—	—	2	—	—
Sexual	—	9	—	—	—	—	—	—
Emotional	—	28	—	—	2	—	—	—
Neglect	—	22	—	—	4	1	—	—
Other ^(a)	—	..	..	..	..	..	..	..
Total	—	84	—	—	6	3	—	—
Persons								
Physical	2,183	1,845	1,796	305	555	66	58	146
Sexual	2,091	545	445	327	160	42	11	29
Emotional	774	3,178	2,326	112	418	9	82	55
Neglect	1,241	1,638	2,825	369	633	37	52	103
Other ^(a)	1,113	..	..	..	..	..	..	..
Total	7,402	7,206	7,392	1,113	1,766	154	203	333

(a) The category 'other' used for New South Wales comprises children identified as being at high risk but with no identifiable injury.

Note: If a child was the subject of a substantiation for more than one type of abuse or neglect, then type of abuse and/or neglect is assigned to the category nearest the top of the list.

Table A1.2: Children in substantiations, by age and State and Territory, 2001–02

Age group (years)	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
Number								
<1	389	680	746	118	153	11	26	42
1–4	1,460	1,854	1,964	254	416	40	51	99
5–9	2,287	2,023	2,268	364	587	37	65	88
10–14	2,427	1,892	2,022	297	486	33	50	86
15–17	830	743	392	80	112	9	11	18
Unknown	9	14	—	—	12	24	—	—
Total	7,402	7,206	7,392	1,113	1,766	154	203	333
Per cent								
<1	5	9	10	11	9	8	13	13
1–4	20	26	27	23	24	31	25	30
5–9	31	28	31	33	33	28	32	26
10–14	33	26	27	27	28	25	25	26
15–17	11	10	5	7	6	7	5	5
Total	100	100	100	100	100	100	100	100

Note: Where the child was the subject of more than one substantiation in the year, the age of the child was counted at the time of the first substantiation.

Table A1.3: Children aged 0–17 years who were the subject of a substantiation: type of abuse or neglect, by Indigenous status and State and Territory, 2001–02

Type of abuse or neglect	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
Indigenous children								
Physical	283	129	187	98	103	2	2	96
Sexual	155	25	42	59	14	—	1	19
Emotional	120	287	171	35	94	—	5	27
Neglect	238	140	405	195	137	—	3	81
Other ^(a)	122	..	..	..	..	..	..	..
Total	918	581	805	387	348	2	11	223
Other children								
Physical	1,900	1,716	1,609	207	452	64	56	50
Sexual	1,936	520	403	268	146	42	10	10
Emotional	654	2,891	2,155	77	324	9	77	28
Neglect	1,003	1,498	2,420	174	496	37	49	22
Other ^(a)	991	..	..	..	..	..	..	..
Total	6,484	6,625	6,587	726	1,418	152	192	110

Note: If a child was the subject of a substantiation for more than one type of abuse or neglect, then type of abuse and/or neglect is assigned to the category nearest the top of the list.

Table A1.4: Number of investigations: source of notification, by State and Territory, 2001-02

Source of notification	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
Subject child	178	67	412	78	133	2	2	10
Parent/guardian	2,501	1,243	2,360	278	560	58	55	64
Sibling	—	51	67	11	21	1	1	3
Other relative	1,411	863	1,805	281	480	25	48	118
Friend/neighbour	1,486	723	2,336	174	643	18	48	79
Medical practitioner	636	421	340	42	247	8	19	59
Other health personnel	1,225	648	83	—	94	32	12	18
Hospital/health centre	1,870	666	857	285	372	15	29	83
Social worker	2,115	301	662	—	255	18	13	35
School personnel	6,039	1,981	1,622	313	990	70	67	95
Childcare personnel	340	176	200	n.a.	—	5	—	13
Police	5,659	2,372	1,839	326	959	39	65	118
Departmental officer	115	712	434	313	257	41	47	47
Non-government organisation	769	1,779	484	89	6	28	67	45
Anonymous	992	—	387	36	167	2	9	3
Other	901	274	743	199	431	34	40	33
Not stated	18	591	7	1	—	—	—	1
Total	26,255	12,868	14,638	2,426	5,615	396	522	824

Care and protection orders

Table A1.5: Children substantiated in 2000–01 and subsequently placed on care and protection orders within 12 months, for selected States and Territories

State/Territory	Number subsequently placed on a care and protection order	Percentage of all children substantiated in 2000–01
Victoria	1,792	25
Queensland	1,025	16
Western Australia	187	16
South Australia	226	14
Tasmania	53	52
Australian Capital Territory	70	31
Northern Territory	55	19

Note: New South Wales was unable to provide these data.

Table A1.6: Children on care and protection orders: by sex and State and Territory, at 30 June 2002

Sex of child	NSW ^(a)	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Number									
Male	4,273	2,393	1,926	714	674	250	132	96	10,458
Female	3,951	2,574	1,839	670	607	211	129	98	10,079
Unknown	5	8	—	—	5	2	—	—	20
Persons	8,229	4,975	3,765	1,384	1,286	463	261	194	20,557
Per cent									
Male	52	48	51	52	53	54	51	49	51
Female	48	52	49	48	47	46	49	51	49
Persons	100	100	100	100	100	100	100	100	100

(a) These data exclude children on supervisory orders.

Table A1.7: Children on care and protection orders: living arrangements, by age, at 30 June 2002

Age (years)	Family care	Home-based out-of-home care	Residential care	Independent living	Other	Total
	Number					
<1	157	354	11	—	14	536
1–4	819	3,234	51	—	44	4,148
5–9	1,011	4,822	143	—	100	6,076
10–14	911	4,717	466	28	209	6,331
15–17	578	1,875	455	321	229	3,458
Unknown	2	5	—	—	1	8
Total	3,478	15,007	1,126	349	597	20,557
	Per cent					
<1	29	66	2	—	3	100
1–4	20	78	1	—	1	100
5–9	17	79	2	—	2	100
10–14	14	75	7	—	3	100
15–17	17	54	13	9	7	100
Total	17	73	5	2	3	100

Note: Data exclude children from New South Wales on supervisory orders.

Out-of-home care

Table A1.8: Children in out-of-home care, by age and State and Territory, at 30 June 2002

Age (years)	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Number									
<1	197	123	109	45	29	8	4	7	522
1–4	1,770	671	658	346	163	90	30	52	3,780
5–9	2,669	1,060	993	432	312	142	77	52	5,737
10–14	2,428	1,266	1,080	453	456	198	81	38	6,000
15–17	1,015	790	417	218	236	106	32	14	2,828
Unknown	5	8	—	—	—	—	—	—	13
Total	8,084	3,918	3,257	1,494	1,196	544	224	163	18,880
Per cent									
<1	2	3	3	3	2	1	2	4	3
1–4	22	17	20	23	14	17	13	32	20
5–9	33	27	30	29	26	26	34	32	30
10–14	30	32	33	30	38	36	36	23	32
15–17	13	20	13	15	20	19	14	9	15
Total	100	100	100	100	100	100	100	100	100

Table A1.9: Children in out-of-home care, by sex and State and Territory, at 30 June 2002

Sex	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Number									
Male	4,212	2,029	1,644	788	644	291	111	82	9,801
Female	3,867	1,877	1,613	706	547	253	113	81	9,057
Unknown	5	12	—	—	5	—	—	—	22
Total	8,084	3,918	3,257	1,494	1,196	544	224	163	18,880
Per cent									
Male	52	52	50	53	54	53	50	50	52
Female	48	48	50	47	46	47	50	50	48
Total	100	100	100	100	100	100	100	100	100

Table A1.10: Children in out-of-home care, by age and type of placement, at 30 June 2002

Type of placement/ age (years)	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Number									
Home-based									
<1	187	122	109	41	29	7	4	6	505
1-4	1,741	667	655	330	163	78	30	51	3,715
5-9	2,591	1,013	983	391	311	124	75	47	5,535
10-14	2,197	1,061	1,060	385	435	164	71	37	5,410
15-17	678	573	402	145	214	62	21	7	2,102
Unknown	4	—	—	—	—	—	—	—	4
Total	7,398	3,436	3,209	1,292	1,152	435	201	148	17,271
Residential									
<1	1	1	—	4	—	1	—	1	8
1-4	5	4	3	16	—	12	—	1	41
5-9	16	47	10	41	1	18	1	3	137
10-14	124	205	20	64	21	22	10	—	466
15-17	123	180	15	29	22	17	10	1	397
Unknown	—	8	—	—	—	—	—	—	8
Total	269	445	48	154	44	70	21	6	1,057
Per cent									
Home-based									
<1	3	4	3	3	3	2	2	4	3
1-4	24	19	20	26	14	18	15	34	22
5-9	35	29	31	30	27	29	37	32	32
10-14	30	31	33	30	38	38	35	25	31
15-17	9	17	13	11	19	14	10	5	12
Total	100	100	100	100	100	100	100	100	100
Residential									
<1	—	—	—	3	—	1	—	—	1
1-4	2	1	6	10	—	17	—	17	4
5-9	6	11	21	27	2	26	5	50	13
10-14	46	47	42	42	48	31	48	33	45
15-17	46	41	31	19	50	24	48	—	38
Total	100	100	100	100	100	100	100	100	100

Appendix 2: Technical notes

Calculation of rates

The rates of children on care and protection orders and children in out-of-home care were calculated using the Australian Bureau of Statistics' (ABS) most recent population estimates for 31 March 2002 (ABS 2002a).

Rates of children on care and protection orders were calculated in the following way:

$$\frac{\text{Number of children aged 0-17 years on care and protection orders at 30 June 2002}}{\text{ABS estimated population of children aged 0-17 years at 31 March 2002}} \times 1,000$$

Rates of children in out-of-home care were calculated in the following way:

$$\frac{\text{Number of children aged 0-17 years in out-of-home care at 30 June 2002}}{\text{ABS estimated population of children aged 0-17 years at 31 March 2001}} \times 1,000$$

The rates of children subject to child protection substantiations during 2001-02 were calculated using the ABS population estimates for 31 December 2001 (ABS 2002b). These rates were calculated for children aged 0-16 years rather than for children aged 0-17 years because there were very few children aged 17 years who were the subjects of substantiations.

Rates of children who were the subjects of child protection substantiations were calculated in the following way:

$$\frac{\text{Number of children aged 0-16 years who were the subjects of substantiations in 2001-02}}{\text{ABS estimated population aged 0-16 years at 30 December 2001}} \times 1,000$$

Rates for Aboriginal and Torres Strait Islander children

Rates for Aboriginal and Torres Strait Islander children were calculated by using the same basic method outlined above. Population estimates based on the ABS 2001 Census were used for the denominator (ABS 2002c). Population estimates were only available for 30 June 2001 and were used as the denominator for all rates involving Indigenous children.

Rates for States and Territories with small numbers of children in their child protection data and small Aboriginal and Torres Strait Islander populations (notably the Australian Capital Territory and Tasmania) should be interpreted carefully. Small changes in the numbers of Indigenous children in the child protection systems, or in population estimates, can have a major impact on rates.

In the Australian Capital Territory, both the small size of the Aboriginal and Torres Strait Islander population and the likelihood that if one child from a family is notified then all children in that family will be notified contribute to the relatively high rates for Indigenous children in that jurisdiction.

The rates for Aboriginal and Torres Strait Islander children for 2001–02 should not be compared with the rates for Aboriginal and Torres Strait Islander children prior to this. Rates for Aboriginal and Torres Strait Islander children for 1996–97 to 2000–01 were calculated using ABS Indigenous population data from the 1996 Census data. These projections of the population are different from the ones based on the 2001 Census data.

Rates for other (non-Indigenous) children

The non-Indigenous population (referred to in this report as ‘other children’) used for the calculation of rates was obtained by subtracting the number of Aboriginal and Torres Strait Islander children from the number of children in the total population.

Identification of Indigenous status

Children

The practices used to identify and record the Indigenous status of children vary across States and Territories, with some jurisdictions recording large numbers of unknowns. No State or Territory can validate the data on Aboriginal and Torres Strait Islander children by other means and the quality of the data is therefore unknown.

In this collection, children are counted as Indigenous if they are identified as such in the State and Territory collections. Children whose Indigenous status is recorded as ‘unknown’ are counted as non-Indigenous and included in the category ‘other children’. The counts for Aboriginal and Torres Strait Islander children are therefore likely to be an underestimate of the actual number of Aboriginal and Torres Strait Islander children in the child protection system.

During 1998–99 a new method for counting Indigenous status was implemented in New South Wales, which improved the accuracy of this information. The apparent increase in the rate of Indigenous clients was a reflection of the improved recording of Indigenous status rather than an increase in the number of Indigenous clients. Western Australia also introduced new practices to improve the identification of Indigenous clients in 2001–02. Much of the increase in numbers from 2001–02 is likely to be due to improved identification.

Caregivers

In the out-of-home care data collection, the Indigenous status of caregivers was collected as well as the Indigenous status of children in out-of-home care. Carers who are identified as Indigenous are included in the Indigenous category. Where the Indigenous children were living in facility-based care specifically for Indigenous children, the caregiver was counted as Indigenous. Where children were living in other types of facility-based care, the caregiver was counted as non-Indigenous.

Appendix 3: Legislation

Child protection legislation

Commonwealth

Family Law Act 1975

New South Wales

Children and Young Persons (Care and Protection) Act 1998

Victoria

Children and Young Persons Act 1989

Queensland

Child Protection Act 1999

Health Act 1937

Western Australia

Child Welfare Act 1947

Community Services Act 1972

South Australia

Family and Community Services Act 1972

Children's Protection Act 1993

Tasmania

Children, Young Persons and Their Families Act 1997

Alcohol and Drug Dependency Act 1968

Australian Capital Territory

Children and Young People Act 1999

Northern Territory

Community Welfare Act 1983

Legislative definition of ‘in need of care and protection’

For a child to be placed under an order, a court needs to determine whether the child is in need of care and/or protection. Each State and Territory has legislation defining ‘in need of care and protection’.

New South Wales

From 18 December 2000 in New South Wales, a child or young person must be found under section 71, *Children and Young Persons (Care and Protection) Act 1998* to be in need of care and protection by reason of any of the following:

- (a) lack of, or serious difficulties with, parental care
 - where there is no parent available to care for the child or young person as a result of death or incapacity or for any other reason
 - the parents acknowledge that they have serious difficulties in caring for the child or young person and, as a consequence the child or young person is in need of care and protection
- (b) physical or sexual abuse or ill-treatment;
- (c) the child or young persons’ basic physical, psychological or educational needs may not be met;
- (d) possible serious developmental impairment or serious psychological harm arising from the child or young person’s domestic environment;
- (e) sexually abusive behaviour by a child under 14 years of age; or
- (f) pre-existing order of another jurisdiction.

Victoria

In Victoria, section 63 of the *Children and Young Persons Act 1989* indicates that a child is in need of protection if any of the following grounds exist:

- (a) the child has been abandoned and after reasonable inquiries the parent(s) cannot be found, and no other suitable person can be found who is willing and able to care for the child;
- (b) the child’s parent(s) are dead or incapacitated and there is no other suitable person willing and able to care for the child;
- (c) the child has suffered, or is likely to suffer, significant harm as a result of physical injury or sexual abuse, and the child’s parent(s) have not protected, or are unlikely to protect, the child from harm of that type;
- (d) the child has suffered, or is likely to suffer, emotional or psychological harm of such kind that the child’s emotional or intellectual development is, or is likely to be, significantly damaged and the child’s parent(s) have not protected, or are unlikely to protect, the child from harm of that type;
- (e) the child’s physical development or health has been, or is likely to be, significantly harmed and the child’s parent(s) have not provided, arranged or allowed the provision of, or are unlikely to provide, arrange, or allow the provision of, basic care or effective medical, surgical or other remedial care.

Queensland

In Queensland, sections 9 and 10 of the *Child Protection Act 1999* (introduced in March 2000) define a child 'in need of protection' as a child who:

- (a) has suffered harm, is suffering harm or has an unacceptable risk of suffering harm; and
- (b) does not have a parent able and willing to protect the child from harm.

'Parent' is defined broadly to include persons 'having or exercising parental responsibility for the child' and includes a person who, under Aboriginal or Torres Strait Islander tradition or custom, is regarded as a parent of the child.

'Harm' is defined as 'any detrimental effect of significant nature on the child'.

Western Australia

In Western Australia, a 'child in need of care and protection' is defined in the *Child Welfare Act 1947* to include a child who:

- (a) has no sufficient means of subsistence apparent to the court and whose near relatives are, in the opinion of the court, in indigent circumstances or are otherwise unable or unwilling to support the child, or are dead, or are unknown, or cannot be found, or are out of the jurisdiction, or are in the custody of the law; or
- (b) has been placed in a subsidised facility and whose near relatives have not contributed regularly towards the maintenance of the child; or
- (c) associates or dwells with any person who has been convicted of vagrancy, or is known to the police as of bad repute, or who has been or is reputed to be a thief or habitually under the influence of alcohol or drugs; or
- (d) is under the guardianship or in the custody of a person whom the court considers is unfit to have that guardianship or custody; or
- (e) is not being maintained properly or at all by a near relative, or is deserted; or
- (f) is found in a place where any drug or prohibited plant is used and is in the opinion of the court in need of care and protection by reason thereof; or
- (g) being under the age of 14 years is employed or engaged in any circus, travelling show, acrobatic entertainment, or exhibition by which his life, health, welfare or safety is likely to be lost, prejudiced or endangered; or
- (h) is unlawfully engaged in street trading; or
- (i) is ill-treated, or suffers injuries apparently resulting from ill-treatment; or
- (j) lives under conditions which indicate that the child is lapsing or likely to lapse into a career of vice or crime; or
- (k) is living under such conditions, or is found in such circumstances, or behaves in such a manner, as to indicate that the mental, physical or moral welfare of the child is likely to be in jeopardy.

South Australia

In South Australia, under the *Children's Protection Act 1993*, an application may be made to the Youth Court when the Minister is of the opinion that:

- (a) the child is at risk and an order should be made to secure the child's care and protection;
- or

- (b) disruption of existing arrangements for the child would be likely to cause the child psychological injury and it would be in the best interest of the child for the arrangement to be the subject of a care and protection order.

For the purposes of the Act, a child is at risk if:

- (a) the child has been, or is being, abused or neglected; or
- (b) a person with whom the child resides (whether a guardian of the child or not):
 - (i) has threatened to kill or injure the child and there is a reasonable likelihood of the threat being carried out; or
 - (ii) has killed, abused or neglected some other child or children and there is a reasonable likelihood of the child in question being killed, abused or neglected by that person; or
- (c) the guardians of the child:
 - (i) are unable to maintain the child, or are unable to exercise adequate supervision and control over the child; or
 - (ii) are unwilling to maintain the child, or are unwilling to exercise adequate supervision and control over the child; or
 - (iii) are dead, have abandoned the child, or cannot, after reasonable inquiry, be found; or
- (d) the child is of compulsory school age but has been persistently absent from school without satisfactory explanation of the absence; or
- (e) the child is under 15 years of age and of no fixed address.

The *Children's Protection Act 1993* also covers the practice of female genital mutilation. For the purposes of the Act the following definitions of female genital mutilation are used:

Under section 26A(1) female genital mutilation means:

- (a) clitoridectomy; or
- (b) excision of any other part of the female genital organs; or
- (c) a procedure to narrow or close the vaginal opening; or
- (d) any other mutilation of the female genital organs, but does not include a sexual reassignment procedure or a medical procedure that has a genuine therapeutic purpose.

Under section 26B(1) on the protection of children at risk of genital mutilation, if the court is satisfied that there are reasonable grounds to suspect that the child may be at risk of female genital mutilation, the court may make orders for the protection of the child: for example, preventing a person from taking the child from the State, or requiring that the child's passport be held by the court for a period specified in the order or until further order, or providing for periodic examination of the child to ensure that the child is not subject to female genital mutilation.

Part 5 of the *Children's Protection Act* also states that family care meetings should be convened in respect of the child if the Minister believes that a child is at risk and that arrangements should be made to secure the child's care and protection. The Minister cannot make an application for an order granting custody of the child or placing the child under guardianship before a family care meeting has been held unless satisfied that:

- (a) it has not been possible to hold a meeting despite reasonable endeavours to do so; or
- (b) an order should be made without delay; or

- (c) the guardians of the child consent to the making of the application; or
- (d) there is another good reason to do so.

The department will consider taking court action for a care and protection order only when no other intervention can safely protect a child who is at risk by definition of the Act. There are powers which the Youth Court may exercise when it finds that a child is in need of care and protection.

New care and protection orders tend to be for no longer than 12 months, although a second or subsequent order can be granted to complete a reunification process. The child may then be placed under the guardianship of the Minister or such other person or persons the court thinks appropriate, until 18 years of age.

Tasmania

In Tasmania, the *Children, Young Persons and Their Families Act 1997* defines abuse or neglect as:

- (a) sexual abuse; or
- (b) physical or emotional injury or other abuse, or neglect, to the extent that:
 - (i) the injured, abused or neglected person has suffered, or is likely to suffer, physical or psychological harm detrimental to the person's wellbeing; or
 - (ii) the injured, abused or neglected person's physical or psychological development is in jeopardy.

The Act provides the following definition of a child at risk:

- (a) the child has been, is being, or is likely to be, abused or neglected; or
- (b) any person with whom the child resides or who has frequent contact with the child (whether the person is or is not a guardian of the child):
 - (i) has threatened to kill or abuse or neglect the child and there is a reasonable likelihood of the threat being carried out; or
 - (ii) has killed or abused or neglected some other child or an adult and there is a reasonable likelihood of the child in question being killed, abused or neglected by that person; or
- (c) the guardians of the child are:
 - (i) unable to maintain the child; or
 - (ii) unable to exercise adequate supervision and control over the child; or
 - (iii) unwilling to maintain the child; or
 - (iv) unwilling to exercise adequate supervision and control over the child; or
 - (v) dead, have abandoned the child or cannot be found after reasonable inquiry; or
 - (vi) are unwilling or unable to prevent the child from suffering abuse or neglect; or
- (d) the child is under 16 years of age and does not, without lawful excuse, attend school regularly.

Child and Family Services staff make a decision about whether a child is at risk or not through a process of gathering, confirming and analysing information, using their expertise and, where necessary, that of other professional people.

Australian Capital Territory

In the Australian Capital Territory a new Act, the *Children and Young People Act 1999*, was introduced in May 2000. This Act states that a child is in need of care and protection if:

- (a) he or she has been, is being or is likely to be, abused or neglected; and
- (b) no-one with parental responsibility for the child or young person is willing and able to protect him or her from suffering the abuse or neglect.

Abuse in relation to a child or young person means:

- (a) physical abuse; or
- (b) sexual abuse; or
- (c) emotional abuse (including psychological abuse) if the child or young person;
 - (i) has suffered, is suffering or is likely to suffer in a way that has caused, is causing or is likely to cause significant harm to his or her wellbeing or development; or
 - (ii) has been, is being or is likely to be exposed to conduct that is a domestic violence offence within the meaning of the *Domestic Violence Act 1986* and that has caused, is causing or is likely to cause significant harm to his or her wellbeing or development.

Neglect of a child or young person means a failure to provide the child or young person with a necessity of life that has caused, is causing or is likely to cause the child or young person significant harm to his or her wellbeing or development. Necessities include food, shelter, clothing and medical care.

Without limiting the above, a child or young person is also in need of care and protection in any of the following circumstances:

- (a) if a person with whom the child or young person lives or is likely to live:
 - (i) has threatened to kill or injure the child or young person and there is a real possibility of the threat being carried out; or
 - (ii) has killed, abused or neglected a child or young person and there is a real possibility of the person killing, abusing or neglecting the relevant child or young person;
and no-one with parental responsibility is willing and able to protect the child or young person;
- (b) no-one with the parental responsibility for the child or young person (other than the chief executive) is willing and able to provide him or her with adequate care and protection;
- (c) if there is serious, persistent conflict between the child or young person and the people with parental responsibility for him or her (other than the chief executive) to such an extent that the care and protection of the child or young person is, or is likely to be, seriously disrupted;
- (d) the people with parental responsibility for the child or young person (other than the chief executive) are:
 - (i) dead, have abandoned him or her or cannot be found after reasonable enquiry; or
 - (ii) unwilling or unable to keep him or her from engaging in self-damaging behaviour;
or
 - (iii) sexually or financially exploiting the child or young person or unwilling or unable to keep him or her from being sexually or financially exploited; or

- (e) the child or young person is the subject of a child protection order in a State that is not being complied with.

Action taken by ACT Family Services in relation to a report (notification) is at the discretion of the Chief Executive as per section 161 of the Act.

The Act reflects an increased emphasis on family support and prevention services to assist children, young people and their families.

Northern Territory

In the Northern Territory, section 4(2) of the *Community Welfare Act 1983* states that a child is in need of care where:

- (a) the parents, guardian/person having the custody have abandoned the child and cannot, after reasonable enquiry, be found; or
- (b) the parents, guardian/person having the custody are unwilling or unable to maintain the child; or
- (c) the child has suffered maltreatment; or
- (d) the child is not subject to effective control and is engaging in conduct which constitutes a serious danger to his or her health or safety; or
- (e) being excused from criminal responsibility under section 38 of the Criminal Code (being under 10 years of age), the child has persistently engaged in conduct which is so harmful or potentially harmful to the general welfare of the community, measured by commonly accepted community standards, as to warrant action under this Act for the maintenance of those standards.

For the purpose of the *Community Welfare Act 1983*, a child shall be taken to have suffered maltreatment where he or she has/is suffered or are at substantial risk of suffering and of the following:

- (a) a physical injury causing temporary or permanent disfigurement or serious pain or impairment of a bodily function or the normal reserve or flexibility of a bodily function, inflicted or allowed to be inflicted by a parent, guardian or person having the custody of the child, or where there is substantial risk of the child suffering such an injury or impairment;
- (b) serious emotional or intellectual impairment evident by severe psychological or social malfunctioning measured by the commonly accepted standards of the community to which the child belongs, whether a result of physical surroundings, nutritional or other deprivation, or the emotional or social environment in which the child is living, or where there is a substantial risk that such surroundings, deprivation or environment will cause such emotional or intellectual impairment;
- (c) serious physical impairment evidenced by severe bodily malfunctioning, whether a result of the child's physical surroundings, nutritional or other deprivation, or the emotional or social environment in which the child is living, or where there is a substantial risk that such surroundings, deprivation or environment will cause such impairment;
- (a) sexual abuse or exploitation, and the child's parents, guardians or persons having custody of the child are unable or unwilling to protect him or her from such abuse or exploitation; or
- (b) female genital mutilation, where a female child shall be taken to have suffered female genital mutilation where she:

- (i) has been subjected, or there is substantial risk that she will be subjected, to female genital mutilation, as defined in section 186A of the Criminal Code; or
- (ii) has been taken, or there is substantial risk that she will be taken, from the Territory with the intention of having female genital mutilation performed on her.

Appendix 4: Mandatory reporting requirements

New South Wales

Since 1977 medical practitioners have been required by law to report physical and sexual abuse. This was expanded under the *Children (Care and Protection) Act 1987* both as to who is to report and what needed to be reported. As from 18 December 2000 the category of mandatory reporters was changed to anyone who:

- (a) 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 under the age of 16 years; or
- (b) holds a management position in an organisation the duties of which include direct responsibility for or direct supervision of a person referred to in (a), and that person has reasonable grounds (that arise as a consequence of their employment) to suspect that a child is at risk of harm.

Since 1998 agencies have also been required to report allegations about or convictions for child abuse against a person doing work for the agency, together with information on the action being taken by the agency, to the Ombudsman.

These statutory obligations are supplemented and supported by Interagency Guidelines detailing each agency's role, responsibilities and actions required in all aspects of child protection intervention and the policies, procedures and directions of individual agencies on how to respond to child care and protection matters.

Victoria

In 1993 the Victorian Government proposed legislative changes to the *Children and Young Persons Act 1989* which would mandate specific professional groups to notify suspected cases of child physical and sexual abuse. Doctors, nurses and police were mandated on 4 November 1993 to report child physical and sexual abuse. Primary and secondary school teachers and principals were mandated on 18 July 1994.

Queensland

Under the *Health Act 1937*, medical practitioners are required by law to notify all cases of suspected maltreatment of a child. Education Queensland policy requires school principals to report suspected child abuse and neglect to the appropriate authorities and requires teachers to report through principals; however, this is not legislated. The *Child Protection Act 1999* requires that officers of the Department of Families and employees of licensed care services report when they suspect harm to children placed in residential care.

Western Australia

In Western Australia, referrals about possible harm to children are facilitated by a series of reciprocal protocols that have been negotiated with key government and non-government agencies, rather than by mandatory reporting. Community awareness programs and

education of professional groups also contribute to identification of possible maltreatment, and action to prevent further harm from occurring.

South Australia

Under the *Children's Protection Act 1993*, the following persons are required to notify the Department of Human Services (Family and Youth Services) when they suspect on reasonable grounds that a child is being abused or neglected: medical practitioners; nurses; dentists; pharmacists; psychologists; police; probation officers; social workers; teachers; family day care providers; and employees of, or volunteers in, government departments, agencies or local government or non-government agencies that provide health, welfare, education, childcare or residential services wholly or partly for children.

Tasmania

In Tasmania, the *Children, Young Persons and Their Families Act 1997* emphasises that everyone in the community has a responsibility for making sure children are safe and protected. The following list of 'prescribed persons' are mandatory reporters under the Act: registered medical practitioners; nurses; dentists; police officers; psychologists; departmental employees within the *Police Regulation Act 1898*; probation officers; school principals and teachers; persons who manage childcare services or provide child care for a fee or reward; and in general people employed, or who are volunteers in, government agencies or organisations funded by the Crown that provide health, welfare, education, or care wholly or partly for children.

Australian Capital Territory

Mandatory reporting was introduced on 1 June 1997. The groups mandated are doctors, dentists, nurses, police officers, teachers, school counsellors, public servants working in the child welfare field and licensed childcare providers.

Northern Territory

It is mandatory for any person who believes a child is being, or has been, abused or neglected to notify a Family and Children's Services office or police station.

Glossary

General definitions

Community services department

Refers to those departments in each State and Territory that are responsible for child protection matters. See the Acknowledgments for a list of the relevant departments.

Definitions for child protection notifications, investigations and substantiations

Age of child

Age is calculated from the date of birth at the time a report is made, and is shown in completed years, or in completed months where the age is less than 1 year.

Child protection notification

Child protection notifications consist of reports made to an authorised department by persons or other bodies making allegations of child abuse or neglect, child maltreatment or harm to a child. Notifications should not include reports regarding wider concerns about children or families which are classified as child concern reports.

A notification can only involve one child; where it is claimed that two children have been abused or neglected, this is counted as two notifications, even if the children are from one family. Where there is more than one notification about the same 'event', this was counted as only one notification. Where there is more than one notification between 1 July 2001 and 30 June 2002, but relating to different events (for instance, a different type of abuse or neglect or a different person believed responsible for the abuse or neglect), these notifications should be counted as separate notifications.

Investigation

An investigation is the process whereby the community services department obtains more detailed information about a child who is the subject of a notification and makes an assessment about the harm or degree of harm to the child and their protective needs. An investigation includes the interviewing or sighting of the subject child where it is practicable to do so.

Investigations to be counted in this collection relate to those child protection notifications of children aged 0–17 years that were made to an authorised department between 1 July 2001 and 30 June 2002, and which were subsequently investigated.

Substantiation

A substantiation in the national data collection is a child protection notification made to relevant authorities during the year ended 30 June 2002, which was investigated and the investigation was finalised by 31 August 2002, and it was concluded that there was

reasonable cause to believe that the child had been, was being or was likely to be abused or neglected or otherwise harmed.

Person believed responsible

Where there is more than one person believed responsible for the abuse and neglect, the person believed responsible is categorised as the person believed to have inflicted the most severe abuse or neglect, or most likely to have harmed the child or put the child at risk. Where it is not possible to identify the person believed responsible in this way, the person is categorised as the person who inflicted the most obvious form of abuse or neglect.

Relationship to child of the person believed responsible

Intra-familial

Biological parent

Any male or female who is the biological or adoptive parent of the child.

Step-parent

Any person who is not the biological or adoptive parent of the child, but was legally married to one of the child's biological parents.

De facto step-parent

Any male or female who is not the biological or adoptive parent of the child and who is the de facto marital partner of the child's parent.

Sibling

A natural, adopted, foster, step- or half-brother or sister.

Other relative/kin

Includes grandparents, aunts, uncles and cousins, whether the relationship is a full, half or step relationship. It also includes members of Aboriginal communities who are accepted by that community as being related to the child but who are not the child's biological parents.

Extra-familial

Foster parent

Any person (or person's spouse) being paid a foster allowance by a government or non-government organisation for the care of a child (excluding children in family group homes).

Friend/neighbour

An unrelated person or acquaintance who is known to the family, or who lives in close proximity to the subject child or his or her family.

Other

Any person whose relationship to the child is known but not classified above.

Not stated

Includes all notifications substantiated where the relationship to the child of the person believed responsible for the abuse or neglect to the child was not specified.

Source of notification

The source of a notification is that person who, or organisation which, initially makes a child protection notification to a relevant authority. The source is classified according to the relationship to the child allegedly abused or neglected.

Parent/guardian

A natural or substitute parent, spouse of a natural parent, adoptive parent or spouse of an adoptive parent or any other person who has an ongoing legal responsibility for the care and protection of a child.

Sibling

A natural (i.e. biological), adopted, foster, step-brother or -sister, or half-brother or -sister.

Other relative

Includes grandparents, aunts, uncles and cousins. The relationship can be full, half or step or through adoption and can be traced through, or to, a person whose parents were not married to each other at the time of his or her birth. This category also includes members of Aboriginal or Torres Strait Islander communities who are accepted by that community as being related to the child.

Friend/neighbour

An unrelated person or acquaintance who is known to, or lives in close proximity to, the subject child or his or her family, or to the person believed responsible for the abuse or neglect.

Medical practitioner

Includes only registered medical practitioners. It includes both general practitioners and specialists in hospitals or in the community.

Other health personnel

Any person engaged in supplementary, paramedical and/or ancillary medical services. This includes nurses, infant welfare sisters, dentists, radiographers, physiotherapists and pharmacists. It does not include social workers and non-medical hospital/health centre personnel.

Hospital/health centre personnel

Any person not elsewhere classified who is employed at a public or private hospital or other health centre or clinic.

Social/welfare worker

Any person engaged in providing a social or welfare work service in the community.

School personnel

Any appropriately trained person involved in the instruction or imparting of knowledge to children or providing direct support for this education. This includes teachers, teachers' aides, school principals and counsellors who work in preschool, kindergarten, primary, secondary, technical, sporting or art and crafts education.

Childcare personnel

Any person engaged in providing occasional, part-time or full-time day care for children.

Police

Any member of a Commonwealth, State or Territory law enforcement agency.

Departmental officer

Any person, not classified above, who is employed by a State or Territory community services department.

Non-government organisation

Any non-government organisation not classified above which provides services to the community on a non-profit-making basis.

Anonymous

Covers notifications received from people who do not give their names.

Other

All other persons or organisations not classified above (e.g. ministers of religion, or government agencies and instrumentalities not classified above).

Not stated

Includes all notifications that are received from unknown sources.

Family of residence

This can refer to the family type in which the child was residing at the time the abuse and neglect occurred or at the time of notification, depending on the State or Territory practices.

Two-parent – intact

Includes all two-parent families where both parents are the biological parents or both parents are adoptive.

Two-parent – step or blended

Includes blended and reconstituted families (one biological parent and one step-parent, or one natural parent and a de facto of that parent).

Single parent – female

Includes all families with single female parents. The parent may be the biological, step- or adoptive parent.

Single parent – male

Includes all families with single male parents. The parent may be the biological, step- or adoptive parent.

Other relatives/kin

Includes Aboriginal and Torres Strait Islander kinship arrangements.

Foster care

Includes situations in which a child is placed with foster parent(s) who receive a foster allowance from a government or non-government organisation for the care of the child. This category excludes children in family group homes.

Other

Includes extended families and substitute care (not included above). It includes non-family situations, such as hostels and institutional accommodation. It excludes children living in foster care.

Not stated

Used when the family in which a child lives is not recorded or is unknown.

Definitions for care and protection orders

Child subject to orders

This covers any child for whom the community services department has a responsibility as a result of some formal legal order or an administrative/voluntary arrangement. Only orders issued for protective reasons are included.

A legal or administrative order is any lawful direction which involves the community services department with a child over and above what is generally considered normal for most children, or which has an assumption that the department will have carriage of the

order (or a substantial part of it). The involvement might take the form of total responsibility for the welfare of the child (e.g. guardianship); responsibility for overseeing the actions of the person or authority caring for the child; responsibility for providing or arranging accommodation or reporting or giving consideration to the child's welfare. Depending on the State or Territory regulation under which the order is issued, the order can be from a Court, Children's Panel, Minister of the Crown, authorised community services department officer (e.g. director) or similar tribunal or officer.

Age of child

This is the age of the child in completed years at 30 June 2002.

Living arrangements

This category covers the type of living arrangements in which the child spent the night of 30 June 2002. The categories are as follows:

Family care

Where the child is living either with parents, or with relatives/kin who are not reimbursed including:

- (i) living with parents (natural or adoptive) who are reimbursed by the State/Territory for the care of the child
- (ii) living with parents (natural or adoptive) who are not reimbursed for the care of the child
- (iii) living with relatives or kin (other than natural or adoptive parents) who are not reimbursed for the care of the child.

Home-based out-of-home care

Where the placement is in the home of a carer who is reimbursed for the cost of care of the child including:

- (i) foster care/community care – general authorised caregiver who is reimbursed for the care of the child by the State/Territory and supported by an approved agency (excluding relatives/kin who are reimbursed)
- (ii) living with a relative or kin other than parent who is reimbursed by the State/Territory for the care of the child
- (iii) other, including private board.

Facility-based care

Where care is in a facility-based (residential) building whose purpose is to provide placements for children and where there are paid staff.

Independent living

Where children are living independently, such as those in private boarding arrangements.

Other living arrangements

Where living arrangements do not fit into the above categories or are unknown.

Definitions for out-of-home care

Age of child

This is the age of the child in completed years at 30 June 2002.

Type of placement

Placement type is divided into four main categories:

Home-based care

Where placement is in the home of a carer who is reimbursed for expenses for the care of the child including:

- (i) foster care/community care – general authorised caregiver who is reimbursed by the State/Territory for the care of the child and supported by an approved agency
- (ii) relative/kinship care – family members other than parents or a person well known to the child and/or family (based on a pre-existing relationship) who is reimbursed by the State/Territory for the care of the child
- (iii) other home-based care – including private board.

Facility-based care

Includes care in a facility-based (residential) building whose purpose is to provide placements for children and where there are paid staff. Placements in ‘family group homes’ are counted as facility-based care.

Independent living

Where children are living independently, such as those in private boarding arrangements.

Other

Where the placement type does not fit into the above categories or is unknown.

Respite care

This category covers out-of-home care provided on a temporary basis for reasons other than for child protection: for example, when parents are ill or unable to care for the child on a short-term basis. It does not include emergency care provided to children who have been removed from their homes for protective reasons.

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