Capital Region Community Services

Child Protection Policy and Procedure

This document outlines Capital Region Community Services (CRCS) commitment to child protection and obligations to report concerns of child abuse.

Policy

It is the policy of CRCS that all employees, volunteers or others engaged by CRCS to undertake work on behalf of CRCS in both the ACT and NSW and who work with children or young people in that capacity are obligated to report concerns about child abuse and neglect regardless of their status as a reporter (that is: whether they are mandated under either 'The Act', as a voluntary reporter or under 'the Care Act').

CRCS requires that all employees, volunteers and others engaged by CRCS to undertake work on behalf of CRCS will perform their duties in accordance with this policy and procedure and will conduct themselves in a professional and respectful manner when dealing with children, young people, families and other professionals.

CRCS has a zero tolerance towards employees, volunteers and others engaged to undertake work on behalf of the organisation who engage in any behaviour or conduct that may be considered child abuse and will conduct an immediate investigation into any complaints or suspicions in this regard. Please refer to the CRCS *Code of Conduct* and *Interactions with Children Policy and Procedure* for further information about acceptable and unacceptable conduct.

CRCS acknowledges its responsibility to uphold and promote the safety and wellbeing of children and young people, and to respect and listen to the opinions of the children and young people in our care. CRCS recognises the importance of eveloping and implementing systems, which protect children and young people from risk of harm, and fostering culture of safeguarding children and young people.

CRCS has established and documented a commitment to child safety, in the *CRCS Statement of Commitment to the Safety and Wellbeing of Children and Young People*, that has been supported at all levels of the organisation and has an expectation that all employees are aware of and follow this commitment.

If it is found that an employee, volunteer or other person engaged by CRCS to undertake work on behalf of CRCS has not complied with any part of this policy and procedure, they will face disciplinary action which may include termination of employment with CRCS.

CRCS Education and Care Programs parents/guardians will be provided with information about this policy and procedure as part of the orientation process and is documented in the Program handbook. In addition, Nominated Supervisors of Education and Care Services are required to ensure that this policy and procedure is complied with and available to all employees, parents and guardians in the workplace.

Scope

This Policy and Procedure is relevant to all employees, volunteers, students and parents/guardians and any other personnel engaged by CRCS to work on the organisations behalf.

Definitions

Child Abuse	the term used to describe different types of maltreatment inflicted on a child or young person. It includes non-accidental physical injury, sexual abuse, and neglect, emotional abuse, including psychological harm and exposure to domestic violence of children or young people and requires different and specialised responses. *See Appendix C.* Abuse includes: • physical abuse; or • sexual abuse; or • emotional or psychological abuse • neglect can be a form of child abuse.
Child and Young Person Age	The following legislation are relevant to this policy: - In the ACT - *The Children and Young People Act 2008* (in this policy named 'The Act- ACT') defines a child as a person under 12 years of age and a young person as a person who is 12 years or older, but not yet an adult (under 18 years). The following relevant s*ection* for this policy 354, 356, 357 and 362 are at *Appendix A.* - In NSW - The *Children and Young Persons (Care and Protection) Act 1998* (in this policy named 'the Care Act; - NSW') defines a child as a person under 16 years of age and a young person as a person aged 16-18 years of age. The following relevant sections for this policy 23, 24, 25, 26, 27 and 29 are at *Appendix B.*
Cumulative Harm	Cumulative harm refers to the effects of repeated circumstances or events in a child's life that diminish their sense of safety, stability and wellbeing.
Employee	includes both paid and unpaid employees (volunteers) of CRCS who are engaged to undertake work for and on behalf of CRCS in a permanent, fixed term and casual capacity.
Neglect	a failure to provide the child or young person with a necessity of life if the failure has caused or is causing significant harm to the wellbeing or development of the child or young person. Examples of the necessities of life are food, shelter, clothing, education and health care treatment. Neglect can be a form of child abuse.
Voluntary Reporters	Voluntary reporters are employees of an organisation (who are not identified as mandated reporters) and who believe or suspect a child or young person is being abused or being neglected or is at risk of abuse of neglect (Children and Young People Act - Section 354).

CRCS Communication Methods to all stakeholders

The following table outlines the CRCS methods of Communication to all relevant stakeholders:

Occurrence	Action Required	Responsible Position/s	Timeframe
Consultation	Send open consultation email to internal stakeholders inviting feedback	Quality and Audit Manager	Within two days of draft document completed
	Issue Notice in CRCS Connections Newsletter	Quality and Audit Manager	Next month's edition following ratification or review
	Discuss draft Policies and Procedures at team meetings, tool box talks etc.	Line Manager	Within the consultation timeframe
	Send feedback from consultation to policy@crcs.com.au	Line Manager	Within the consultation timeframe

Implementation

The following table outlines the implementation requirements for this Policy and Procedure:

Occurrence	Action Required	Responsible Position/s	Timeframe
Upon Ratification	Email to all stakeholders	Quality and Audit Manager	Within three days of policy ratified
	Issue notice in CRCS Connections Newsletter	Quality and Audit Manager	Next month's edition following ratification or review
	Discuss ratified Policies and Procedures at team meetings, tool box talks etc.	Line Manager	Next meeting following notice by Quality and Audit Manager

Education and Training

Occurrence	Training Description	Responsible Position/s	When
Induction of new employees	New Employee Induction	People and Culture	First week of employment
Induction of new employees	New Employee Workplace Induction	Coordinators and Managers	Within four weeks of employment

Annual Training	**ACT** Community Services Directorate, online training **NSW** Office of the Children's Guardian, online training	Employee	Upon employment and Annually there after
Optional Additional Support	**ACT & NSW** Child Protection: Duty of care and reporting obligations provided by EPEC Education. Nationally Accredited Training: - CHCPRT001 Identify and respond to children and young people at risk - CHCPRT002 Support the rights and safety of children and young people	Program Manager	As identified

PROCEDURE

The following procedures are designed to give clear and simple process for reporting concerns of child abuse and protecting the health, safety and wellbeing of children and young people who come into contact with the organisation.

The procedures are outlined in the following way:

1. Who Must Report Child Abuse
2. What to Report
3. When to Report
4. How to Report
5. Report to the statutory body
6. Privacy and Confidentiality Considerations
7. Care Team Member
8. Informing Families of an Intention to Report
9. Debriefing for Employees
10. Training

Section 1 – Who Must Report Child Abuse

CRCS operates in two jurisdictions (NSW and the ACT) relevant to reporting risk of harm concerns. If there are concerns about a child or young person in the ACT, then this information must be reported to the relevant ACT authority. Conversely, if the child of young person is in NSW, the information must be reported to the NSW authority.

It is the Policy of CRCS that all employees, volunteers and others engaged by CRCS to undertake work on the organisations behalf report as mandated reporters regardless of their status as a reporter under 'The Act' and 'The Care Act'.

Notwithstanding the requirement of CRCS that all personnel report as mandated reporters, it is important that employees, volunteers and others engaged by CRCS to undertake work on behalf of CRCS are aware of their status as a reporter in both the ACT and NSW under their respective legislation, 'The Act' and 'The Care Act' for their own knowledge and compliance.

Both 'The Act' and 'The Care Act' identify certain professional groups as mandated reporters. The relevant sections are:

- ACT - 'the Act' is Section 356 . Refer to *Appendix A*.
- NSW - 'The Care Act' is Section 27 Refer to *Appendix B*.

1.1. In the Australian Capital Territory

'The Act' has mechanisms for the reporting of concerns about child abuse and neglect to the statutory authority, Child and Youth Protection Services (CYPS) (Children, Youth and Families, Community Services Directorate). 'The Act' allows for both the voluntary and mandatory reporting of child abuse.

A prenatal report may be made to CYPS if employees, volunteers or others, in their dealings with a pregnant woman, suspect or believe that the child who may be born as a result of the pregnancy may be in need of care and protection (*Children and Young People Act - Section 362*). The relevant provisions of 'The Act' regarding voluntary, mandatory and prenatal reports are at *Appendix A*.

1.2. In New South Wales

'The Care Act' – NSW outlines mechanisms for reporting in the same way that the ACT equivalent does, however has a clearer focus on the obligations of mandatory reporters.

The Statutory Child Protection Authority in NSW is The Department of Communities and Justice – Community Services (DCJ).

DCJ has a mechanism of assisting to determine whether a mandatory reporter must make a report to the NSW Child Protection Helpline, the Mandatory Reporters Guide (MRG). The MRG is a structured decision making tool that can be accessed online, and will assist mandatory reporters in determining whether they are required to make a report to the helpline or not. This tool is available at, *https://www.facs.nsw.gov.au/families/Protecting-kids/mandatory-reporters/what-when-to-report/chapters/mandatory-reporter-guide.*

Voluntary reporters are not defined in the relevant NSW legislation ('The Care Act'), the MRG should be used as a mechanism of determining whether CRCS employees are required to make a mandatory report relating to children and young people residing in NSW.

A prenatal report may be made to the child protection helpline if a person 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 *(Section 25 of 'The Care Act'*). The relevant provisions of 'The Care Act' regarding voluntary, mandatory and prenatal reports are at *Appendix B.*

Section 2 – What to Report

CRCS requires all employees to report as mandatory reporters, however; both the ACT (*section 356 of 'The Act'*) and NSW (*section 27 of 'The Care Act'*) make it mandatory for certain groups of people to report to the CYPS or DCJ as appropriate. This obligation arises when the person believes on reasonable grounds, during the course of their work, that a child or young person has experienced or is experiencing any type of non-accidental physical harm or neglect.

A reasonable belief may be formed by the disclosure of abuse or neglect from a child or young person, someone else tells you about the abuse (hearsay) or your own observations. If there are any concerns regarding the health and safety of a child or young person, employees should discuss with their line manager or relevant state authority to seek advice and guidance. Whist the line manager can offer support and guidance, if the employee has formed a reasonable belief that a child or young person is at risk of, or is experiencing abuse and/or neglect the employee must report their belief to the relevant authority.

Hearsay is sufficient to form a reasonable suspicion and a reporter does not need to prove that abuse has occurred.

The reporter may identify ongoing concerns and believe that there is abuse as a result of consistent low level neglect or harm. This is known as cumulative harm.

The reporter should not attempt to interview the child regarding details of the abuse or suspected abuse, though if a child or young person begins to make unprompted disclosures, then the reporter should create a thorough written record of this conversation as soon as practical, as this may be requested by the relevant state/territory jurisdiction.

Mandatory reporters are individually responsible for reporting reasonable suspicions of abuse. They must not delegate this authority. However, a mandatory reporter does not need to report an instance where they reasonably believe or understand that another person has made a report about the same child or young person and the same abuse or injury and the reasons for both of the suspicions are the same.

A second exception to the requirement to report is where the mandatory reporter believes on reasonable grounds that:

- the child or young person (the injured person) has experienced or is experiencing, non-accidental physical injury caused by another child or young person; and
- a person with parental responsibility for the injured person is willing and able to protect the injured person from further injury (for example bullying episodes in schools).

  If the mandatory reporter is unsure whether another person has made a report they should make a report to the CYPS or DCJ as appropriate.

The welfare of the child overrides confidentiality provisions across both the ACT and NSW jurisdictions. Individuals who make child protection reports to CYPS or DCJ are protected from litigation under both 'The Act' – ACT and 'The Care Act' – NSW, and do not have to prove their suspicions.

2.1. In the Australian Capital Territory

Failure to report, under 'The Act', if the mandated reporter has formed a reasonable belief a child or young person has suffered or is suffering non-accidental physical injury or sexual abuse attracts criminal sanctions. A list of mandated reporters can *be found at Appendix A, Section 356(2).*

Please note CRCS policy requires all employees to report as mandated reporters regardless of their status, *see section 1 above*.

2.2. In New South Wales

Failure to report under the 'Care Act', - The 'Care Act' details a report must be made when someone has reasonable grounds to suspect that a child is at risk of significant harm and those grounds arise during the course of or from their work or role.

There are consequences for circumstances where mandatory reporters do not fulfil their obligations under 'the Care Act'. *The Crimes Act 1900* provides for a penalty of up to two years imprisonment for a failure to report if an adult in NSW know, believe or reasonably ought to know that a child (under 18 years) has been abused

Section 3 – When to Report

Reports must be made as soon as practicable after the suspicion arises. For mandatory reporters, this is the law. When the report is made there needs to be a level of mindfulness around the risk and safety for the young person and any impact it may have to increase further harm. This does not negate mandatory reporting.

3.1. In the Australian Capital Territory

A checklist is available in *Keeping children and young people safe: A shared community responsibility, a* booklet published by the ACT Government Community Services Directorate, which may be of assistance when deciding whether to report information to CYPS or the police – *see section 4 of this policy* for when a report is made to the police.

If an employee of CRCS is in doubt about their requirement to provide information to CYPS in relation to the safety or wellbeing of a child or young person, contact should be made with the 'intake' or 'helpline' for further advice, *see section 4.1 for contact numbers*.

With respect to children and young people residing in the ACT, *under section 357 of 'The Act'* (*at Appendix A*), if a reporter reasonably believes that a report has already been made to CYPS about the same child or young person; and is about the same abuse or injury; a report does not need to be made.

3.2. In New South Wales

If an employee of CRCS is in doubt about their requirement to provide information to DCJ in relation the safety or wellbeing of a child or young person, contact should be made with the 'intake' or 'helpline' for further advice, *see Section 4.2 for contact numbers*.

With respect to children and young people residing in NSW, *section 23 of 'the Care Act'* identifies when a Child or Young Person is at risk of harm and may require a report (*see Appendix B).*

For children and young people in NSW, the MRG structured decision making tool can be relied upon to make a determination about whether a mandatory report is required.

Section 4 – How to Report

Reports are made to either CYPS or DCJ respectively. To make a mandatory report the employee or volunteer will:

- Immediately advise their line manager of their intention to report. The line manager must inform the CEO within 24 hours of the report.
- Call either CYPS (for ACT) or DCJ (for NSW) *(details at 4.4)* and make a report.
    - If you suspect a child is at risk of abuse or neglect by a **family member or guardian**, use the online form to report your concerns.
- In the ACT the Act requires that all reports are made to CYPS. CYPS then will either report to the police or advise the reporter to do so if necessary. The focus of reporting is the abuse, not who the reporter believes perpetrated the abuse. CYPS and AFP will investigate the detail from this point.
    - If you believe a child is in **immediate danger**, contact the Police now by calling 000.
- Document and file all known information and concerns in accordance with the organisation's protocols. For reports made relating to children and young people in NSW, where the Mandatory Reporting Guide (MRG) has been used, the MRG outcome should be provided to the relevant line manager, whom should also share this document to the CEO.

For both the ACT and NSW jurisdictions, reported information is taken by intake staff in the relevant organisations. The intake staff will provide you with any appropriate advice and will take steps to assess the matter.

If there are difficulties contacting the intake service with either CYPS or DCJ, or the reporter is unhappy with the service they have received, then they should discuss the problem with their supervisor.

4.1. In the Australian Capital Territory

CYPS Contact Numbers for reports about children and young people whom reside in the ACT:

Mandatory Reporters
Online: https://form.act.gov.au/smartfoms/csd/child-concern-report/
Ph: 1300 556 728
Fax: 6205 0641
Email: childprotection@act.gov.au

General Public (Voluntary Reporters)
Ph: 1300 556 729
Fax: 6205 0648
Email: childprotection@act.gov.au

4.2. In New South Wales

For reports about children or young people whom reside in NSW:

Child Protection Helpline
Ph: 13 21 11
Online: Complete an eReport through the ChildStory Reporter website

The Mandatory Reporters Guide can be accessed at, https://www.facs.nsw.gov.au/families/Protecting-kids/mandatory-reporters/what-when-to-report/chapters/mandatory-reporter-guide

Section 5 – Reporting to the Statutory Body

When making a report, the reporter should first phone either CYPS or DCJ on the appropriate number outlined in section 4. If calling after hours, an answering machine or paging service may be reached that will give a mobile number to call. The person making the report should call the mobile number and if necessary, leave a message. A worker will call back in urgent situations.

Reporting can also be made using the online options outlined in *Section 4.*

The person making the report needs to be prepared to give as much of the following information as they can. When reported by phone, the Intake worker will prompt the reporter by asking for this information. The provision of this information to CYPS or DCJ will not be a breach of privacy or professional ethics.

i. Name, date of birth, expected date of birth and Aboriginal and Torres Strait Islander status of the pregnant woman, child/ren or young person(s)
ii. Home address of the pregnant woman, child/ren or young person(s), parents
iii. Current whereabouts of the pregnant woman, child/ren or young person(s), parents
iv. Name of parents/guardians/aliases and contact details
v. Name of known siblings
vi. Nature of abuse and neglect
vii. When and where the alleged abuse/neglect is believed to have occurred
viii. Details about when and how the person making the report became aware of the information
ix. Names of others who may have witnessed the abuse or neglect
x. Details of any disclosure made to the person making the report or others
xi. Description of any injuries seen
xii. Description of the behaviour of the pregnant woman, child/ren or young person(s), parents
xiii. Attitude of the carers of the child/ren or young person(s) to the injury/incident
xiv. Known supports to the pregnant woman, child, young person, parents and/or family
xv. What is known about the family functioning (mental health, presence of violence, alcohol and/or drug misuse)?
xvi. What prompted the reporter to call today (if this is not already obvious)?
xvii. Are the parents/caregivers aware that a report is being made?
xviii. Is the child/young person aware that a report is being made?
xix. Has the reporter given any expectation of action to the child or family?
xx. What action from CYPS or DCJ is the reporter anticipating?
xxi. Provide your contact details including an email (if mandated).

If some of this information is unknown, it does not preclude an employee member from making a report. All information that the employee has should be documented and used to inform line manager

Section 6 – Privacy and Confidentiality Considerations

6.1. Documentation

Store any file notes taken, on a confidential file as per CRCS *Privacy and Confidentiality Policy and Procedure* for storage of confidential information. Include any information forwarded to CYPS or DCJ.

Ensure all records/documentation are legible, signed and dated. Names should be printed as well.

Report exactly what was heard and seen. Check that documentation includes the following:

i. Time, date and format of reporting
ii. initial suspicions and the situation leading to these suspicions
iii. the process you followed in seeking advice and in contacting CYPS or DCJ
iv. the name of the person(s) in CYPS or DCJ that the employee making the report talks to
v. the information that was provided to CYPS or DCJ
vi. all decisions (and their rationale)
vii. all advice (both given and received)
viii. all face to face, email and telephone discussions including the date and time.

6.2. Protected and Sensitive Information Exchange

6.2.1. Reports made to the ACT authority

6.2.1.1. If CYPS provide an employee or volunteer of the organisation with information in relation to a child or young person, that employee member becomes an information holder under *Section 843 of 'The Act'*.

6.2.1.2. All information given to an employee or volunteer by CYPS in relation to a child or young person is protected information under *Section 844 of 'The Act'*.

6.2.1.3. It is an offence if an information holder recklessly divulges protected information. There are exceptions to this offence, including the giving of the information under the requirements of another law or with the consent of the person to whom the information is related. If the information is sensitive information these exceptions do not apply.

6.2.1.4. Under *Section 845 of 'The Act'* the following types of protected information are considered sensitive information:

6.2.1.4.1. CYPS report information;

6.2.1.4.2. CYPS appraisal information, including a child concern report and information that identifies the person who made the child concern report;

6.2.1.4.3. Interstate care and protection information;

6.2.1.4.4. Family group conference information; information about anything said or done in a meeting, or for mediation or conflict resolution for a family group conference;

6.2.1.4.5. Contravention report information; including information that allows information in a confidential report to be worked out or that identifies a person in a confidential report;

6.2.1.4.6. Prenatal report information; and

6.2.1.4.7. Information prescribed by the Director-General, Community Services Directorate.

An example includes the identity of the reporter, or information that would enable the identity of the reporter to be determined.

6.2.2. Reports made to the NSW authority

6.2.2.1. As outlined in 'The Care Act' – NSW, provides that an employee is not in breach of their standards of professional ethics and conduct, and that they will not be liable for criminal or civil proceedings including defamation as a result of complying with their mandatory reporting requirements.

6.2.2.1.1. the report, or evidence of its contents is only admissible in the following proceedings

6.2.2.1.1.1. care proceedings in the Children's Court,

6.2.2.1.1.2. proceedings in relation to a child or young person under *the Family Law Act 1975* of the Commonwealth,

6.2.2.1.1.3. proceedings in relation to a child or young person before the Supreme Court or the Civil and Administrative Tribunal,

6.2.2.1.1.4. proceedings before the Civil and Administrative Tribunal that are allocated to the Guardianship Division of the Tribunal or are commenced under the *Victims Rights and Support Act 2013*,

6.2.2.1.1.5. proceedings under the *Coroners Act 2009,* and

6.2.2.1.2. 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

6.2.2.1.3. 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—

6.2.2.1.3.1. the consent of the person who made the report, or

6.2.2.1.3.2. the leave of a court or other body before which proceedings relating to the report are conducted.

6.3. Information Exchange

6.2.3. Jurisdiction: ACT

6.2.3.1. Under 'The Act', an Information Sharing Entity (defined below and includes employees and volunteers of the entity) can ask CYPS for safety and wellbeing information *(Section 860(2) of 'The Act).*

6.2.3.2. Information Sharing Entity can also give safety and wellbeing information to CYPS (*Section 861 of 'The Act'*).

6.2.3.3. CYPS can ask for safety and wellbeing information about children and young people. Information can be about any child or young person, their parents or anyone else (*Section 862 of 'The Act'*). An Information Sharing Entity must respond promptly to this request. If the Information Sharing Entity is advised that it is an emergency, they must respond within 24 hours.

6.2.3.4. Before an Information Sharing Entity can give information to a worker from CYPS about a participant (except for information given *under section 861 of 'The Act'*) an official written request for information complying with *Section 862 of 'The Act'* must be received.

6.2.3.5. Requests made under *Sections 860(2) and 862 of 'The Act'* are formal documents that are placed in the participants' file and must be sighted before information is given.

6.2.3.6. It is likely that the organisation is an Information Sharing Entity as defined in *section 859 of 'The Act'* and means any of the following:

- 6.2.3.6.1. a parent of the child or young person
- 6.2.3.6.2. someone else who has parental responsibility for the child or young person
- 6.2.3.6.3. an out-of-home carer for the child or young person
- 6.2.3.6.4. a foster care service
- 6.2.3.6.5. a Minister
- 6.2.3.6.6. an ACT education provider
- 6.2.3.6.7. a police officer or a member of a police service or force of a State
- 6.2.3.6.8. a health facility
- 6.2.3.6.9. any of the following entities that provide services to, or has contact with, the child or young person or his or her family:
  - (i) an administrative unit
  - (ii) a community-based service
  - (iii) a territory authority (other than the legal aid commission)
  - (iv) a territory instrumentality
  - (v) an entity established under a law of a State or the Commonwealth
  - (vi) the holder of a position established under a law of a State or the Commonwealth
  - (vii) a public employee (other than a judge or magistrate).

6.2.4. Jurisdiction: NSW

Chapter 16 A of 'The Care Act' – NSW outlines the following:

6.2.4.1 That information must be provided to DCJ regarding the safety welfare and well being of a particular child or young by an organisation that is a prescribed organisation as identified within the 'the Care Act'.

6.2.4.2 Information about the following may be furnished under this section in the same way as information about a child or young person or class of children or young persons may be furnished—

6.2.4.2.1 an unborn child who is the subject of a pre-natal report under section 25

6.2.4.2.2 the family of an unborn child the subject of such a report

6.2.4.2.3 the expected date of birth of an unborn child the subject of such a report.

6.2.4.3 It is the duty of a prescribed body to whom a direction is given under *subsection (1)(b) of 'the Care Act'* to comply promptly with the requirements of the direction.

6.2.4.4 If information is provided under *subsection (1) or (1A) of 'the Care Act'*— the provision of this information does not constitute a breach of professional ethics or conduct standards.

6.2.4.4.1 no liability for defamation is incurred because of the furnishing of the information

6.2.4.4.2 the furnishing of the information does not constitute a ground for civil proceedings for malicious prosecution or for conspiracy.

6.2.4.5 A reference in *subsection (3) of 'the Care Act'* to information furnished under *subsection (1) or (1A)* extends to any information so furnished in good faith and with reasonable care.

6.2.4.6 A provision of any Act or law that prohibits or restricts the disclosure of information does not operate to prevent the furnishing of information (or affect a duty to furnish information) under this section. Nothing in this subsection affects any obligation or power to provide information apart from this subsection.

6.2.4.7 In this section prescribed body means—

6.2.4.7.1 the NSW Police Force, a Public Service agency or a public authority

6.2.4.7.2 a government school or a registered non-government school within the meaning of the *Education Act 1990*

6.2.4.7.3 a TAFE establishment within the meaning of *the Technical and Further Education Commission Act 1990*

6.2.4.7.4 a public health organisation within the meaning of the *Health Services Act 1997*

6.2.4.7.5 a private health facility within the meaning of the *Private Health Facilities Act 2007*

6.2.4.7.6 a person or class of persons prescribed by the regulations for the purposes of this section

6.2.4.7.7 a body or class of bodies prescribed by the regulations for the purposes of this section

and a reference in this section to any such prescribed body includes a reference to any part (however described) of the prescribed body.

Section 7 – Care Team Members

CYPS may declare that a group of people and entities constitute a Care Team for a particular child or young person.

A Care Team will be declared for children and young people who are on care orders, and as needed for children and young people who have open cases with ongoing intervention.

A Care Team will not be automatically declared for every child and young person who is involved with CYPS. Entities will only be included in Care Teams if they have an active and ongoing role with the child or young person.

Members of a Care Team can include, but are not limited to, a health professional; a youth support worker, an educational provider and other nominated health service providers.

Once an entity (or individual) has been nominated as a member of the Care Team, it will be able to share safety and wellbeing information (protected information but not sensitive) with another member of the Care Team.

Each member of the Care Team may receive different levels of information (protected versus sensitive) from CYPS. This information can be shared within members of a Care Team and does not require any formal notification.

Section 8 – Informing of an Intention to Report

Informing parent/guardian of an intention to report is a decision that will be made in consultation with the Employee or Volunteer's Manager or Executive Manager.

It is important to consider whether telling a parent/guardian or alleged perpetrator about making a report places the child or young person at further risk of abuse or neglect. The employee/volunteer should undertake a risk assessment in conjunction with their Manager or Executive Manager to assess the risk to the child or young person from possibly experiencing further abuse, intimidation or threats. *For further information on risk assessments refer to the Risk Assessment Policy and Procedure*. This document must be stored with the information/documentation kept in relation to the report to CYPS or DCJ.

Where possible, it is advised that employees advise the parent or alleged perpetrator of an intention to report. The relationship with the participant is more likely to be repaired if the intention to make a report and the reasons for doing so are fully discussed.

In the case of prenatal reporting it is important to engage and develop a relationship with the pregnant woman. Establishing rapport with the pregnant woman will increase the chances of her opting to receive voluntary advice or treatment.

Sometimes there may be safety issues for the reporter. CRCS will take all efforts will be made to keep the reporters identity confidential. Should a participant become inadvertently aware of a report being made, the Employee should notify their Manager or Executive Manager immediately and follow the specific workplace protocol for managing the issue. The reporter should also alert CYPS or DCJ of this concern at the time of reporting to ensure their information is not inadvertently made available.

Not all reports will result in either CYPS or DCJ contacting the family. Telling the family prior to phoning may cause them unnecessary distress or may undermine the credibility of a health care worker with the family.

If the allegations are serious, and of a criminal nature, there is also potential to contaminate evidence that may be used in a court situation. If in doubt, it is recommended that this issue be discussed with CYPS or DCJ prior to making a report and if necessary, a Police report should also be made.

Please Note: CRCS has a commitment to supporting all employees through Executive Manager support and mentoring, and workplace safety processes.

Section 9 – Debriefing for Employees

Dealing with child abuse can be complex, stressful and traumatic. It can raise issues for workers both professionally and personally

The employee should seek debriefing opportunities following their involvement in child protection matters through their Manager, Executive Manager or directly with People and Culture. Employees Assistance Program is available for all employees, contact Converge International 1300 687 327.

Employees are encouraged to utilise the EAP in addition to debriefing.

Section 10 – Training

CRCS will encourage employees to attend regular training sessions in relation to Mandatory Reporting

If work groups identify that they require additional training in this area, they should contact their Manager, Executive Manager or People and Culture for assistance.

Nominated Supervisors in Education and Care Programs are required to complete the training outlined below CHCPRT001 or an appropriate refresher training module.

10.1. In the Australian Capital Territory

Online education and training is available through the Community Services Directorate – visit, https://www.communityservices.act.gov.au/ocyfs/keeping-children-and-young-people-safe.

Additional training is available at a cost to programs, example providers include EPEC Education and In Safe Hands. Courses can include but are not limited to:

- Nationally accredited training
    - CHCPRT001 - Identify and respond to Children and young people at risk
    - CHCPRT002 – Support the rights and safety of children and young people.

10.2. In New South Wales

Online education is available through the Office of the Children's Guardian – visit, https://www.ocg.nsw.gov.au/child-safe-organisations/training-and-resources/child-safe-elearning.

- Responding to Reportable Allegations
- Child Safe eLearning –keeping children safe in organisations
- SAFESpace elearning – Keeping children safe in organisations in the disability sector

Additional training is available at a cost to programs, example providers include EPEC Education and In Safe Hands. Courses can include but are not limited to:

- Nationally accredited training
    - CHCPRT001 - Identify and respond to Children and young people at risk
    - CHCPRT002 – Support the rights and safety of children and young people.
- Mandatory reporter training and/or Refresher for the above nationally accredited training

- Child Protection: Duty of care and reporting obligations.

Relevant CRCS Policies and Legislation

Parent CRCS Policy: Child Protection Policy and Procedure

CRCS:

- *Code of Conduct*
- *Interactions with Children Policy and Procedure*
- *Privacy and Confidentiality Policy and Procedure*
- *Risk Assessment Policy and Procedure*
- *Statement of Commitment to the Safety and Wellbeing of Children and Young People*
- *Work Health and Safety Policy and Procedure*

Legislation:

- *Children and Young People Act 2008: www.legislation.act.gov.au*
- The *Childrem and Young Persons (Care and Protection) Act 1998: https://legislation.nsw.gov.au*

Acknowledgement / Sources

- *"Keeping Children and Young People Safe: A shared community responsibility" (2019), published by The ACT Government Department of Community Services.*
- *Keeping Children and Young People Safe online Training - https://www.communityservices.act.gov.au/ocyfs/keeping-children-and-young-people-safe*
- *Office of the Children's Guardian eLearning, NSW Government - https://www.ocg.nsw.gov.au/child-safe-organisations/training-and-resources/child-safe-elearning*
- *The Mandatory Report Guide (MRG) – NSW*

Feedback

Feedback on this policy can be submitted to policy@crcs.com.au.

Review

This policy will be reviewed within two years of the date of endorsement.

Compliance

Non-compliance to this policy may result in disciplinary action up to and including dismissal.

Audit

This policy and procedure is to be audited for compliance three months after implementation.

Audit Questions	
Question 1	Are employees in your program aware of the names of the relevant child protection legislation in their jurisdiction ie ACT and/or NSW?
Question 2	Have all relevant program employees attended mandatory reporter training in the last 12 months?
Question 3	Do employees in your program understand their responsibility they have when they form a reasonable belief of a child or young person being at risk of, or is experiencing child abuse or neglect?
Question 4	Is there a system in place for ensuring that mandatory reporting information is kept in a safe and confidential place?
Question 5	Are program employees aware of the mandatory reporting guide in NSW and/or the Keeping Children and Young People Safe in the ACT (As relevant to their jurisdiction)?
Question 6	Are employees able to locate a copy of the mandatory reporting guide in NSW and/or the Keeping Children and Young People Safe in the ACT (As relevant to their jurisdiction)?
Question 7	Are program employees able to articulate the different types of abuse and neglect?
Question 8	Is there evidence Employees have completed the annual refresher training as relevant to the jurisdiction/s within which they work?
Question 9	Are employees aware of the contact details for reporting or where to access them?
Question 10	Are program employees aware of their obligations as mandatory reporters across jurisdictions?

APPENDIX A

Source: Children and Young People Act 2008 (Sections 354, 356, 357, 362)

Please click the hyperlink for currency

354 Voluntary reporting of abuse and neglect

(1) This section applies if a person believes or suspects that a child or young person—

(a) is being abused; or

(b) is being neglected; or

(c) is at risk of abuse or neglect.

(2) The person may report (a ***voluntary report***) the belief or suspicion, and the reasons for the belief or suspicion, to the director-general.

356 Offence—mandatory reporting of abuse

(1) A person commits an offence if—

(a) the person is a mandated reporter; and

(b) the person is an adult; and

(c) the person believes on reasonable grounds that a child or young person has experienced, or is experiencing—

(i) sexual abuse; or

(ii) non-accidental physical injury; and

(d) the person's reasons for the belief arise from information obtained by the person during the course of, or because of, the person's work (whether paid or unpaid); and

(e) the person does not, as soon as practicable after forming the belief, report (a ***mandatory report***) to the director-general—

(i) the child's or young person's name or description; and

(ii) the reasons for the person's belief.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Note 1 A person who gives information honestly and without recklessness under this section does not breach professional ethics and is protected from civil liability (see s 874).

Note 2 Giving false or misleading information to the chief executive is an offence (see Criminal Code, s 338).

(2) In this section:

mandated reporter—each of the following people is a ***mandated reporter***:

(a) a doctor;

(b) a dentist;

(c) a nurse;

(d) an enrolled nurse;

(e) a midwife;

Note ***Doctor***, ***dentist***, ***nurse, enrolled nurse*** and ***midwife*** are defined in the Legislation Act, dict, pt 1.

(f) a teacher at a school;

(g) a person providing education to a child or young person who is registered, or provisionally registered, for home education under the *Education Act 2004*;

(h) a police officer;

(i) a person employed to counsel children or young people at a school;

(j) **a person caring for a child at a childcare centre**;

(k) **a person coordinating or monitoring home-based care for a family day care scheme proprietor;**

(l) a public servant who, in the course of employment as a public servant, works with, or provides services personally to, children and young people or families;

(m) the public advocate;

(n) an official visitor;

(o) **a person who, in the course of the person's employment, has contact with or provides services to children, young people and their families and is prescribed by regulation.**

NOTES: person caring for a child at a childcare centre includes a childcare assistant or aide caring for a child at the childcare centre if the assistant or aide is in paid employment at the childcare centre, but does not include anyone caring for a child as an unpaid volunteer.

Psychologist means a person registered under the Health Practitioner Regulation National Law (ACT) to practise in the psychology profesion (other than as a student).

Teacher, at a school, includes a teacher's assistant or aide if the assistant or aie is in paid employment at the school.

357 Mandatory reporting—exceptions

(1) Section 356 does not apply to a person if the person believes on reasonable grounds that—

(a) someone else has made a report to the director-general about the same child or young person in relation to the same abuse or non-accidental physical injury; and

(b) the other person has reported the same reasons for their belief as the person has for their belief.

(2) Section 356 (1) (c) (ii) does not apply to a person if the person believes on reasonable grounds that—

(a) the child or young person (the ***injured person***) has experienced, or is experiencing, non-accidental physical injury caused by another child or young person; and

(b) a person with parental responsibility for the injured person is willing and able to protect the injured person from further injury.

362 Prenatal reporting—anticipated abuse and neglect

(1) This section applies if, during a pregnancy, a person believes or suspects that a child who may be born as a result of the pregnancy may be in need of care and protection.

(2) The person may report (a ***prenatal report***) the belief or suspicion, and the reasons for the belief or suspicion, to the director-general.

(3) The director-general may, with the consent of the pregnant woman, take 'The Action the director-general considers appropriate in relation to the report.

(4) Without limiting subsection (3), the director-general may do any of the following with the consent of the pregnant woman:

(a) provide a voluntary assessment of whether the child is likely to be in need of care and protection after the child is born;

(b) provide or arrange voluntary support services for the pregnant woman, and any family member who may be involved in caring for the child;

(c) refer the matters raised in the report to a government or community-based service for advice and support services for the pregnant woman and any family member who may be involved in caring for the child.

(5) The director-general may also, without the consent of the pregnant woman, give advice to the person who made the report about appropriate assistance for the pregnant woman that the person may consider.

(6) The director-general may also ask the pregnant woman to consent to the director-general doing either or both of the following:

(a) giving prenatal information to a prenatal information sharing entity;

(b) asking a prenatal information sharing entity for prenatal information.

(7) If the pregnant woman does not consent under subsection (6), the director-general may give the prenatal information to the prenatal information sharing entity, or ask the prenatal information sharing entity for the prenatal information, only if the director-general suspects on reasonable grounds that the child may be in need of care and protection after the child is born.

(8) The director-general is not required to act in relation to a report under this section.

(9) The director-general must ensure, as far as practicable, that any action taken because of this section is appropriate and consistent with the pregnant woman's human rights.

(10) In this section:

prenatal information means information that is relevant to the safety, wellbeing and development of a child after the child is born.

APPENDIX B

Source: The Children and Young Persons (Care and Protection) Act 1998 - (Sections 23-27 & 29)

Please click the hyperlink for currency

23 Child or young person at risk of harm

For the purposes of this Part and Part 3, a child or young person is ***at risk of harm*** if current concerns exist for the safety, welfare or well-being of the child or young person because of the presence of any one or more of the following circumstances:

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

(b) the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care,

(c) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated,

(d) the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm,

(e) a parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm, Physical or sexual abuse may include an assault and can exist despite the fact that consent has been given.

24 Report concerning child or young person at risk of 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 harm may make a report to the Director-General

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 harm after his or her birth may make a report to the Director-General.

Note. The intention of this section is to provide assistance and support to the pregnant woman to reduce the likelihood that her child, when born, will need to be placed in out-of-home care. The principle is that of supportive intervention rather than interference with the rights of pregnant women.

26 Anonymity

A report under section 24 or 25 may be made anonymously.

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

(b) those grounds arise during the course of or from the grounds to suspect that a child is at risk of harm, and person's work,

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

29 Protection of persons who make reports

(1) If, in relation to a child or young person, 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:

(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

(d) conspiracy, and

(e) the report, or evidence of its contents, is not admissible in any proceedings as evidence against the person who made the report or any other person, and

(f) 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

(g) 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, 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.

(2) A court or other body cannot grant leave under subsection (1) (f)(ii) unless the court or other body is satisfied that the evidence is of critical importance in the proceedings and that failure to admit it would prejudice the proper administration of justice.

(3) A court or other body that grants leave under subsection (1) (f) (ii):

(h) (a) must state the reasons why leave is granted, and

(i) (b) must ensure that the holder of the report is informed that evidence as to the identity of the person who made the report, or from which the identity of that person could be deduced, has been disclosed.

(4) Subsection (1) (f) does not prevent the disclosure of information from which the identity of a person may be deduced if the prohibition on the disclosure of that information would prevent the proper investigation of the report.

(5) A report to which this section applies is taken to be an exempt document for the purposes of the *Freedom of Information Act 1989.*

(6) In this section, ***court*** includes a court exercising federal jurisdiction.

APPENDIX C

Sources:

- *Children and Young People Act 2008 (Sections 342, 343, 345)*
- *"Keeping Children and Young People Safe: A shared community responsibility" (2019), published by The ACT Government). (pages 6 – 8)*

Types of Abuse

Physical Abuse

Physical abuse is the non-accidental injury of a child by an adult. An injury can be caused by a single episode or repeated acts. Examples include hitting, shaking, burning, excessive physical discipline, attempted suffocation.

Indicators of possible physical abuse may include but are not limited to:

- Seeming to be accident prone – broken n bones, dislocations, or unexplained bruises or injuries
- bruising or marks that show the shape of an object
- multiple scars of different sizes or ages
- explanation for injury seems unlikely or is inconsistent with the injury type
- not wanting to go home, or somewhere else
- flinching when approached by adults
- frozen watchfulness
- family use of different doctors or delay in seeking treatment
- parents absent, or undisturbed by the injury when the child presents for treatment
- reluctance to give information or mention previous injuries
- children provided with alcohol or non-prescribed drugs.

Sexual Abuse

Sexual abuse is any sexual act or sexual threat impacting on a child, including unwanted sexual acts on a child over the age of consent (16 years old). Sexual abuse includes comments, physical contact, exposure to adult sexual activity and exposure to or involvement in sexual imagery.

Sexual abuse is difficult to detect because it is often surrounded by secrecy. Children are threatened or coerced into remaining silent and are frightened of what might happen if they tell someone about what has happened. Children who do tell someone often deny the abuse later on because of fear or because of how the person they told reacted (see 'Responding to a child who discloses abuse or neglect' in the *Keeping Children and Young People Safe booklet, 2017 – link in the resources section of this policy*). There may be no physical signs to indicate sexual abuse. Instead, signs are likely to be emotional or behavioural.

Some indicators of possible sexual abuse may include but are not limited to:

- direct or indirect disclosures

- inappropriate sexual knowledge or behaviour for their age and development
- sudden and unexplained changes in mood or behaviour
- anxious unwillingness to remove clothes – such as for sport events
- difficulty sleeping, nightmares or sudden unexplained fears
- not wanting to go home, or somewhere else
- self-destructive behaviour, such as eating disorders, substance abuse, self-mutilation, suicide attempts
- suicidal thoughts
- pain, bleeding or swelling in genital or anal area
- having a sexually transmitted disease or is pregnant.

Emotional abuse

Emotional abuse is when a child repeatedly experiences events that cause **significant** harm to their wellbeing or development. Constant yelling, belittling, ignoring and ridiculing are some examples.

Emotional abuse also occurs when a child has been, or is being exposed to family violence and that exposure has, is, or would cause them significant harm (see 'Family violence' below).

Emotional abuse can be difficult to recognise as the signs are usually behavioural rather than physical. It is also possible that emotional abuse is a sign that other forms of abuse are occurring in the child's life.

In recognising emotional abuse, it is important to consider the behaviour of the child's parents or carers as there can be many reasons why a child may be struggling emotionally that are not related to any form of abuse or neglect.

Some indicators of possible emotional abuse may include but are not limited to:

- extremes of behaviour – very aggressive to very passive
- developmental delays
- abnormal attachments with parents – trying too hard to please or failure to connect
- scapegoating
- low self-esteem and confidence, or fearful of doing something wrong
- frozen watchfulness or often anxious or distressed
- being withdrawn or having difficulty relating to others
- feels worthless, unloved or unwanted.

Family Violence

Family Violence often includes multiple forms of abuse, such as physical, sexual and emotional. Emotional abuse is connected to family violence when a child has been, or is being exposed to family violence and that exposure has, is or would cause them significant harm. This exposure includes:

- seeing the violence
- hearing the violence
- seeing the consequences of family violence such as property damage, injuries to those involved including the emotional impact on the victim, or Police visiting the home.

Indicators of possible exposure to family violence include many of those described for other forms of abuse and neglect. Other examples include but are not limited to:

- hypervigilance – overly aware of their surroundings due to anxiety or extreme fear
- concentration problems
- clinginess
- defiant behaviour and rebelliousness
- withdrawal, loss of interest in social activities, depression
- distrust of adults.

Neglect

Neglect happens when a parent, carer or person with parental responsibility fails to provide a child with life's basic necessities causing significant harm to the child's wellbeing or development. Examples include failure to provide food, shelter, clothing or health care.

Neglect can be episodic and related to a particular event in a family's life, or it can be persistent where the parent repeatedly fails to meet their child's needs and protect them from harm. Neglect can have serious, detrimental effects on the child's social, psychological, educational and physical development.

Evidence of neglect is built-up over time and can cover different aspects of parenting. Some indicators of possible neglect may include but are not limited to:

- malnutrition, frequent hunger or stealing food
- inappropriate clothing for weather conditions (particularly in winter)
- frequent illness, sores that don't seem to heal, medical problems that don't seem to be addressed
- children frequently appearing lethargic, disinterested, detached, unresponsive with no underlying medical issue
- poor hygiene (body odour, matted hair or dirty skin)
- children not meeting developmental milestones when there is no underlying medical issue
- comments that nobody is at home or that they do things by themselves
- being left unsupervised for long periods of time
- being left with adults who are intoxicated or violent
- frequent absence or being late to school
- children thriving away from their home environment.