

Mandatory Reporting of Harm and Exploitation of Children

Guidelines

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Acronyms	Full form
FACES	Families and Children Enquiry and Support
NT	Northern Territory
TRM	Territory Records Management
24/7	24 hours a day, seven days a week
TFHC	Department of Territory Families, Housing and Communities

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Read this document with the Sexual Behaviour in Children Guidelines¹ and the Allegations of Sexual Misconduct Policy.²

1. Introduction

Every person in the Northern Territory (NT) is required to make a report if they reasonably believe that a child may have been, or is at risk of being, harmed or exploited. Section 26 of the *Care and Protection of Children Act 2007* (NT)³ sets out the reporting obligations to safeguard the wellbeing of children in the NT. These reporting obligations are commonly referred to as 'mandatory reporting'.

The Department of Territory Families, Housing and Communities (TFHC) has responsibility for investigating allegations that a child may have been, or is at risk of being, harmed or exploited as the result of an act or omission of their parent.

In some cases, a child may be harmed or exploited by people who are not part of their household and the harm is not a result of something their parents did, or failed to do. In these circumstances, TFHC does not have a statutory child protection role. All allegations relating to criminal or sexual offences are investigated by the police.⁴

Child harm or exploitation can be prevented and there are early intervention support services that can assist. Staff can seek information about early intervention support services from TFHC and Families and Children Enquiry and Support (Territory FACES)⁵ by calling 1800 999 900.

2. Scope

These guidelines articulate the obligations for the Department of Education (the department), its employees and all other persons who work or volunteer within schools and corporate divisions.

3. Business need

Mandatory reporting was introduced to the NT in 1984 under the *Community Welfare Act 1983* (NT), which was subsequently replaced by the *Care and Protection of Children Act 2007* (NT). In 2009, the *Care and Protection of Children Act* was amended to include a duty to report selected scenarios of sexual abuse and a special duty for health practitioners.

Reporting of domestic and family violence is also covered in the *Domestic and Family Violence Act 2007* (NT)⁶ and the NT Domestic, Family and Sexual Violence Reduction Framework 2018-28. The department is committed to ensuring its policies support the requirements to report and reduce domestic, family and sexual violence.

In 2018, the Council of Australian Governments endorsed the implementation of the National Principles for Child Safe Organisations⁷ as part of its response to the recommendations made by the 2013 Royal Commission into Institutional Responses to Child Sexual Abuse. The national principles provide a nationally consistent approach to creating organisational cultures that foster child safety and wellbeing across all

1 <https://education.nt.gov.au/policies/sexual-behaviour-in-children>

2 <https://education.nt.gov.au/policies/sexual-behaviour-in-children>

3 <https://legislation.nt.gov.au/Legislation/CARE-AND-PROTECTION-OF-CHILDREN-ACT-2007>

4 https://territoryfamilies.nt.gov.au/_data/assets/pdf_file/0005/666815/Professional-Reporters-Guide.pdf

5 <https://territoryfamilies.nt.gov.au/children-and-families/territory-faces>

6 <https://legislation.nt.gov.au/en/Legislation/DOMESTIC-AND-FAMILY-VIOLENCE-ACT-2007>

7 <https://www.humanrights.gov.au/our-work/childrens-rights/projects/child-safe-organisations>

sectors in Australia. The principles reflect the 10 child safe standards recommended by the royal commission and cover sexual abuse and other forms of harm to children and young people.

4. Definitions

A child in need of care and protection refers to a child:

- who has suffered, or is likely to suffer, harm or exploitation because of an act or omission of their parent
- whose parents are deceased or not willing and able to care for the child
- who has been abandoned and no family member is willing and able to care for the child
- not under the control of any person and is engaged in conduct that caused or is likely to cause harm to the child or other persons.⁸

Child - refers to a person younger than 18 years of age or a person apparently younger than 18 years of age if the person's age cannot be proven.⁹

Child exposure to domestic family violence - refers to a child living in an environment where they are exposed to domestic family violence that places the child at risk of experiencing physical and sexual abuse and significant disruption to their psychosocial wellbeing.¹⁰

Criminal offence - refers to an act that is harmful to individuals, property or the community as determined by the *Criminal Code Act 1983* (NT).¹¹

Domestic and family violence - refers to a pattern of behaviour aimed at controlling a partner or family member through fear, for example using behaviour that is violent and threatening, and placing at risk their immediate and longer-term safety and wellbeing.¹²

Emotional harm - refers to inappropriate verbal or symbolic acts and/or a pattern of failure over time to provide a child with adequate non-physical nurturing and emotional availability. Such acts of commission or omission are likely to damage a child's self-esteem or social competence.¹³

Exploitation - refers to any form of child exploitation as well as sexual exploitation, which includes sexual abuse, and involves a child as a participant or spectator in any act of a sexual nature, including prostitution or pornographic performance.¹⁴

Extra familial harm - refers to the harm or exploitation of a child by people who are not part of the child's household and the harm is not a result of something their parents did, or failed to do.¹⁵

Harm - refers to significant detrimental effect that is caused by an act, omission or circumstance on the physical, psychological or emotional wellbeing or development of a child.¹⁶

Health practitioner - refers to registered Aboriginal and Torres Strait Islander health practitioners, chiropractors, dental practitioners, medical practitioners, midwives, nurses, occupational therapists,

8 <https://legislation.nt.gov.au/en/Legislation/CARE-AND-PROTECTION-OF-CHILDREN-ACT-2007#page=26&zoom=auto,88,538>

9 <https://legislation.nt.gov.au/en/Legislation/CARE-AND-PROTECTION-OF-CHILDREN-ACT-2007#page=18&zoom=auto,88,706>

10 <https://aifs.gov.au/cfca/publications/childrens-exposure-domestic-and-family-violence>

11 <https://legislation.nt.gov.au/en/Legislation/CRIMINAL-CODE-ACT-1983>

12 https://territoryfamilies.nt.gov.au/___data/assets/pdf_file/0006/464775/Domestic,-Family-and-Sexual-Violence-Reduction-Framework.pdf

13 https://apps.who.int/iris/bitstream/handle/10665/43499/9241594365_eng.pdf;jsessionid=856E8E637CAAB4FB8DE1ABB4501A7D0E?sequence=1

14 <https://legislation.nt.gov.au/en/Legislation/CARE-AND-PROTECTION-OF-CHILDREN-ACT-2007#page=24&zoom=auto,88,365>

15 https://territoryfamilies.nt.gov.au/___data/assets/pdf_file/0005/666815/Professional-Reporters-Guide.pdf

16 <https://legislation.nt.gov.au/en/Legislation/CARE-AND-PROTECTION-OF-CHILDREN-ACT-2007#page=24&zoom=auto,88,681>

optometrists, osteopaths, pharmacists, physiotherapists, psychologists, podiatrists, paramedicine practitioners, Chinese medicine practitioners and medical radiation practitioners. A person is only a registered health practitioner if they are registered as a practitioner under the *Health Practitioners Act 2004* (NT).¹⁷

Mandatory reporting - refers to a legal requirement to report a belief that a child may have been or is at risk of being harmed or exploited.¹⁸

Neglect - refers to isolated incidents and/or a pattern of failure over time on the part of a parent or other family member to provide for the development and wellbeing of a child.¹⁹

Parent - refers to a child's father, mother or any other person who has parental responsibility for that child, including a person who is regarded as a parent of the child under Aboriginal customary law or Aboriginal tradition.

Physical harm - refers to the intentional use of physical force that results in, or has a high likelihood of resulting in, harm to a child's health, survival, development or dignity. This includes hitting, beating, kicking, shaking, biting, strangling, scalding, burning, poisoning and suffocating.²⁰

Reasonable grounds - refers to information that a person, with their training or knowledge, believes to be reliable and accurate.

Sexual harm - refers to the involvement of a child in sexual activity that they do not fully comprehend, to which they are unable to give informed consent, for which they are not developmentally prepared or else that violates the laws or social taboos of society. Children can be sexually abused by adults and/or other children who are, by virtue of their age or stage of development, in a position of responsibility, trust or power over the victim.²¹

Sexual offence - refers to an indictable offence involving sexual intercourse or penetration; a sexual relationship; sexual abuse; indecent touching or indecent assault; any other indecent act directed against a person or committed in the presence of a child; making, collecting, exhibiting or displaying an indecent object or indecent material; sexual servitude; or any other form of sexual exploitation or an attempt to commit an act of procuring or any other act preparatory to the commission of the above.²²

Special care relationship - refers to an adult that has a personal, caregiving, instructional or supervisory role with a child. This could include a stepparent, guardian, foster parent, school teacher, religious educator, employer, sport or musical tutor, correctional services officer or health professional.²³

¹⁷ <https://legislation.nt.gov.au/en/legislation/health-practitioners-act-2004>

¹⁸ <https://legislation.nt.gov.au/Legislation/CARE-AND-PROTECTION-OF-CHILDREN-ACT-2007#page=29&zoom=auto,88,556>

¹⁹ https://apps.who.int/iris/bitstream/handle/10665/43499/9241594365_eng.pdf;jsessionid=856E8E637CAAB4FB8DE1ABB4501A7D0E?sequence=1

²⁰ https://apps.who.int/iris/bitstream/handle/10665/43499/9241594365_eng.pdf;jsessionid=856E8E637CAAB4FB8DE1ABB4501A7D0E?sequence=1

²¹ https://apps.who.int/iris/bitstream/handle/10665/43499/9241594365_eng.pdf;jsessionid=856E8E637CAAB4FB8DE1ABB4501A7D0E?sequence=1

²² <https://legislation.nt.gov.au/Legislation/SEXUAL-OFFENCES-EVIDENCE-AND-PROCEDURE-ACT-1983#page=3&zoom=auto,88,414>

²³ <https://legislation.nt.gov.au/Legislation/CRIMINAL-CODE-ACT-1983#page=146&zoom=auto,88,707>

5. Roles and responsibilities

5.1. Department staff and volunteers

Department staff and volunteers are responsible for:

- making a report if they believe on reasonable grounds that a child:
 - has suffered or is likely to suffer harm or exploitation
 - aged less than 14 years, has been, or is likely to be, a victim of a sexual offence
 - aged less than 14 years, is, or is likely to be, sexually active even if that child's parent is aware of the situation
 - over the age of 16 years and in a special care relationship, has been, or is likely to be, a victim of an offence according to the Criminal Code Act
 - is exposed to domestic and family violence
 - has been, or is likely to be, a victim of criminal or sexual offences, including sexual misconduct against a student by a co-worker or colleague.
- informing their principal or director/manager when a mandatory report has been made
- understanding and supporting the National Principles for Child Safe Organisations, in particular:
 - complying with obligations of information sharing and record keeping
 - recognising the signs of harm and facilitating child-friendly ways for children to communicate and raise concerns
 - participating in continual education and training to develop knowledge, skills and awareness to keep students safe.²⁴
- undertaking mandatory reporting training at the start of each semester and signing the attendance acknowledgement if they work directly with students.

In addition to the above, staff who are employed as health practitioners have the added responsibility for:

- making a report if they believe, on reasonable grounds, that:
 - a child aged at least 14 years, but less than 16 years, has been, or is likely to be, a victim of a sexual offence
 - the difference in age between the child and alleged sexual offender is more than 2 years.

5.2. Principals and directors/managers

Principals and directors/managers are responsible for:

- informing their general manager or executive director when they become aware a mandatory report has been made
- ensuring school, corporate and volunteer staff under their management who work directly with students undertake mandatory reporting training at the start of each semester

²⁴ https://childdsafe.humanrights.gov.au/sites/default/files/2019-02/National_Principles_for_Child_Safe_Organisations2019.pdf

- ensuring that staff who do not undertake training at the start of each semester, complete the training at their earliest convenience; for new staff this must be within one week of commencement
- ensuring staff who are employed as health practitioners understand their reporting obligations under section 26 of the Care and Protection of Children Act
- conducting or organising the delivery of mandatory reporting training to staff by an appropriate person
- ensuring training participants complete the attendance acknowledgement form and enter the details on the professional learning database²⁵ noting the signed attendance acknowledgement must be saved in TRM or another suitable central location.

5.3. Senior directors School Improvement and Leadership

Senior directors School Improvement and Leadership are responsible for:

- informing their executive director when they become aware a mandatory report has been made
- ensuring school, corporate and volunteer staff under their management who work directly with students undertake mandatory reporting training at the start of each semester
- ensuring that staff who do not undertake training at the start of each semester, complete the training at their earliest convenience - for new staff this must be within one week of commencement
- confirming that mandatory reporting obligations have been met when an incident occurs in a school.

5.4. General managers and executive directors

General managers and executive directors are responsible for:

- ensuring school, corporate and volunteer staff under their management who work directly with students undertake mandatory reporting training at the start of each semester
- ensuring that staff who do not undertake training at the start of each semester, complete the training at their earliest convenience - for new staff this must be within one week of commencement
- ensuring the attendance acknowledgement form has been completed and the details entered on the professional learning database.

6. When to report

A report must be made as soon as possible once a belief has been formed, on reasonable grounds, that a child:

- has suffered, or is likely to suffer, harm or exploitation
- aged less than 14 years, has been or is likely to be, a victim of a sexual offence
- aged less than 14 years, is, or is likely to be, sexually active even if that child's parent is aware of the situation

²⁵ <http://ed.nts.schools.net/hr/pls/SitePages/Home.aspx>

- over the age of 16 years and in a special care relationship has been, or is likely to be, a victim of an offence according to the *Criminal Code Act*
- is exposed to domestic and family violence
- has been or is likely to be a victim of criminal or sexual offences, including sexual misconduct against a student by a co-worker or colleague.

A belief, on reasonable grounds, may be based on:

- disclosure by a child
- allegations by a third party such as a report by one child in relation to another child
- observations of physical indicators such as injuries or fear
- observations of age-inappropriate behaviours such as sexualised behaviour or talk, as explained in the Sexual Behaviour in Children Guidelines
- delays in emotional or mental development
- chronic non-school attendance.

If there is any doubt as to whether a mandatory report should be made or to whom it should be submitted, advice and guidance is available from the 24/7 Child Protection Hotline by calling 1800 700 250.

7. Who makes the report

The person – adult - who has formed the belief that a child may have been, or is at risk of being, harmed or exploited must make the report. This is a legal requirement and ensures that the most accurate and reliable information is reported.

All reports are confidential. A reporter's identity will not be disclosed, confirmed or denied, nor will the reporter's identity be included in documents prepared for court, except where the court orders the information to be provided.

Section 27 of the Care and Protection of Children Act²⁶ protects a person making a report from civil or criminal liability if they have done so in good faith.

Staff who experience stress or anxiety as a result of making a report can access professional counselling and support through the Employee Assistance Program by calling 1800 432 303.

8. How to make a report

If the situation to be reported is an emergency, telephone 000 and ask for police.

If it is not an emergency:

1. report it to TFHC by calling 1800 700 250 or completing an online report at childprotectionreport.nt.gov.au
2. but involves the following, also make a report to police by calling 131 444 or at the local police station:
 - domestic, family or sexual violence

²⁶<https://legislation.nt.gov.au/Legislation/CARE-AND-PROTECTION-OF-CHILDREN-ACT-2007#page=30&zoom=auto,88,249>

- criminal or sexual offences, including sexual misconduct against a student by a co-worker or colleague.
3. but involves a child enrolled in an early childhood education program and the incident occurred on the program site, also make a report to the Northern Territory Regulatory Authority, Quality Education and Care NT, by calling (08) 8999 3561 or emailing qualityecnt.det@education.nt.gov.au. This is a requirement under the *Education and Care Services National Uniform Legislation Act (NT)*.²⁷

9. Information to be provided when making a report

The person making the report will be asked to provide the following information to the best of their ability:

Identifying information:

- reporter's details
- child's details
- parent's details
- extended family or support network details.

Information about:

- what has happened to the child
- when it occurred
- where the incident happened
- who was there
- who is potentially responsible for the harm.

Type of harm:

- neglect
- emotional
- physical
- sexual
- cumulative.

The person making the report should keep a record of:

- the date and time the report was made
- the reference number provided by TFHC and police.

TFHC will use the information provided, any existing information about the family and their own enquiries to assess whether the child is in need of care and protection.

²⁷ <https://legislation.nt.gov.au/Legislation/EDUCATION-AND-CARE-SERVICES-NATIONAL-UNIFORM-LEGISLATION-ACT-2011>

10. How to respond when a child discloses

A person – adult - may form the belief that a child may have been, or is at risk of being, harmed or exploited based on disclosure by the child. In such instances, the following response is recommended.

- 1) Actively listen to what the child is saying, allow them to speak with minimal interruption, and reassure them.
- 2) Once they have finished, ask open ended questions in order to obtain as much information as possible to make a report. This should be done in a manner that does not place any unnecessary duress on the child.
- 3) In language that is appropriate to the child's age and stage of development, let the child know that their confidentiality cannot be maintained and that a report to the relevant authority must be made. Some examples are given below.
 - Younger children: "Thank you for trusting and sharing this with me. I believe you. This is very serious and my job is to talk to someone who is going to help you. We want you to be safe. You are not alone".
 - Older children: "Thank you for trusting and sharing this with me. I believe you. This is very serious. I am required to report this to someone who specialises in this area. We want you to be safe. You are not alone".
- 4) In every case, reassure the child that disclosing the matter was the right thing to do and that reporting the matter will help stop or prevent the harm or exploitation.
 - Do not undertake an investigation, including questioning other children or adults. The allegation will be investigated by TFHC and/or police.

11. Mandatory reporting training

Mandatory reporting training can be delivered either through the training presentation or the department's online mandatory reporting of harm and exploitation of children training. Relevant staff are only required to complete or attend one training session per semester or when they commence employment.

The training presentation is available to assist principals and directors/managers to deliver mandatory reporting training. The presentation is available on the department's school policies webpage²⁸. Principals and directors/managers can organise for an appropriate person to deliver the mandatory reporting training to staff on their behalf. Appropriate people may include:

- school counsellors
- school psychologists
- relevant TFHC staff
- National Association for Prevention of Child Abuse and Neglect staff.

The department's online mandatory reporting of harm and exploitation of children training is available through MyLearning.²⁹

²⁸ <https://education.nt.gov.au/policies/mandatory-reporting-of-harm-and-exploitation-of-children>.

²⁹ <https://mylearning.nt.gov.au>

Principals and managers/directors can decide which method of delivery, or a combination of both, suits their school or workplace.

12. Attachments

- 1) Training presentation
- 2) Training declaration and attendance sheet- principals
- 3) Training declaration and attendance sheet – directors/managers.

13. Related legislation and policy

13.1. Legislation

*Care and Protection of Children Act 2007 (NT)*³⁰ – promotes the wellbeing and protection of children from harm and exploitation to maximise their opportunities to develop to their full potential

*Education and Care Services (National Uniform Legislation) Act 2011 (NT)*³¹ – sets a national standard for children’s education and care across Australia

*Domestic and Family Violence Act 2007 (NT)*³² – provides for the protection of persons in a domestic relationship against violence

*Criminal Code Act 1983 (NT)*³³ – the Act establishes a code of criminal law

*Sexual Offences (Evidence and Procedure) Act 1983 (NT)*³⁴ - the Act relates to evidence and procedure in the examination of witnesses and the trial of persons in respect of sexual offences

*Health Practitioners Act 2004 (NT)*³⁵ – the Act provides for the pharmacy premises committee and health professional review tribunal and for other purposes relating to health practitioners

13.2. Policy

Student Wellbeing - Allegations of Sexual Misconduct Policy³⁶

Student Wellbeing – Allegations of Sexual Misconduct Guidelines and Procedures - departmental access only³⁷

Sexual Behaviour in Children Guidelines³⁸

³⁰ <https://legislation.nt.gov.au/Legislation/CARE-AND-PROTECTION-OF-CHILDREN-ACT-2007>

³¹ <https://legislation.nt.gov.au/Legislation/EDUCATION-AND-CARE-SERVICES-NATIONAL-UNIFORM-LEGISLATION-ACT-2011>

³² <https://legislation.nt.gov.au/Legislation/DOMESTIC-AND-FAMILY-VIOLENCE-ACT-2007>

³³ <https://legislation.nt.gov.au/Legislation/CRIMINAL-CODE-ACT>

³⁴ <https://legislation.nt.gov.au/Legislation/HEALTH-PRACTITIONERS-ACT-2004>

³⁵ <https://legislation.nt.gov.au/en/Legislation/HEALTH-PRACTITIONERS-ACT-2004>

³⁶ https://education.nt.gov.au/_data/assets/word_doc/0003/744177/Student-Wellbeing-Allegations-of-Sexual-Misconduct-Policy.docx

³⁷ <http://ed.ntschoools.net/documentcentre/pfgdocs/3/HR%20Solutions/Student%20Wellbeing%20-%20Allegations%20of%20Sexual%20Misconduct%20Guidelines%20and%20Procedures.DOCX>

³⁸ https://education.nt.gov.au/_data/assets/word_doc/0009/731682/guidelines_sexual_behaviour_in_children.docx

Protective Practices Guidelines³⁹ - Teacher Registration Board of the NT

TFHC Professional Reporters Guide: Reporting Child Harm or Exploitation⁴⁰ - the guide assists police, teachers and health practitioners to meet the mandatory reporting obligations under the Care and Protection of Children Act

13.3. Resources

Working with Children Clearance Notice Fact Sheet⁴¹

³⁹ <https://www.trb.nt.gov.au/system/files/uploads/files/2019/TRB%20NT%20-%20Protective%20Practices%20.pdf>

⁴⁰ https://tfhc.nt.gov.au/__data/assets/pdf_file/0005/666815/professional-reporters-guide.pdf

⁴¹ https://education.nt.gov.au/__data/assets/pdf_file/0010/618544/Fact-Sheet-Working-with-Children-Clearance-Ochre-Cards.pdf