NSW HEALTH
DEPARTMENT

CIRCULAR

File No	00/6551
Circular No	2003/16
Issued	12 March 2003
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PROTECTING CHILDREN AND YOUNG PEOPLE

Recognising and Reporting Suspected Risk of Harm and
Responding to Requests from the Department of Community Services

INTRODUCTION

1. **This circular supersedes NSW Health Circulars 2001/123, 2000/100, 97/135, 97/55, 97/14, 93/39, 89/161, and 89/98.**

2. For the purpose of this Circular the terms "Public Health Organisation" and "Public Health System" are used in accordance with section 7 of the *Health Services Act (1997)*. Under this Act, Area Health Services, statutory health corporations such as the Children's Hospital Westmead) and affiliated health organisation in respect of its recognised establishments and recognised services (such as Tresillian and other 3rd schedule establishments) are called "Public Health Organisations" (PHOs). All PHOs have a responsibility to ensure implementation of this policy within their area of responsibility.

3. For the purpose of this Circular, the term Health worker refers to any person working within a PHO.

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4. This circular operationalises the responsibilities of NSW Health under the *Children and Young Persons (Care and Protection) Act 1998*. The main care and protection sections of the *Children and Young Persons (Care and Protection) Act 1998* were proclaimed on 18 December 2000, repealing and replacing the *Children (Care and Protection) Act 1987*.

5. This circular outlines the responsibilities of PHOs and Health workers in protecting and supporting children and young people and should be read in conjunction with the *NSW Health Frontline Procedures for the Protection of Children and Young People (2000)*.

6. Other relevant circulars relate to staff recruitment and the management of allegations of abuse made against Health employees. These are NSW Health Circulars:
   - *2000/76 Policy and Procedure for Employment Screening of Staff and Other Persons in Child Related Areas – Amendment to Attachments;*
   - *2000/69 NSW Department of Health Policy on Employment Screening Using Criminal Record Checks;*
   - *2000/55 Policy and Procedure for Employment Screening of Staff and Other Persons in Child Related Areas;*
   - *97/80 Procedures for Recruitment of Staff and Other Persons - Vetting and Management of Allegations and Improper Conduct;*
   - *99/65 Ombudsman Amendment (Child Protection and Community Services) Act 1998 - Allegations of Child Abuse*.

7. The *Children and Young Persons (Care and Protection) Act 1998* has implications for all institutions, services and their staff and facilities working with children, young people and their families. All such agencies have a responsibility to protect children and young people and to work collaboratively with other agencies to ensure a coordinated and comprehensive response to their needs. The NSW Government endorses an interagency approach to promoting the care and protection of children and young people.

8. In accordance with the *Children and Young Persons (Care and Protection) Act 1998*, the Department of Community Services is charged with lead responsibility for the care

and protection of children and young people. It has wide-ranging statutory powers to enable it to carry out this responsibility on behalf of the community. It has a mandate to coordinate responses and to request other agencies to provide care and support to children, young people and their families as appropriate.

ROLE OF NSW PUBLIC HEALTH ORGANISATIONS

9. The role of PHOs in child protection involves recognition, reporting, employment screening, examination, assessment, protective intervention, counselling, specialist treatment, advocacy, care and support, prevention and education.

10. All PHOs and Health workers must work collaboratively to protect the safety, welfare and well being of children and young people. PHOs and Health workers need to understand their legal responsibilities and obligations towards children, young people and their families.

11. All Health workers are required to recognise and report child protection concerns to the Department of Community Services irrespective of whether the basis for a report is information obtained through contact with a child or adult client. In meeting this requirement, Health workers need to consider the current capacity of the adult client to parent where a medical or other condition is impacting on general functioning.

12. All PHOs are required to meet interagency obligations in accordance with the *Children and Young Persons (Care and Protection) Act 1998*. PHOs should also aim to promote the participation of children and young people in decision-making, the self-determination of Aboriginal and Torres Strait Islander peoples and the provision of services which foster the health, development, spirituality, self-respect and dignity of children and young people.

13. The role of PHOs and Health workers in relation to child protection is outlined in the *NSW Health Frontline Procedures for the Protection of Children and Young People.* This is a comprehensive procedural manual in relation to child protection. Health workers should be familiar with and adhere to these *Procedures*. The *Procedures* are available on the NSW Health Intranet at http://internal.health.nsw.gov.au/policy/hsp/child-protection/

REPORTING RISK OF HARM

14. The *Children and Young Persons (Care and Protection) Act 1998*, establishes a process for people who have reasonable grounds to suspect that a child or young person is at risk of harm from abuse or neglect, to report to the Department of Community Services.

15. If concerns regarding suspected risk of harm from abuse or neglect are not reported to the Department of Community Services, the safety, welfare and well-being of a child or young person cannot be properly assessed and they may be left vulnerable to risk or further abuse.

16. For definitions of abuse and neglect see Recognising Abuse and Neglect, points 101-118 of this circular.

17. A child or young person is at risk of harm if current concerns exist for the safety, welfare and well being of the child or young person. A Health worker may also have current concerns about a class of children, that is other children or young people who have contact with an alleged abuser.

18. Current concerns may also exist for a child or young person where abuse has happened in the past and the child or young person may be at risk because of their current reaction to the abuse. For example, self-harm or suicidal behaviours.

19. Another circumstance that may raise current concerns is when abuse has happened in the past, and the alleged abuser poses a current risk to the safety of other children now, such as a person who works with children or young people.

20. Risk of harm refers to the likelihood that a child or young person may suffer physical, psychological or emotional harm as a result of what is done (physical, sexual or emotional abuse, domestic violence) or not done (neglect) by another person, often an adult responsible for their care. Risk of harm also refers to young persons who may suffer physical, sexual, or psychological harm as a result of environmental factors or self-harming behaviour.

21. Health workers do not need to be certain that abuse or neglect has occurred. A report relates to a reasonable suspicion of risk of harm. The information provided within a report determines what further action is needed. When the Department of Community Services receives a report, they are required by law to make an assessment and determination as to whether a child or young person is actually at risk of harm. The suspected abuse or neglect may be one event or a series of events, including an accumulation of circumstances on a child or young person.

WHO SHOULD REPORT

22. Under ministerial directive, all Health workers must report concerns about the safety, welfare and well being of a child where there are reasonable grounds to suspect risk of harm from abuse or neglect. A 'child' is a person under 16 years. Health workers who fail to comply with this ministerial directive may be subject to disciplinary action.

23. Under Section 27 of the *Children and Young Persons (Care and Protection) Act 1998*, it is mandatory for Health workers to report suspected risk of harm relating to children if they deliver health care wholly or partly to children. It is also mandatory for Health managers whose duties include direct responsibility for, or direct supervision of the delivery of health care wholly or partly to children, to report risk of harm to a child. Health workers who fail to comply with mandatory reporting requirements are guilty of an offence. The maximum penalty for a breach of Section 27 is a fine of 200 penalty units, currently $22 000.

WHAT TO REPORT

24. Under Section 23 of the *Children and Young Persons (Care and Protection) Act 1998*, a child or young person is at risk of harm if current concerns exist for the safety, welfare and well-being of the child or young person because of the presence of one or more of the following circumstances:
    a) the child 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 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 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.

The name of the child or young person, a description of what has occurred and the grounds for reporting should be provided when making a report.

25. If a Health worker has doubts about whether a report is required, they should consult with their management, PANOC (Physical and Emotional Abuse and Neglect of Children) Services, Sexual Assault Services, or the DoCS Helpline.

26. In situations where the Health worker assesses in consultation with their manager that a risk of harm report to the Department of Community Services is not required at that time, consideration must be given to what additional support services should be put in place to further support the child or young person. Referrals to Youth Health Service, Family Support Service, Early Childhood Service or Community Counselling Service may be appropriate.

27. A child who is injecting drugs is at risk within the current legal and policy framework and must be the subject of a report to the DoCS Helpline. If the name of a client is not known, Health workers must meet their reporting obligations by providing the Department of Community Services with a description of the client and any other identifying information. Depending on the age of the child, a clinical decision may be required to determine that it is appropiate to provide injecting equipment. It is essential that advice is provided regarding drug and alcohol and other support services prior to provision of injecting equipment

28. Where substance use by a parent has been identified by maternity care providers, staff are required to consult with a health worker with expertise in child protection, in order that a preliminary assessment of risk to the infant may be conducted. Where child

protection concerns are identified, a report to the Department of Community Services should be made. A documented multidisciplinary protection planning meeting in accordance with the *Interagency Guidelines for Child Protection Intervention (2000)* and the *NSW Health Neonatal Abstinence Syndrome Guidelines (2002)* should be conducted prior to the baby's discharge, which also plans the baby's discharge and ongoing care requirements. Representation at this meeting should include where possible the parents, a Health worker with expertise in child protection, and representatives from appropriate services such as Early Childhood, Drug and Alcohol, Community Health and Family Support. Note: This information should be read in conjunction with sections 7, 8.4, 13 and 18.3 of the *NSW Health Frontline Procedures for the Protection of Children and Young People (2000)* and sections 2, 3 and 5 of the *NSW Health Neonatal Abstinence Syndrome Guidelines (2002).*

29. Where substance use by a parent is identified and it is assessed that a report to the Department of Community Services is not required at that time, a multidisciplinary case conference should be convened in accordance with the *NSW Health Neonatal Abstinence Syndrome Guidelines (2002)* to formulate a discharge plan for both the mother and the baby's needs with clear, documented responsibilities and timeframes. Representation at this meeting should include the parents, a Health worker with expertise in child protection, and representatives from appropriate services such as Early Childhood, Drug and Alcohol, Community Health and Family Support. Note: This information should be read in conjunction with sections 7, 8.4, 13 and 18.3 of the *NSW Health Frontline Procedures for the Protection of Children and Young People (2000)* and sections 2, 3 and 5 of the *NSW Health Neonatal Abstinence Syndrome Guidelines (2002).*

YOUNG PERSONS

30. Under Section 24 of the *Children and Young Persons (Care and Protection) Act 1998*, a Health worker may report concerns about risk of harm relating to a young person aged 16 or 17 years.

31. Where a Health worker is concerned that a young person is at risk of harm from abuse or neglect they should make a report. The young person should be involved in the decision to report and the process of reporting, unless there are exceptional reasons

for excluding them. If the young person does not agree to the report being made, this information must be conveyed to the Department of Community Services, as they must consider the young person's wishes in any investigations and assessments.

32. Those working with young people should endeavour to reduce vulnerability to risk of harm through the network of care and support services available. Health workers may consult with the Department of Community Services if they have concerns about the level of risk a young person is facing and are unsure if it warrants the making of a report.

Class of Children

33. Under Section 24 of the *Children and Young Persons (Care and Protection) Act 1998*, a Health worker may report concerns about risk of harm relating to a class of children or young persons. A 'class of children' refers to group of children or young people who may be at risk of harm from abuse because of a person or a situation. An example could be the children in a school or recreational group where a person in charge is suspected of abuse or known to have abused a child.

Pre-natal Reporting

34. Under Section 25 of the *Children and Young Persons (Care and Protection) Act 1998*, a Health worker who has reasonable grounds to suspect, before the birth of a child, that the child may be at risk of harm after her or his birth, may make a report.

35. The intention of pre-natal reporting is to provide an opportunity for early support and assistance to pregnant women where their child, when born, may be at risk of harm, and to reduce the likelihood of the need for out-of-home care after the child is born. Pre-natal reporting should only occur where there are clear indications that an infant may be at risk of harm for example, there may be a greater risk of harm where domestic violence or illicit drug use are present, or where other children in the family have previously been removed. The principle is that of supportive intervention rather than interference with the rights of pregnant women.

Homelessness

36. Under Section 120 of the *Children and Young Persons (Care and Protection) Act 1998*, a Health worker may report homelessness of a child. Under Section 121, a Health worker may report homelessness of a young person, with the consent of the young person.

HOW TO REPORT

37. Health workers may make a report to the Department of Community Services: by telephoning the DoCS Helpline, by faxing the DoCS Helpline, or in urgent situations by using the DoCS Emergency Paging Procedure. The faxing procedures are only to be used where the Health worker has first attempted to telephone the DoCS Helpline.

38. A report number must be obtained by the Health staff member from the DoCS Helpline, and the report documented appropriately on the *Recording Form for the Report of Suspected Risk of Harm Related to the Abuse or Neglect of a Child or Young Person*, as attached. Further information on documentation of reports can be found in section 50 of this Circular, and the *NSW Health Frontline Procedures for the Protection of Children and Young People (2000).*

Making a report by telephone to the DoCS Helpline:

39. All concerns about risk of harm are to be reported in the first instance by telephone directly to the Department of Community Services DoCS Helpline on **13 36 27**. This is the telephone number for mandatory reporters. Clients and the general public can call the DoCS Helpline on 13 21 11. The DoCS Helpline operates 24 hours a day and is a centralised intake, assessment and referral service.

40. In situations where a DoCS Helpline Case Worker is not available to speak directly to the Health worker making a report, options exist for Health workers to bypass the DoCS Helpline queue in urgent situations or to leave a voice message on the DoCS Helpline System. Leaving a message does not enable adequate information for risk assessment to be undertaken by the Department of Community Services about a child at risk of harm. If a message is left by a Health worker about a child at risk of harm, a fax should also be sent using the *Recording Form for the Report of Suspected Risk of Harm Related to the Abuse or Neglect of a Child or Young Person*, as attached.

41. When leaving a message on the DoCS Helpline message system, Health workers should:
    - provide clear information about the urgency and seriousness of the matter so the call back team at the Helpline can prioritise calls appropriately. This may include indicating if a response is assessed to be required within 24 hours.
    - provide the name of the child or young person about whom the report is being made.
    - provide clear details of how to contact the Health worker, when the Health worker is available, or the contact details of another Health worker able to provide the information to the DoCS Helpline if you will not be available.
    - advise in the message that a fax is also to be sent.

42. In situations where a message left by the Health worker has not been answered within a reasonable amount of time, Health workers should re-evaluate the urgency of the situation, and where necessary recontact the DoCS Helpline, or fax the information to the DoCS Helpline. In urgent situations, Health workers should contact their designated senior Health officer and request that they utilise the DoCS emergency pager service.

Making a Report to the DoCS Helpline by Facsimile (Fax):

43. Where Health workers have been successful in speaking with a caseworker at the DoCS Helpline, it is not necessary to fax the DoCS Helpline. Instead the report form should be documented in the client's Health record as specified in the *NSW Health Frontline Procedures for the Protection of Children and Young People (2000*). Health workers should ensure that any documentation of a report to DoCS in Health files should be made as a separate entry to other progress notes.

44. Faxing the DoCS Helpline should only occur where Health workers have attempted to contact the DoCS Helpline and have been unable to speak to a caseworker.

45. A faxed report is made using the *Recording Form for the Report of Suspected Risk of Harm Related to the Abuse or Neglect of a Child or Young Person*, as attached. The

form and any relevant additional pages of information should be faxed to the DoCS Helpline on fax: **9633-7666**. The number of attached pages should also be documented on the form, as indicated. To assist in the legibility of faxed forms Health workers should clearly print in black pen or where possible type the information. The DoCS Helpline uses the information on the fax to prioritise the initial urgency of response. Health workers should indicate the urgency of the matter on any messages and faxed reports.

46. The form should be placed in the client Health record after it has been faxed to the DoCS Helpline and will constitute documentation of the report. Any fax confirmation sheets generated by faxing the report should also be placed in the client Health file.

Making a report to the DoCS Helpline using the DoCS Emergency Pager

47. If there are concerns about the immediate safety of the child or young person, Health staff should contact Police (000) and security staff. The Health worker should then use the pager system. Additional safety information is found in section 6.4.1 of the *NSW Health Frontline Procedures for the Protection of Children and Young People (2000)*.

48. The DoCS Emergency Pager is for use in emergency situations only. This is defined as one in which the child or young person is in danger of serious harm if there is no protective intervention in the immediate future. This may include situations in which:
    - there are immediate concerns that a child or young person presenting with an apparent non-accidental injury will be removed from the PHO by their parent/carer/other person
    - other urgent situations where the immediate safety of a child or young person is compromised, for example where a young child is left alone in the home and a parent has been admitted to a PHO
    - a child or young person is critically injured as a result of a non-accidental injury.

49. The pager service is available 24 hours for use by senior NSW Health staff only. In order to maximise the responsiveness of this system strict parameters regarding the use of the pager number are in place.

50. PHOs have nominated the appropriate senior Health staff to contact. These include Directors of Nursing, Physical Abuse and Neglect of Children (PANOC) Coordinators, Sexual Assault Service Coordinators, senior Directors and Managers including Directors of Emergency Departments and Social Work Departments.

51. Faxed information (report) should **not** be sent in an emergency situation. Any outstanding information should be reported to the DoCS Helpline after the DoCS Helpline have responded to the pager request.

Paging Procedure:

52. The procedure for using the DoCS Emergency Pager is as follows:
    - Situation is assessed by the Health worker as requiring emergency action.
    - The Health worker should consult with the designated senior staff member regarding the identified issues and circumstances of the emergency situation.
    - The designated senior staff member will assess the information on the case and contact the DoCS pager service if the situation is deemed to be an emergency.

53. Where the senior staff member does not assess the situation to require an urgent response, the Health worker should follow existing NSW Health reporting procedures.

54. The brief pager message is to include the following information:
    - urgent response required,
    - the Health worker's name,
    - direct contact number, and
    - location (eg Emergency Department, Blacktown Hospital).

    Information given to the pager service should **not** include the name, or other identifying information about the child or young person.

DOCUMENTATION

55. A report made to the DoCS Helpline must be documented in the client Health record. Documentation can be written within the Health record, or may occur using the form entitled *Recording Form for the Report of Suspected Risk of Harm Related to the Abuse or Neglect of a Child or Young Person*, as attached. Where Health workers document the report within the Health file, a separate entry should be made for this

purpose. Documentation of a report should not **solely** appear within, for example, a social work assessment. Documentation on the form should include the date and time contact was made, the name of the officer spoken to, the nature of concerns reported, the reference number allocated by the DoCS Helpline, and the response from the Department of Community Services if known.

56. Where a report is made by faxing the DoCS Helpline, the faxed information is to be placed within the client Health Record. Sufficient information is to be provided on the form in order for the Department of Community Services to determine the level of risk. This form may be used as a format for documenting that a report has been made but must indicate if the report was made by telephone or by fax.

INFORMING FAMILIES

57. It is good practice to inform children, young persons and their family when making a report to the DoCS Helpline, unless a Health worker's professional judgement determines otherwise. For example, where a Health worker fears for their personal safety or if it were known a report had been made to DoCS it may increase the risk to the child or young person. The dynamics of sexual assault and domestic violence in particular mean that it is important not to inform the alleged offender that a report will be made, as they may pressure the child or young person to retract the disclosure. Other family members, who are not present when the concerns arise, should not usually be approached about the need to make a report, particularly in the case of suspected sexual assault or domestic violence.

FOLLOW-UP TO A REPORT

58. The Department of Community Services will provide feedback to Health workers making a report. The DoCS Helpline will only provide information about an action plan if it is an urgent situation and the Health worker is to be an active participant in the plan. Health workers will be advised in writing of the outcome of their report. Written feedback from the Department of Community Services to a report must be attached to the client Health record.

59. After a report is made, the Department of Community Services will manage the response to the report. The information provided within a report will determine what

further action is needed. When the DoCS Helpline receives a report, they are required by law to make an assessment and determination as to whether the child or young person is actually at risk of harm. The Department of Community Services will assess all reports to determine what is the most appropriate action to ensure the safety, welfare and well being of that child or young person.

60. In any service delivery, and particularly in relation to mental health services, drug and alcohol services, maternity services, and emergency departments, PHOs should endeavour to increase staff awareness that their clients should not be treated in isolation, as adult **problems** (presenting issues of adults) can have significant impact on the safety, welfare and wellbeing of children and young people.

61. Where a Health worker or service identifies concerns that a child or young person may be at risk of harm, in addition to a report to the Department of Community Services, Health workers are to consider other opportunities to support that child or family, such as a referral to another service. Health workers providing services to adult clients must consider whether there is a risk of harm to the child of a client in any intervention.

62. Where a referral is made to another PHO or other agency of child or young person where risk of harm is suspected or identified, Health workers will ensure that all information relevant to the case, including any concerns held relating to that child or young person, is contained within the referral to the PHO or other agency. It is critical that PHOs communicate appropriately with regard to children, young people and their families where risk has been identified.

INTERAGENCY OBLIGATIONS

63. NSW Health is committed to an interagency approach to child protection and will work in compliance to the *Interagency Guidelines for Child Protection Intervention 2000*. PHOs should work in cooperative and coordinated ways with other agencies to ensure effective intervention across the continuum of care.

REQUESTS FOR ASSISTANCE

64. Under Sections 20-22 of the *Children and Young Persons (Care and Protection) Act 1998*, children, young people and parents may request assistance from the Department

of Community Services. These requests for assistance will be assessed by the DoCS Helpline or the Community Services Centre where appropriate.

SECTION 17 REQUESTS FOR A SERVICE FROM NSW HEALTH

65. Under section 17 and section 85 of the *Children and Young Persons (Care and Protection) Act 1998*, the Department of Community Services and the Children's Court can approach PHOs to provide a service to a child, young person or their family to promote the child or young person's safety, welfare and well-being.

66. These requests for service will be made in writing by the DoCS Community Services Centre and are cases where the Department of Community Services has established risk of harm, has undertaken, or is in the process of undertaking a risk assessment, has provided a case plan, and is involved in follow-up and monitoring.

67. Requests for service may also be made by the DoCS Helpline in limited situations which require:
    - urgent mental health assessment/intervention;
    - forensic medical examination;
    - emergency medical treatment;
    - other crisis/ trauma intervention.

68. These requests may not require ongoing follow-up by the Department of Community Services, but will be limited to cases where a child or young person is assessed to be at risk of harm and a written request is made accompanied by a case plan. For these purposes, a 'crisis or trauma intervention' is a situation where there has been a critical incident such as a major accident and a crisis mental health response is needed.

Obligation to cooperate

69. Under section 18 of the *Children and Young Persons (Care and Protection) Act 1998*, PHOs must use their best endeavours in responding to requests for a service under sections 17 and 85 of the *Children and Young Persons (Care and Protection) Act 1998*. In this context 'best endeavours' means to exercise a genuine and considered effort to

respond to a request for service to promote and safeguard the safety, welfare and well-being of a child or young person.

70. PHOs are not expected to provide services that are not within their responsibility or expertise, or if doing so would place an undue burden on a service's ability to carry out its core functions. The Department of Community Services will make a request for service only if it thinks a child or young person needs the service, and that the PHO approached is best placed to provide it.

71. PHOs and the Children's Hospital at Westmead will maintain a central register for 'best endeavours' requests for services. PHOs will also monitor and report on the frequency with which 'best endeavour' requests for services are received and their effectiveness and impact.

72. A 'best endeavours' request for service made by the DoCS Community Services Centre will be directed to the Manager of the PHO from which the service is sought. For these requests, the central register must be immediately notified of the request. The PHO Manager will then provide information to the DoCS Community Services Centre within 2 working days on whether or not the service can be provided, and the time frame for the provision of the service using the *NSW Health Response Form for Best Endeavours Request for Service from the Department of Community Services*. Where a PHO has agreed to provide a service, the central register should be updated after 6 weeks to include information on the outcome of the request using the *NSW Health Update to Best Endeavours Request for Service Form*.

73. Where a 'best endeavours' response is sought by the DoCS Helpline, these requests will be directed to the PHO from which the service is sought. Verbal confirmation will be given to the DoCS Helpline on whether or not a service can be provided. The PHO Manager will then fax a written response to the DoCS Helpline within 24 hours using the *NSW Health Update to Best Endeavours Request for Service Form.* A copy of the *Form* must also be sent to the central register at the same time.

74. If a PHO cannot accept a request for service, the PHO Manager must inform the Department of Community Services of the reasons using the *NSW Health Response*

Form for Best Endeavours Request for Service from the Department of Community Services. In the event that the service may be provided by another unit or agency of the PHO, the PHO manager should assist in the facilitation of the request to that PHO. The PHO Manager should also communicate the availability of this service to the issuing Department of Community Services Centre.

REFERRALS TO A NSW PUBLIC HEALTH ORGANISATION

75. In addition to Section 17 and Section 85 requests for service, Health workers may receive other referrals from the Department of Community Services. The 'best endeavours' principles and procedures do not apply to these referrals.

76. Referrals may be generated by the DoCS Helpline in response to requests for assistance from callers where there is no follow-up required by the Department of Community Services. In these situations the DoCS Helpline may assist the caller to access a PHO either by providing the caller with a letter of introduction, or by contacting the service for them.

77. Referrals may also be made by a DoCS Community Services Centre where risk of harm no longer exists and ongoing monitoring by the DoCS Community Services Centre is not required, but where a family may require assistance to access a PHO.

INFORMATION PROVISION

78. The care and protection of children and young people is dependent upon shared information. Accurate and relevant information assists in the assessment of risk of harm and the need for care and protection.

79. Under Section 248 of the *Children and Young Persons (Care and Protection) Act 1998*, the Department of Community Services has the power to direct prescribed agencies to provide the Department with information about the safety, welfare and well-being of a child or young person, or class of children or young persons. A 'prescribed body' includes the NSW Department of Health and public health organisations within the meaning of the *Health Services Act 1997*.

80. Under Section 248 of the *Children and Young Persons (Care and Protection) Act 1998*, PHOs are required to provide relevant information to progress investigations, assessments and case management. Information may include details about a child or young person's history, current circumstances and views, information about a parent or family, information about relationships or information about a NSW PHOs role and relationship with a child, young person or family.

81. Only information that is already in existence, is documented and relates to the safety, welfare and well-being of a child or young person may be exchanged under section 248. This section therefore does not permit the exchange of documents such as an entire Health file, which may contain information not relevant to the safety welfare and well-being of a child, or the creation of new documentation such as an assessment report.

82. PHOs, including the Children's Hospital at Westmead, the Ambulance Service and Corrections Health Service must establish a centralised system for responding to requests for information received from the Department of Community Services under Section 248. This system will include a single central contact and dispatch point and register. PHO Chief Executive Officers must nominate a senior officer to coordinate and monitor the processing of requests for information and ensure pathways for effective and efficient access to Health records are implemented.

83. Section 248 requests for information will be directed by the Department of Community Services in writing to a single central contact point in each PHO. Where frontline Health workers receive requests directly, they must immediately inform and consult with their service Manager and central contact point.

84. All responses to section 248 requests for information should be made using the *Response to Request for Information from the Department of Community Services Form*. For urgent requests information may be provided by telephone to the Department of Community Services. Details of a request and information provided must be recorded in the Health record from which the information was taken.

85. PHOs are required to meet the following time frames for responding to requests for information:
    - urgent requests
        - as soon as practicable but within 24 hours, where the identity of the PHO that has had contact with the nominated person is known,
        - within 72 hours, where the identity of the PHO that has had contact with the nominated person is not known;
    - standard requests – within 5-10 days;
        - requests for written reports – within 3 weeks;
        - after hours and weekend requests – in relation to a client of a hospital or after-hours crisis service.

86. By agreement with the Department of Community Services, where information is sought under section 248 expressly for use in a matter before the Children's Court, the prescribed agency must be informed of the legal proceedings and give consent to the release of the information. The prescribed body providing the information must also be informed that they may be subpoenaed to produce document(s) and to attend Court if the matter is contested and goes to hearing.

87. By agreement with the Department of Community Services, DoCS staff must not attach a document containing information obtained under section 248 to an affidavit without the knowledge and consent of the prescribed agency that provided the information.

88. Where DoCS requires a document, such as a report or file, to be produced for the purpose of Court proceedings a subpoena should be issued. Where a PHO or Health worker receives a section 248 request from the Department of Community Services and believe that the information sought would be more appropriately sought by a subpoena, the PHO or Health worker should refer to Circular 1998/29 - Subpoenas.

89. Under Section 248 of the *Children and Young Persons (Care and Protection) Act 1998,* the Department of Community Services may also provide information it holds, including that obtained under this clause, to other agencies including PHOs. The Department of Community Services is not obliged to respond to requests and will provide information only when they have assessed that it is in the best interests of the child or young

person, or class of children or young persons. PHOs can request information using the form entitled *Information Request Form*.

PROTECTIONS FOR HEALTH WORKERS

90. Health workers need to be aware that maintaining the confidentiality of a client is not sufficient reason for not reporting risk of harm or exchanging information with the Department of Community Services. In making a report or exchanging information with the Department of Community Services, the protection of children and young people from abuse and neglect is deemed more important than an individual's right to privacy. There are statutory provisions that override restrictions on disclosure of personal information. Section 248 of the *Children and Young Persons (Care and Protection) Act 1998* overrides the privacy principles outlined in privacy legislation in these situations.

91. Details of a report made to the DoCS Helpline, including documentation, are exempt documents under the Freedom of Information Act 1989 (FOI), and access should therefore be refused.

92. Under Sections 29 and 248 of the *Children and Young Persons (Care and Protection) Act 1998*, protection is afforded to a person making a report or providing information to the Department of Community Services if the report is made or information is provided in good faith in relation to the safety, welfare and well-being of a child or young person.

93. In addition, where a report of suspected risk of harm to the DoCS Helpline is made in good faith, grievance proceedings shall not be initiated or allowed to progress against the person making the report in relation to that person's report.

MANAGEMENT OF ALLEGATIONS OF ABUSE

94. PHOs must ensure that allegations of abuse made against PHO employees are investigated and appropriate action is taken in accordance with NSW Health Circulars 97/80, 99/65, 2000/55 and 2000/76.

95. Health workers are required to report convictions and allegations of abuse against Health employees to the Chief Executive Officer of the Public Health Organisation. Each PHO has procedures for this. It is the responsibility of any Health employee who

is charged with or convicted of a serious sex or violence offence, to inform the Chief Executive Officer of the PHO.

96. Any allegation or conviction of child abuse made against an employee must be reported to the Ombudsman. Amendments to the *Ombudsman's Act (1974)* require PHOs, as designated agencies, to notify the Ombudsman within 30 days of becoming aware of any conviction or allegation of abuse made against an employee [section 25C (1)]. The Chief Executive Officer of the PHO or other principal officer is responsible for reporting to the Ombudsman and ensuring that other relevant agencies such as the Police, the Department of Community Services and NSW Health Staff Records Management Unit are advised where appropriate.

97. Disciplinary proceedings resulting from allegations of abuse are to be notified to the Commission for Children and Young People. The employee who is the subject of disciplinary proceedings must be advised by the PHO of the notification.

98. Where a PHO becomes aware of an allegation or conviction of abuse against an employee of another government department and risk of harm to a child or young person is suspected, a report should be made to the Department of Community Services. If there are no current concerns held by the Department of Community Services, information about the allegation or conviction should be sent to the NSW Health Staff Records Management Unit who will provide the employing agency with information if appropriate.

EDUCATION AND TRAINING

99. Chief Executive Officers of PHOs are responsible for ensuring that all Health workers receive appropriate training related to recognising abuse and neglect, reporting suspected risk of harm and responding to requests from the Department of Community Services. Induction programs for new employees should include this information.

100. All frontline Health workers, their managers and other relevant staff should undertake training in the above, and receive support and direction in relation to the implementation of the *NSW Health Frontline Procedures for the Protection of Children and Young People.*

101. Training programs for workers on recognising abuse and neglect, reporting suspected risk of harm and responding to requests from the Department of Community Services are available through PHOs via Corporate Learning Services or PANOC (Physical and Emotional Abuse and Neglect Of Children) Services. The NSW Health Education Centre Against Violence provides in-depth training to Health workers on a range of child protection related issues and can be contacted on 9840 3737.

RECOGNISING ABUSE AND NEGLECT

102. Child abuse is a term commonly used to refer to different types of maltreatment inflicted on a child or young person. It covers a wide range of behaviours and includes assault (including sexual assault), ill-treatment and exposing the child or young person to behaviour that might cause psychological harm. A parent, relative, caregiver, sibling, other child or young person, acquaintance or stranger may abuse a child or young person. Child abuse can be a criminal offence under the Crimes Act 1900. A person who causes or procures a child or young person to be abused may also be guilty of an offence.

103. The legal framework designed to prevent child abuse and neglect is set out in a number of acts of parliament. Relevant legislation covers three main areas: the care and protection of children and young people as provided for in the *Children and Young Persons (Care and Protection) Act 1998*; the criminal law as set out in the C*rimes Act 1900*, as amended, and other statutes; and the law regarding child-related employment and alleged abuse by employees as set out in the C*ommission for Children and Young People Act 1998*, the O*mbudsman (Amendment) Act 1998* and the *Child Protection (Prohibited Employment) Act 1998*.

NEGLECT

104. Neglect occurs where there is risk of harm or actual harm to a child or young person caused by the failure to provide the basic physical and emotional necessities of life. Neglect may be an ongoing situation and can be caused by a repeated failure to meet basic physical and psychological needs.

105. Neglect of basic physical needs occurs when a parent or caregiver fails to provide the basic staples of life to an adequate degree. These include food, physical support and

hygiene. It also includes safety from harm, which may be the provision of appropriate and adequate adult supervision.

106. Neglect of basic psychological needs may be summarised as the child or young person not receiving sufficient or appropriate interaction, encouragement, nurturing or stimulation from their parent or caregiver. Neglect also refers to the persistent ignoring of a child's signals of distress, pleas for help, attention, comfort, reassurance, encouragement and acceptance. In young people this may include disinterest in all aspects of a young person's life by the parent or caregiver.

FAILURE TO ARRANGE NECESSARY MEDICAL CARE

107. Risk of harm may include circumstances where parents or caregivers have not arranged and are unable or unwilling to arrange for a child or young person to receive necessary medical care. Health workers need to consider whether risk of harm is likely to arise from a failure to arrange necessary medical care. For very young children, the risk of harm in not receiving medical attention may be quite high. There are some conditions for which parents may not seek medical care, but do not pose a risk of harm to a child. Other conditions such as burns may be quite critical and, depending on severity, require medical attention.

PHYSICAL ABUSE

108. Physical abuse or ill-treatment is assault, non-accidental injury or physical harm to a child or young person by a parent, caregiver, other person responsible for the child or young person or a sibling or other child or young person in the household. It includes harm or injuries which are caused by excessive discipline, beating or shaking, bruising, lacerations or welts, burns, fractures or dislocation, female genital mutilation, attempted suffocation or strangulation, all of which may result in the death of a child or young person.

109. Physical abuse may constitute a criminal assault. The circumstances of a victim, including the vulnerability of a child or young person, and hence the likelihood of sustaining a serious or permanent injury, means that assault charges may be warranted in cases of physical abuse.

110. Female genital mutilation is a crime. The *Crimes (Female Genital Mutilation) Act 1995* states that anyone who is found guilty of practising female genital mutilation or who aids, abets, counsels or procures someone else to practise female genital mutilation on another person is liable to penal servitude of up to seven years. It is also illegal for female genital mutilation to be carried out overseas on any person who is normally a resident in New South Wales.

Sexual Assault

111. Sexual assault includes any sexual act or sexual threat imposed on a child or young person. Adults or adolescents or older children, who sexually assault children or young people exploit their dependency and immaturity. Coercion, which may be physical or psychological, is intrinsic to child sexual assault and differentiates it from consensual sex with a peer. The apparent consent of a child or young person may not mean that abuse did not occur.

112. It is important to report sexual assault that has happened to a child or young person in the past where the alleged perpetrator has contact with children now. For example, the alleged perpetrator has current contact with a child or young person in a family setting or is a teacher or works with young people.

113. Children and young people may exhibit sexually offending behaviour. A child who is exhibiting sexually offending behaviour should be considered at risk of harm.

Domestic Violence

114. Domestic violence is violent, abusive or intimidating behaviour carried out by an adult against a partner or former partner to control and dominate that person. It is most often violent, abusive or intimidating behaviour by a man against a woman.

115. Some of the forms of domestic violence are physical assault, sexual assault, emotional abuse, social abuse (being isolated socially or geographically against one's will) and economic abuse (having no access to or control over money and other resources).

116. Domestic violence has a profound effect on children and young people and constitutes a form of abuse. Children and young people may experience harm from domestic violence as:
    - direct victims of physical and emotional abuse;
    - indirect victims when attempting to protect another person; and
    - victims of emotional and psychological trauma by living in a climate of fear and intimidation as a result of domestic violence.

117. Children and young people experiencing domestic violence may be at risk of serious physical or psychological harm. Serious psychological harm should be assumed in the presence of any of the following factors:
    - the repetition or an escalation in frequency or severity of domestic violence;
    - where a child or young person has been physically harmed;
    - if a victim has required medical attention as a result of domestic violence;
    - where a weapon has been used;
    - where an Apprehended Violence Order has been issued and/or breached and there are indicators that a child is currently at risk;
    - where there are threats to take or harm children.

118. Serious psychological harm may also arise in circumstances where:
    - the parent or caregiver is unable to protect the safety, welfare or well-being of the child or young person due to the level of victimisation;
    - domestic violence exists with one or more factors such as the hazardous use of alcohol or other drugs;
    - the presence of other factors which may increase the vulnerability of a child or young person such as the presence of a mental health problem or a disability.

Emotional Abuse (psychological harm)

119. Emotional abuse encompasses a range of behaviours that harm a child or young person and which may cause serious psychological harm. It is behaviour by a parent, caregiver, older child or other person that can damage the confidence and self-esteem of a child or young person resulting in emotional deprivation or trauma. Emotional abuse is also experienced by a child or young person when living in a situation of

domestic violence. Serious psychological harm involves the impairment of, disturbance or damage to a child or young person's cognitive, emotional, behavioural or social development.

This circular rescinds and replaces the *NSW Health Frontline Procedures for the Protection of Children and Young People (2000) in respect of:-*

1. The *Recording Form for the Report of Suspected Risk of Harm Related to the Abuse or Neglect of a Child or Young Person,* as attached to this circular replaces Appendix 5 of the *NSW Health Frontline Procedures for the Protection of Children and Young People (2000).*

2. Paragraph116, point 5 of the circular which refers to reporting domestic violence, where apprehended violence orders are in place, replaces Section 4.13 paragraph 5, point 5 in the *NSW Health Frontline Procedures for the Protection of Children and Young People (2000).*

3. Section 12.7, paragraphs 3 and 6 of the *NSW Health Frontline Procedures for the Protection of Children and Young People (2000) are* superseded by the Joint Investigative Response Teams (JIRT) Policy and Procedures Manual 2001 Pages 20 and 21 which discuss the process for case planning meetings between DoCS Manager Casework and the Sexual Assault Service Co ordinator to determine service provision for children who have not disclosed at interview.

Robyn Kruk
Director-General

NSW HEALTH

CONFIDENTIAL

Recording Form for the Report of Suspected Risk of Harm Related to the Abuse or Neglect of a Child or Young Person

- This form is to be used for the documentation of a report of risk of harm to the NSW Department of Community Services (DoCS).
- Health workers may fax this form to the DoCS Helpline on fax: **9633-7666** in situations where they have unsuccessfully attempted to speak to a DoCS Helpline caseworker.
- Health workers are to complete this **two page** form in full.
- Health workers are to provide sufficient information to enable initial prioritisation by the DoCS Helpline of risk of harm to the child or young person.

This form should be placed in the client health record after use.

Message also left on DoCS Helpline Telephone System: Yes/No Date:_____

Health Worker Name:_____

Position:_____

Area Health Service & Unit:_____

Time work hours/shift ends:_____

Contact phone number & extension:_____

_____

For faxed reports: Contact mailing address OR fax number (if faxed feedback is preferred):

_____

_____

Call to DoCS Helpline: Date:_____ Time:_____ am/pm

Outcome:_____

_____

Name of child or young person:_____

Please circle: Male Female Unborn: EDC:_____

Date of birth:_____ Age:_____

Please circle: Aboriginal Torres Straite Islander Neither Not Known

Language spoken at home:_____

Disability issues:_____

Home address:_____

_____ Postcode:_____

Home phone:_____

School/Campus/Centre attended by child or young person:_____

_____

Name of parents or carers and their relationship to the child or young person:

Name:_____ Name:_____

Phone No:_____ Phone No:_____

_____ _____

Relationship:_____ Relationship:_____

SPECIAL CONSIDERATION

Is this report related to the homelessness of a child? Yes/No

If this is a report related to risk of harm of a young person are they aware of this report? Yes/No

Provide details of the wishes expressed in relation to this report by the young person in detail below.

Details of concerns of harm or risk of harm to the child or young person:

(Please attach additional relevant information)

_____ **Additional pages attached**

What outcomes/services does the Health worker consider may assist the care needs of the child or young person?

What services are currently in place to support the child, young person and their parents/carers (if known)?

Report made by (please print):

Signature: Date:

Name of Helpline Caseworker:

Call Reference Number: