

Child friendly complaint processes and reporting

Organisations should ensure that children and young people are properly cared for and protect them from violence, abuse and neglect by their parents, or anyone else who looks after them. (Convention on the Rights of the Child, Article 19) [12]

National Principle 6 Processes to respond to complaints and concerns are child focused



- 6.1 The organisation has an accessible, child focused complaint handling policy which clearly outlines the roles and responsibilities of leadership, staff and volunteers, approaches to dealing with different types of complaints, breaches of relevant policies or the Code of Conduct and obligations to act and report.
- 6.2 Effective complaint handling processes are understood by children and young people, families, staff and volunteers, and are culturally safe.
- 6.3 Complaints are taken seriously, and responded to promptly and thoroughly.
- 6.4 The organisation has policies and procedures in place that address reporting of complaints and concerns to relevant authorities, whether or not the law requires reporting, and co-operates with law enforcement.
- 6.5 Reporting, privacy, and employment law obligations are met.

Child and youth safeguarding concerns

The Department's commitment to a positive safety culture underpins its safety and quality improvement systems.

By improving existing systems and processes, implementing the National Principles will ensure that workers can record, report on, and learn from safeguarding concerns to keep children, the public, and themselves safe and supported by a no-blame philosophy.

Safeguarding concerns and complaints are treated seriously and responded to promptly and consistently in accordance with Department's policies and procedures. The aim is to prevent harm to children and young people by identifying risks, and taking steps to remove and reduce those risks in a culturally appropriate, safe, timely, and trauma-informed way. [6] [7]

The Department's safeguarding policies and procedures will build on existing safety event management processes and reflect contemporary governance and management of child safeguarding concerns. They will outline roles and responsibilities for workers and detail the Department's approach to dealing with different types of safeguarding concerns, including harm to children and young people by other children and young people. These policies and procedures reflect requirements of the *Children,*

Young Persons and Their Families Act 1997, Registration to Work with Vulnerable People Act 2013, Health Practitioner Regulation National Law (Tasmania) Act 2010, Health Complaints Act 1995, and other specific legislation around conduct. [41] [23] [93] [30]

Trauma-informed care

The Department will take a trauma-informed approach to the management of safeguarding concerns involving children and young people. This approach aims to ensure the best outcomes for children and young people and considers the widespread impact of trauma, seeking to actively resist re-traumatisation. The Department will uphold the guiding principles of trauma-informed practice, including: [6] [7] [94]

- safety
- trustworthiness
- choice
- collaboration
- empowerment

Mandatory reporting

Mandatory reporting is the legal requirement to report a reasonable suspicion of harm or risk of harm to children, young people, and unborn babies to relevant authorities.

A mandatory reporter must make the notification as soon as practicable after forming a suspicion. Failing to report suspected abuse, neglect, or other conduct

reportable under legislation is a criminal offence and workers may be prosecuted.

The Department provides workers with guidance about their mandatory reporting obligations and

making a report. Workers may be supported by the Department's Child Safety and Wellbeing Service to make a mandatory report. Where the service identifies a requirement to report has not been fulfilled, they may take action to facilitate the process.

A mandatory report is required to be lodged using the legislated avenues in addition to the Department's safety and learning system.

Children, Young Persons and Their Families Act 1997 (Tas)

The *Children, Young Persons and Their Families Act 1997* (Tas) outlines the requirements of mandatory reporters in relation to children and young people. All Departmental workers are mandatory reporters under the *Children, Young Persons and Their Families Act 1997* (Tas).

Section 14 establishes that the following professions are required to make a mandatory report: [41]

- medical practitioner
- registered nurse or enrolled nurse
- midwife
- dentist, dental therapist, dental hygienist, and oral health therapist
- psychologist
- police officer
- probation officer appointed or employed under section 5 of the Corrections Act 1997
- principal and a teacher in any educational institution (including a kindergarten)
- a person who provides childcare, or a childcare service
- a person involved in the management of an approved education and care service or a childcare service
- a member of the clergy of any church or religious denomination
- a member of the Parliament
- an employee or volunteer of a Government Agency or funded organisation that provides, health, welfare, education, childcare, or

residential services wholly or partly for children, and

- any other person of a class determined by the Minister.

Anyone who has knowledge or a belief or suspicion on reasonable grounds that a child or young person has been or is being abused or neglected in accordance with the *Children, Young Persons and Their Families Act 1997* (Tas) must report this to the Child Safety Service through the Strong Families, Safe Kids Advice and Referral Line, Online Contact Form and/or Tasmania Police.

Workers can access advice about their mandatory reporting requirements from the Tasmanian Government's Child Safety Service and/or the Department's Child Safety and Wellbeing Service.

Health Practitioner Regulation National Law (Tasmania) Act 2010 (Tas)

The *Health Practitioner Regulation National Law (Tasmania) Act 2010* (Tas) outlines the requirements of mandatory reporters in relation to notifiable conduct by registered health practitioners.

Any registered health practitioner who forms a reasonable belief that another registered health practitioner has behaved in a way that constitutes notifiable conduct in accordance with the *Health Practitioner Regulation National Law (Tasmania) Act 2010* (Tas) is required to notify the relevant registration board by law. Other people are encouraged to report notifiable conduct but are not mandated to by law.

There are four concerns that may trigger a mandatory notification under the legislation. Depending on the type of concern, an assessment must be made about the risk of harm to the public when deciding whether to make a mandatory notification. The four concerns are: [95]

- impairment.
- intoxication while practising.
- significant departure from accepted professional standards.

- sexual misconduct.

Workers can access advice regarding their mandatory reporting requirements through the Australian Health Practitioner Regulation Agency (AHPRA) or the Department's Child Safety and Wellbeing Service.

Reports can be made online using the AHPRA Online Portal, by email or post using the downloadable Complaint and Concern Notification Form, or by phone.

Duty of care

All workers have a duty of care to support and protect the children and young people with whom they are professionally involved. This duty is determined through common law, *Criminal Code Act 1924* (Tas), *Civil Liability Act 2002* (Tas), *Wrongs Act 1954* (Tas), and other circumstance-specific legislation. [14] [15] [16]

When workers form a reasonable suspicion that a child or young person has been harmed or is at risk of harm, they are ethically bound to protect the safety and wellbeing of that child or young person. This also applies if a reasonable suspicion is formed outside of work.

Failing to report suspected abuse, neglect, or other conduct reportable under legislation is a criminal offence and workers may be prosecuted.

Complaints and concerns

The Department provides pathways and process options and platforms for children, young people, their families, and caregivers to raise concerns that best meets their individual needs, such as developmental, age, physical ability, intellectual capacity, language, technology, communication, information, cultural, support and social needs.

The Department's Consumer Liaison Unit (CLU) is responsible for processing and managing complaints exclusive of matters relating to conduct. Complaints relating to conduct are managed through the Department's Human Resources (HR) unit. The CLU will work closely with the Department's Child Safety and Wellbeing Service and HR unit to assign appropriate responsibility for the management of complaints.

The feedback process for complaints provides the opportunity for a person to have their issues resolved as well as ensuring any risks are identified, and management plans are put in place to decrease the likelihood of the issue reoccurring. Complaints are recorded and managed through the Department's safety and learning system. [96]

The Department takes reasonable steps to protect people who make disclosures, with natural justice afforded to the parties involved in the investigation of

a disclosure or notification of inappropriate behaviour.

Public Interest Disclosure

The Department is committed to upholding the objectives of the *Public Interest Disclosures Act 2002* (Tas). [97]

Where there are concerns about the improper conduct of a colleague that is serious or significant, workers can report them as a public interest disclosure in accordance with the Department's policy directives.

Further information is available on the Intranet. [98]

Departmental disclosure

Public interest disclosures to the Department can be submitted to the Secretary (as the Principal Officer) or one of the Department's Public Interest Disclosure Officers. This can be done directly or by emailing a completed Public Interest Disclosure Form to the designated email address.

Integrity Commission

Public interest disclosures can be made to the Integrity Commission.

The Integrity Commission is an independent statutory authority tasked with improving standards of propriety in the Tasmanian public sector through investigating and preventing public sector misconduct.

Further information on making a public interest disclosure to the Integrity Commission is available on the Integrity Commission website. [99]

Ombudsman Tasmania

Public interest disclosures can be made directly to the Ombudsman Tasmania.

The role of the Ombudsman is to investigate the administrative actions of public authorities to ensure their actions are lawful, reasonable, and fair. The Office of the Ombudsman works in an independent, impartial, and objective way to resolve complaints and to address systemic problems to improve the quality and standard of Tasmanian public administration.

Further information on making a complaint to the Ombudsman is available on the Ombudsman Tasmania website. [100]

Open disclosure

Open disclosure is defined as a process of providing an open, consistent approach to communicating with children, young people, their families, and caregivers following a safeguarding concern.

Open disclosure is:

- a patient and consumer right and a legal obligation
- a core health professional requirement
- an attribute of high-quality health service organisations [3]
- an important part of healthcare quality improvement
- guided by the Australian Open Disclosure Framework [101]

The Department's policy directives on Open Disclosure support the achievement of an open culture and provides statewide consistency for communication with children, young people, their families, and caregivers following unexpected health care outcomes and harm. They ensure that any child or young person harmed will, as soon as practicable, be provided with information from services about what went wrong and why, and what that service is doing to mitigate the risk of future events in line with the *Australian Open Disclosure Framework*. [101]

Direct Personal Response

The Department is committed to improving the protection and promotion of the rights, safety, and wellbeing of children and young people and respects the needs, expectations, and preferences of any person who has experienced harm through the Department.

The Department is a member of the National Redress Scheme, which was created in response to the Royal Commission into Institutional Responses to Child Sexual Abuse and acknowledges and supports people that have experienced institutional child sexual abuse. [102]

A Direct Personal Response (DPR) is an element of the National Redress Scheme. If a victim or survivor¹ of child sexual abuse applies to the scheme and are

offered redress, they can also ask for a DPR from the institution responsible for the abuse. [103] [104]

Harm to children and young people by other children and young people

Some children and young people experience harm by other children and young people.

A child or young person may harm themselves or their peers, intentionally or unintentionally through: [105]

- bullying or cyberbullying
- emotional abuse
- online abuse
- physical abuse
- sexting
- sexual abuse or other harmful sexual behaviour.

The Department considers the safety and wellbeing of all children and young people involved when peer-on-peer harm occurs. A child or young person who poses a risk to others may not always intend or understand the harm they are causing to themselves or their peers. They may have experienced prior harm or maltreatment and require targeted intervention and support to ensure the safety and wellbeing of themselves and others.

Research shows that children and young people who exhibit these behaviours are unlikely to continue them into adulthood if they are able to access early support and therapeutic services. Early identification, intervention and a tailored therapeutic response can

help to stop these behaviours and reduce the likelihood of escalation.

Instances of harm by other children and young people will be managed in accordance with the Department's child safety and wellbeing policy directives and emerging best practice underpinned by the following principles: [105] [106] [107] [108]

- a contextual, systemic and trauma-informed approach is used that takes into account a child or young person's background, whole environment and supports.
- the approach used is accessible, trauma-informed and culturally safe and is non-stigmatising.
- the wellbeing of all children and young people involved is monitored and addressed.
- strong communication is maintained with the children and young people involved, their families, caregivers, and relevant agencies.
- families and caregivers are involved and empowered to play a continuing role in the management of their child or young person.

¹ The term 'victim' or 'survivor' is used to refer to a person who has been harmed or abused as a child in an institutional context. In line with the Royal Commission into Institutional Responses to Child Sexual Abuse, the Department recognises that some people prefer 'survivor' because of the resilience and empowerment associated with the term. The

Department recognises that some people who have experienced abuse do not feel that they 'survived' the abuse, and that 'victim' is more appropriate. The Department also recognises that some people do not identify with any of these labels to define their experiences. [104]

- overarching safety plans are established that provide safe and appropriate ways of managing

the child or young person's behaviour in all environments.