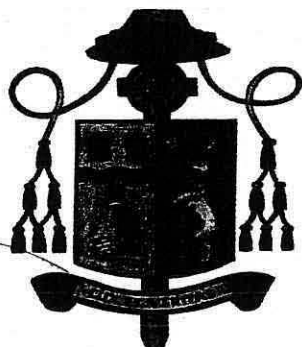


# Diocese of Maitland-Newcastle



# Child Protection Information Book

Current as of February 2011  
Zimmerman House, Diocesan Child Protection Unit

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## 1. NSW LEGISLATIVE AND REGULATORY FRAMEWORK

The current key child protection legislation in NSW is the Children and Young Persons (Care and Protection) Act 1998. However there are a significant number of inter-related pieces of legislation, regulation and regulatory requirements that are applicable to child protection and out-of-home care in NSW. These are listed below for your information, to give you an idea of the complex legal environment we work in.

During the course of this training we will explore the relevant sections of the three pieces of legislation that shape child protection, reportable conduct and employment screening in NSW:

- Children and Young Persons (Care and Protection) Act 1998,
- Ombudsman Act 1974 and
- Commission for Children and Young People Act 1998

These three acts have direct, ongoing relevance to your role as employees of the Diocese of Maitland Newcastle.

The Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009 is the legislative expression of the Keep Them Safe reforms that is fundamentally reshaping NSW child welfare practices from 2010 to 2015. Much of the reforms initiated by sections of this act has already been incorporated into other acts.

### Current Legislation, Regulation and Guidelines

All NSW employees work within a complex legislative framework, with related regulations and statutory guidelines. The following section lists the more relevant legislation that governs the behaviour and functions of diocesan employees providing services to children:

#### ACTS

- Administrative Decisions Tribunal Act 1997
- Child Protection (Offenders Registration) Act 2000
- Child Protection (Offenders Registration) Amendment Act 2007
- Children (Education and Care Services National Law Application) Act 2010
- Children and Young Persons (Care & Protection) Amendment (Permanency Planning) Act 2001
- Commission for Children & Young People Act 1998
- Community Services (Complaints, Review and Monitoring) Act 1993
- Crimes Act 1900
- Crimes Amendment (Child Pornography and Abuse Material) Act 2010
- Education Act 1990
- Government Information (Information Commissioner) Act 2009
- Government Information (Public Access) Act 2009
- Occupational Health & Safety Act 2000
- Ombudsman Act 1974
- Privacy Act 1988 (Federal)



**REGULATIONS**

- Administrative Decisions Tribunal (General) Regulation 2004
- Children & Young Person (Care & Protection) Regulation 2000
- Community Services (Complaints, Reviews and Monitoring) Regulation 2004
- Education Regulation 2007
- Occupational Health & Safety Regulation 2001
- Workers Compensation Regulation 2003
- Workplace Injury Management and Workers Compensation Regulation 2002
- Ombudsman Regulation 2005

**STANDARDS/STATUTORY GUIDELINES ETC.****CCYP:**

- The Working With Children Employer Guidelines (December 2006)
- Taking Participation Seriously Framework
- Child-Safe Child-Friendly Framework

**Community Services (formerly DoCS):**

- Performance Monitoring Framework for Funded Services
- The Good Practice Guidelines for DoCS Funded Services
- Case Management Policy

**NSW Ombudsman:**

- Child Protection in the Workplace: Responding to allegations against employees 3rd Ed. (June 2004)
- Effective Complaint Handling (2004)

**OCCG:**

- NSW Out of Home Care Standards
- Accreditation Benchmark Policies
- Accreditation Statutory Guidelines

Diocesan staff can access all NSW legislation at:  
<http://www.legislation.nsw.gov.au/>

**Premier's & Cabinet:**

- NSW Interagency Guidelines for Child Protection Intervention (2006 Ed)
- Keep Them Safe: A shared approach to child wellbeing (2009)

**ISO (International Standards Organization):**

- Risk management – Principles and guidelines (AS/NZS ISO 31000:2009)

## Summary Table of the Three Key Acts in NSW Child Protection

*e m p l o y e e f o c u s*

*c h i l d f o c u s*

Legislation	Ombudsman Act 1974	Commission for Children and Young People Act 1995	Children and Young Persons (Care and Protection) Act 1998
Key Issue	Allegations of reportable conduct against employees	Child-related employment screening	Child or young person at 'risk of significant harm'
Key Agency	NSW Ombudsman	NSW Commission for Children & Young People (CCYP)	NSW Department of Human Services – Community Services (formerly DoCS)
Obligations of Employers	<p>Heads of agencies are required to report to the Ombudsman, within 30 days of becoming aware, any allegations or convictions of reportable conduct against employees.</p> <p>Heads of agencies are required to conduct investigations into allegations of reportable conduct or convictions, including allegations which are exempted from notification and to take appropriate action as a result</p> <p>Clause 6 Ombudsman Regulation 2006 makes the Bishop 'head of agency' for all diocesan bodies.</p>	<ul style="list-style-type: none"> <li>Conduct employment screening by an approved Screening Agency</li> <li>Establish existing employees are not 'prohibited persons'</li> <li>Not to employ a person who is a 'prohibited person'.</li> <li>Notify the Commission of relevant employment proceedings taken as a result of an allegation of reportable conduct or conviction against an employee</li> <li>Notify the Commission of applicants who have not been offered child-related employment as a result of an assessment by an approved Screening Agency.</li> <li>Securely retain relevant records.</li> </ul>	<p>Ensure that employees who are mandatory notifiers under the Act, are aware of their obligation to report to the 'Community Services Helpline' when they have reasonable grounds to believe a child or young person is 'at risk of significant harm'.</p> <p>Ensure that agency policies, procedures and practices are in line with the Act in relation to child protection, including the conduct of 'out of home' care.</p>
Obligations of Employees	Inform the head of agency or delegate of any allegation or conviction against an employee, which may be reportable conduct or exempt from notification, which occurred either within or outside the workplace.	<p>Disclose to the employer his/her status relating to the definition of a 'prohibited' person</p> <p>Not apply for or remain in child-related employment if a 'prohibited person'.</p>	<p>Report concerns that a child or young person is 'at risk of significant harm'.</p> <p>Ensure practice is consistent with the principles, objectives and provisions of the Act</p>

1401

Legislation	Ombudsman Act 1974	Commission for Children and Young People Act 1995	Children and Young Persons (Care and Protection) Act 1998
Effects	<p>Ensures government and certain non-government agencies are aware of their reporting obligations under the Act</p> <p>Requires the Ombudsman to:</p> <ul style="list-style-type: none"> <li>• scrutinise the systems these agencies have for preventing and responding to allegations of reportable conduct (including allegations which are exempt from notification) against children by employees,</li> <li>• monitor agency investigations of allegations of reportable conduct against employees</li> <li>• or, in some cases, conduct those investigations, and</li> <li>• investigate a complaint about an agency's inappropriate handling of a response to an allegation of reportable conduct against a child.</li> </ul>	<p>Makes background checking mandatory for persons deemed to be in 'child-related employment' (refer Working With Children Check Guidelines, 2010) that have direct unsupervised contact with children as part of their job. This generally includes:</p> <ul style="list-style-type: none"> <li>• teachers, most school based staff and some CSO staff,</li> <li>• most Social Service Directorate staff in CatholicCare,</li> <li>• foster parents, and</li> <li>• members of clergy and religious and most employed parish based lay leaders</li> </ul> <p>Prohibits persons with convictions for serious sexual offences from working in positions of child-related employment, which primarily involves direct contact with children where that contact is not directly supervised.</p> <p>In a Working With Children Check, the applicant's background is checked for:</p> <ul style="list-style-type: none"> <li>• relevant criminal records – charges or convictions for any sexual offence, any assault, ill-treatment or neglect of a child or any registrable offence punishable by imprisonment for 12 months;</li> <li>• relevant Apprehended Violence Orders (AVO) – made on the application of a police officer or other public official for the protection of a child;</li> <li>• relevant employment proceedings – completed employment proceedings involving reportable conduct or an act of violence committed by the employee in the course of employment and in the presence of a child.</li> </ul>	<p>Prescribes the role of Community Services in child protection. This role includes, but is not limited to:</p> <ul style="list-style-type: none"> <li>• providing or arranging services to children, young people and parents when a request for assistance is received;</li> <li>• receiving and assessing reports of children or young people at risk of significant harm; and</li> <li>• acting to maintain the safety of children and young people.</li> </ul> <p>Emphasises that caring for children and young people is a responsibility to be shared by families, agencies and communities working in partnership.</p> <p>It recognises the rights of children and young people to participate in decision making and has an emphasis on appropriately taking account of culture, language, religion and identity.</p>

1402

## 2. KEEP THEM SAFE

### Special Commission of Inquiry into Child Protection Services in NSW (The Woods Commission 2007-08)

In 2007 the Special Commission of Inquiry into Child Protection Services in NSW were issued letters of patent from the NSW Parliament. Justice James Woods commenced a broad review of the child protection system in NSW, inclusive of early intervention, child protection and out of home care.

In November 2008 the 'Woods Commission' delivered the 3 volume Report of the Special Commission of Inquiry into Child Protection Services in NSW which included a range of sweeping reforms, to be implemented through a complex set of 111 recommendations.

The Special Inquiry articulated a set of key principles, which should underpin child protection services in NSW:

1. *Child protection is the collective responsibility of the whole of government and the community.*
2. *Primary responsibility for rearing and supporting children should rest with families and communities, with government providing support where it is needed, either directly or through the funded nongovernment sector.*
3. *The child protection system should be child focused, with the safety, welfare and wellbeing of the child or young person being of paramount concern, while recognising that supporting parents is usually in the best interests of the child or young person.*
4. *Positive outcomes for children and families are achieved through development of a relationship with the family that recognises their strengths and their needs.*
5. *Child safety, attachment, wellbeing and permanency should guide child protection practice.*
6. *Support services should be available to ensure that all Aboriginal and Torres Strait Islander children and young persons are safe and connected to family, community and culture.*
7. *Aboriginal and Torres Strait Islander people should participate in decision making concerning the care and protection of their children and young persons with as much self-determination as is possible, and steps should be taken to empower local communities to that end.*
8. *Assessments and interventions should be evidence based, monitored and evaluated.*

### NSW Government Response: Keep Them Safe

In March 2009 the NSW Government responded to the Special Inquiry report with Keep Them Safe a whole of sector reform plan designed to be implemented over a 5 year timeframe. The reform process includes significant changes to the Children and Young Persons (Care and Protection) Act 1998, which have passed parliament as The Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009 and are in the process of being proclaimed.

The Government has established a set of interconnected implementation bodies to drive the reforms, including:

- Interagency Implementation Unit has been established in Department of Premier and Cabinet to develop the whole of government response and high level Action Plan with Senior Officers from key NSW departments (operating for a min. 1 year)

- Child Protection Advisory Group, chaired by the Minister for Community Services. The main function of the Group is to advise the Minister and provide high level policy advice and informed stakeholder input on issues arising in the development and implementation of the reforms. (Operating for a min. 2 years)
- Service System Advisory Group, chaired by the Director-General of Community Services and consisting of Governmental and community sector service providers. The main function of the Group is to provide high level policy advice and informed stakeholder input on issues arising in the development and implementation of the reforms. The CEOs of CatholicCare and Marist Youth and St Vincent DePaul are members of the group. (Operating for a min. 2 years)
- Community and Carers Advisory Group, chaired by the Director-General of Community Services. The main function of the group is to represent carers and service users and provide more detailed advice and informed stakeholder input on issues arising in the development and implementation of the reforms. (Operating for a min. 2 years)

The Keep Them Safe Report articulated a number of key elements to the reform process (referred to as the Keep Them Safe Action Plan):

**1. The universal service system**

*The NSW Government is committed to providing essential services to all, including health care programs for mothers and children, early childhood education and other support for parents. These services help prevent problems from arising in the first place, and when problems do arise, universal services can identify and help families manage these problems at the earliest possible opportunity by linking them to the most appropriate support and service.*

**2. Strengthening early intervention and community-based services**

*Supporting children and their families within the community and working to prevent the need for children to enter the child protection system is essential, and early intervention and community based services will be expanded to support more families and children.*

**3. Better protection for children at risk**

*The Government will improve the statutory child protection system so that statutory intervention is focused only on those children who require intervention in their lives to protect them from harm. Where children cannot live with their families, the main priority is to ensure the child receives the best possible care and support within out-of-home care.*

*The Government will also improve court processes so they are fairer and more user-friendly for children and their families.*

**4. Changing practice and systems**

*Effective referral systems are needed to connect children and families with the right services (universal, early intervention and statutory child protection services).*

*These services need to be properly coordinated by government and non-government agencies, and agencies need to be able to share information so that children and families do not fall through the cracks.*

*A centrepiece of the reforms is a new model for the intake and referral of child protection concerns. This involves the establishment of Child Wellbeing Units within six key government agencies, NSW Health (Area Health Services, the Children's Hospital at Westmead), NSW Police, and the DET, Housing, DADHC and Juvenile Justice.*



## **5. Supporting Aboriginal children and families**

*The Government will work with Aboriginal children, their families and communities to reduce the number of children coming into contact with the child protection system and improve support for those children in the system.*

*In developing this Action Plan, we have considered not only the specific recommendations in the Inquiry's Report relating to Aboriginal children, but also the benefits for Aboriginal children and their families of all the Report's recommendations, and what further action might be necessary to reduce the overrepresentation of Aboriginal children and young people in the child protection, out-of-home care and juvenile justice systems. We will also develop an Aboriginal Impact Statement to assess the impact of all the actions in the Action Plan on Aboriginal families and communities.*

## **6. Strengthening partnership across the community services sector**

*The Government is committed to developing stronger partnerships with non-government organisations (NGOs) and leading workforce and cultural change throughout the community services sector. We support an enhanced role for the non-government sector and share the Special Commission of Inquiry's view that building capacity will be critical. While some NGOs already have the capacity to deliver more services, others will need time and assistance to assume a greater role.*

*Cultural change is needed to encourage better information-sharing and trust between Government and NGOs. Cultural change and workforce development will also support enhanced services for particularly vulnerable groups such as children and young people with a disability, as well as giving Aboriginal organisations a stronger voice in determining how services are delivered to local communities.*

*We recognise that the culture in Government agencies needs to change. To bring this about, the Government will investigate and apply models for workforce management and collaborative service delivery with the goal of making NSW an international benchmark in family and community services.*

The NSW Government have summarised the intended outcomes of the reform process as follows:

- *Increasing the threshold for reporting children and young people to the Community Services Helpline from "risk of harm" to "risk of significant harm"*
- *Establishing Child Wellbeing Units in the major government reporting agencies*
- *Trialling a network of Family Referral Services to make sure these services add value to improving outcomes for children and families*
- *Enhanced service provision focusing on early intervention and prevention, including comprehensive universal, secondary and tertiary services*
- *Increasing the role of non government organisations in delivering services*
- *Changes to out-of-home care*
- *Changes to processes in the Children's Court and*
- *Providing better services to Aboriginal children and young people*

## Legislative Changes

On 24 January 2010 the most fundamental reshaping of the Children and Young Persons (Care and Protection) Act was proclaimed (put into effect), as a direct result of the Woods Commission. There were also modifications to the Commission for Children and Young Persons Act 1998 and Ombudsman Act 1974. A detailed discussion of the changed definition of 'risk of serious harm' is provided in Chapter 4. The following is a brief summation of other key changes.

### CHANGES THAT AFFECT THE LEGAL SYSTEM

In an attempt to streamline the legal process and reduce the legalistic nature of proceedings a number of changes have been made to processes in the Children's Court, including:

- Care applications filed within 72 hours following assumption of care.
- Initiating applications will need to be accompanied by a written report instead of an affidavit.
- Not all material to be relied upon in the care proceedings must be filed at the beginning of proceedings.
- The Children's Court can send parties to attend an Alternative Dispute Resolution service.

On 1 June 2009 changes to the senior judicial office in the Children's Court were proclaimed, providing for the appointment of the President of the Children's Court, Judge Mark Marien.

There is ongoing discussion in relation to a limitation on the Children's Court ability to make contact orders. This change has yet to be proclaimed and may be subject to change:

- The power to make contact orders is limited to making interim orders where it has approved a permanency plan involving restoration (note that this change will not be proclaimed until an Alternative Dispute Resolution scheme is in place).

### CHANGES THAT AFFECT OUT-OF-HOME-CARE

The legislation strengthens the framework for the provision of out-of-home care by clarifying the legislative definitions and service classifications of out-of-home care (OOHC) [section 135]:

- **Statutory OOHC** will consist of placements that are made following a court order where a family member no longer has parental responsibility [new section 135A]. Placements under statutory OOHC will be under the purview of the OCCG (Office of Children – Children's Guardian) and its regime of OOHC standards
- There are also placements which have been agreed to by family members but which are assisted by Community Services, because alternative approaches to court action are being taken to address the needs of the children who are in need of care and protection. These will be called **Supported OOHC** [new section 135B]. The support provided by Community Services could include a range of things such as the provision of services, arranging parenting courses or providing financial assistance.
- Another type of placement is **Voluntary OOHC** arranged by the family without State intervention [new section 135C]. This allows children in private arrangements made by their families without the knowledge, involvement or support of Community Services to continue with as little State interference as possible. The only involvement by Community Services will be as a safety net to stop children in voluntary arrangements being forgotten, and to ensure their futures are properly planned.



**LEGISLATIVE CHANGES THAT EFFECT WORKING WITH CHILDREN CHECKS**

There are new employment categories that will be required to undergo background checks before commencement. These include:

- people who manage and/or control prescribed children's services, including an authorised supervisor of a prescribed children's service
- Child Wellbeing Unit assessment officers
- Principal officer of an accredited adoption service provider
- Contractors whose work involves direct unsupervised contact with children
- High risk volunteers – persons who work with children or young people with disabilities

**Keep Them Safe Website**

Keep Them Safe is being driven by a number of strategies, including e-newsletters, central and regional implementation groups involving ministers, senior governmental and community leaders and local operational management groups.

At the heart of the public promotion of Keep Them Safe is the dedicated website that provides links to:

- Detailed information on the scope and implementation of Keep Them Safe Reforms
- Relevant legislative changes
- Reporting children at significant risk of harm (including the mandatory reporters guide)
- Information sharing
- NSW Interagency Guidelines
- The roles of the community sector in Keep Them Safe
- New systems and services
- Support services for Aboriginal families
- Training opportunities
- FAQ and other resources

The Keep Them Safe website is at:  
<http://www.keepthemsafe.nsw.gov.au/>

### 3. NSW STATUTORY AUTHORITIES

#### Department of Human Services

The Department of Human Services is a 'super department', announced on 11 June 2009. On the following page the Department's organisational structure has been reprinted. In brief, Human Services includes the following agencies (which were formerly departments in their own right):

- Aboriginal Affairs,
- Aging, Disabilities and Home Care,
- Community Services,
- Housing NSW
- Juvenile Justice,
- NSW Aboriginal Housing Office
- NSW Businesslink

#### Community Services (Formerly DoCS)

##### Role

Community Services has lead responsibility for providing and coordinating a response where intervention is necessary for the care and protection of children and young people. The Agency has wide-ranging statutory powers under the Children and Young Persons (Care and Protection) Act 1998 to carry out its role in protecting children and young people from abuse and neglect.

The agency's lead role does not detract from the joint responsibility of all relevant agencies to protect children and young people who are at risk of significant harm and to work together to provide a coordinated and comprehensive response.

##### Responsibilities

- Responding to requests for assistance from children, young people and families
- Receiving and assessing reports of children and young people at risk of significant harm
- Planning, conducting and managing joint investigations of serious child sexual, physical abuse and extreme neglect reports with nsw police, and nsw health when medical examinations are needed
- Undertaking risk and needs assessments of the child or young person and the family to ensure their safety, welfare and wellbeing
- Determining if a child or young person is in need of care and protection
- Monitoring the child, young person and family in order to maintain a safe and secure environment
- Providing, arranging and requesting care and support services for children, young people and families, including homeless children and young people
- Providing, or negotiating with other agencies to provide, high quality out-of-home care and support services to children and young people
- Arranging mediation or other suitable intervention for children, young people and families where this will assist in problem-solving
- Gathering evidence and initiating care proceedings before the children's court



## Human Services

**Minister for Housing**  
Minister for Small Business  
Minister Assisting the Premier  
on Veterans' Affairs

Frank Terenzini MP

**Minister for Community Services**  
**Coordinating Minister for Human Services**  
Minister for the State Plan

Linda Burney MP

**Minister for Aboriginal Affairs**  
Minister for Industrial Relations  
Minister for Commerce  
Minister for Energy  
Minister for Public Sector Reform

Paul Lynch MP

**Minister for Ageing**  
**Minister for Disability Services**  
Minister for Youth  
Minister for Volunteering

Peter Primrose MLC

**Minister for Juvenile Justice**  
Minister for Local Government  
Minister Assisting the Minister for Planning  
Minister Assisting the Minister for Health (Mental Health)

Barbara Perry MP

## Department of Human Services NSW

Director-General  
Jennifer Mason

Providing better and more integrated services for vulnerable client groups in NSW

### Housing NSW

Chief Executive  
Mike Allen

Helping to build a stronger community by providing housing solutions for people in need.

### NSW Aboriginal Housing Office

Chief Executive  
Mike Allen

Developing safe, affordable and culturally appropriate housing, and promoting employment opportunities for Aboriginal people and Torres Strait Islanders.

### Community Services

Chief Executive  
Annette Gallard

Promoting the safety and wellbeing of children and young people. Working to build stronger families and communities.

### NSW Businesslink Pty Ltd

Managing Director  
Albert Olley

Providing shared business services to agencies in the NSW Department of Human Services.

### Aboriginal Affairs NSW

Chief Executive  
James Christian

Administering the Aboriginal Land Rights Act and working across government to achieve improved social and economic outcomes, as well as strengthening cultural wellbeing for Aboriginal people in NSW.

### Ageing, Disability and Home Care

Chief Executive  
Jim Moore

Supporting older people, people with a disability and their carers to live in their own homes and to participate in community life.

### Juvenile Justice

Chief Executive  
Peter Muir

Supervising young offenders in the community and in juvenile justice centres and delivering youth justice conferencing.

7 June 2010

- Developing, implementing and undertaking educational and preventative programs aimed at protecting children and young people
- Raising community awareness about the safety, welfare and wellbeing of children and young people

### Services and Programs

- Helpline (13 3627 for mandatory reporters, 132 111 for non-mandatory reporters) – a state wide 24/7 call centre staffed by departmental caseworkers to receive, document and undertake initial assessment of risk of significant harm reports from mandatory reporters and others in the community. The Helpline also provides an after-hours crisis team to respond to emergency after-hours call-outs in metropolitan Sydney
- Domestic Violence Line (1800 656 463) – a toll-free statewide 24/7 counselling and referral call centre staffed by women
- Child Protection Casework – located in more than 80 Community Services Centres, where child protection caseworkers undertake further assessment of reports transferred by the Helpline. Assessment involves addressing any immediate safety issues, determining the risk to the child, deciding what should be done to reduce that risk, such as history checks, telephone inquiries or a family visit
- Joint Investigation Response Teams (JIRT) – comprise specially trained police and child protection caseworkers who conduct joint investigations when a risk of significant harm report involves a criminal act. Community Services' role is to ensure that the child is safe from further harm, and assist in interviewing the child or young person
- Allegations Against Employees Unit – manages and coordinates responses to allegations of reportable conduct against departmental employees
- Strategy to Reduce Violence Against Women – this cross-agency strategy, hosted by Community Services, is a partnership with NSW Police, NSW Health, Attorney General's Department, Department of Education and Training, and Office for Women. The Strategy's Violence Against Women Specialist Unit promotes state wide initiatives to better protect women and their children from domestic and family violence
- Out-of-Home Care – the Department provides, or helps arrange accommodation, care, and other forms of support for children and young people who have experienced significant harm or for some other reason cannot live at home. Services are provided for crisis, short, medium or extended periods, and sometimes permanently; and include foster care, relative and kinship care, and small residential services in the community. In addition, the Department:
  - funds non-government organisations to provide accommodation and support services
  - monitors and reviews placements, and assesses, trains, authorises and supports carers
  - supports children and young people in out-of-home care, and works with their families. Out-of-Home Care caseworkers provide and arrange mentoring, therapy, medical and dental care, youth development work, remedial teaching and respite care. Support services may also be engaged to work with birth families to assist them to regain care of their children
  - provides specialist services for children and young people with high and complex needs. A small number of young people with challenging or self-harming behaviours receive specialist placement options, such as intensive foster care, residential care, semi-supported independent living. Intensive support service caseworkers support

young people, and provide interventions, with psychologists, which assist to modify the young people's behaviour.

- **Funded Services** – around 50% of the Department's budget is provided via grants and subsidies to non-government organisations. Funding programs include:
  - whole-of-government and multi-agency programs such as Families First; the Aboriginal Child, Youth and Family Strategy, which provides support to families, young people and children; and the Alcohol and Other Drugs Program, which assists individuals, families and communities affected by drug and alcohol misuse. Whole-of-government approaches assist in preventing child abuse and neglect by enhancing community capacity and resilience. Evidence suggests that strong and cohesive communities are more likely to look out for children and young people
  - the Supported Accommodation Assistance Program (SAAP), which is a joint Commonwealth/State Program administered in NSW by Community Services. It provides accommodation and support to people who are homeless or at risk of being homeless, including young people and families, women and children escaping domestic violence
- **Early Intervention Program** – a voluntary program for families with young children encountering problems that affect their ability to care for their children.

## Interagency Guidelines

In 1997 the NSW Government launched the NSW Interagency Guidelines for Child Protection Intervention that were designed to address the historic problems of child protection being left to a single authority – DoCS.

In 2000 a revised edition of the Guidelines was published, to align them to the new legislation. The most recent edition was released in 2006. There is currently a revised version of the guidelines (The Child Wellbeing and Child Protection – NSW Interagency Guidelines) being developed, with five of the eleven intended sections being available on line at the Keep Them Safe Website:

[http://www.keepthemsafe.nsw.gov.au/interagency\\_guidelines](http://www.keepthemsafe.nsw.gov.au/interagency_guidelines)

The Guidelines are a core document for staff that provide services in the child protection environment (including out-of-home care). Staff should have an operational familiarity with the Interagency Guidelines.

The guidelines provide a clear framework for governmental and community bodies to work in a collaborative way, to address the needs of vulnerable children. The 2006 edition highlighted the roles of Community Services as the statutory authority responsible for child protection in NSW. It also identifies the NSW Ombudsman as the oversight authority for "reportable conduct" matters.

NSW child protection has a complex oversight set of oversight arrangements that is principally built on the interactions of three statutory authorities:

- Office of Children – Children's Guardian (OCCG)
- NSW Ombudsman (Child Protection and Community Services Divisions)
- Commission for Children and Young People (CCYP)



## Office of Children – Children's Guardian (OCCG)

The 1998 Act includes provisions in relation to accreditation and obligations to meet standards and established an independent regulator, the Office of the Children's Guardian, to oversight these processes. The relevant Section of the Children and Young Persons (Care and Protection) Act 1998 are:

- s.181 functions relating to parental responsibility, including:
- (1)(a) to exercise, subject to any direction of the Minister, the parental responsibilities of the Minister for a child or young person for the benefit of the child or young person,
  - (1)(b) to promote the best interests of all children and young persons in out-of-home care,
  - (1)(c) to ensure that the rights of all children and young persons in out-of-home care are safeguarded and promoted,
  - (1)(d) to examine a copy of the case plan for each child or young person in out-of-home care and a copy of each report made following the regular review of the case plan,
  - (1)(e) to accredit designated agencies and to monitor their responsibilities under this Act and the regulations.
- s.182 to remove the daily care and control for a child or young person in OOHC from an authorised carer.
- s.183 to attempt dispute resolution between children and young people, their parents, carers or designated agencies.
- s.184 to apply to the Children's Court for the variation or rescission of any order made under the Act.
- s.185 to obtain or release information from a designated agency, registered carer or Community Services.

The office was renamed in 2006 as the Office for Children – Children's Guardian (OCCG) when a number of its administrative functions were merged with the NSW Commission for Children and Young People (CCYP).

### OOHC STANDARDS

The OCCG is the oversight body for establishing and maintaining the NSW OOHC Standards that came into force on the 1<sup>st</sup> July 2005. Under the Children and Young Persons (Savings and Transitional) Regulation 2000 all OOHC service providers in NSW received interim accreditation and have undergone, or are currently undergoing, an accreditation process reviewing the agency's demonstrated capacity to meet the OOHC Standards.

There are 50 individual standards set out in 10 sections and relating to issues of:

1. Casework practice and the importance of case planning in providing OOHC
2. Recruitment, training and supervision of foster carers
3. Dimensions of care for children and young people
4. Rights of children and young people, confidentiality and complaint management
5. Gathering, maintenance and content of care records
6. Leaving care
7. Working with other agencies and liaison with the community
8. Organizational management and accountability
9. Planning, evaluation and service development; and



#### 10. Human Resource management and boards of management.

There are two parallel processes used to determine accreditation for designated agencies in NSW:

1. The collection and presentation of evidence, compiled by the agency and submitted to the OCCG, using a standardised 'Self Study Report' (SSR) to cross reference the evidence to the Standards and Mandatory Requirements
2. An on-site Case File Audit (CFA) conducted by the OCCG, based on a random sample of files, using a standardised File Audit tool

**Case File Audits:** part of the ongoing monitoring carried out by the OCCG is an annual case file audit, which is a targeted process, checking on particular agencies, ascertaining that the agencies are able to demonstrate that they have maintained the OOHC standards.

The OCCG are in the process of completing an exhaustive review of the current standards and developing a set of streamlined standards, modelled on the European Commission's current structure. This review process has been undertaken in consultation with the principle governmental and community sector service providers.

#### **ACCREDITATION**



The OCCG derives its power to accredit designated agencies (as noted in CatholicCare's accreditation notice above) through clause 39 of the Children and Young Person's (Care and Protection) Regulation 2000.

#### **c.39 Conditions on accreditation and process of accreditation**

- (1) *An accreditation is subject to the conditions set out in Schedule 4.*
- (2) *The Children's Guardian may impose such other reasonable conditions as the Children's Guardian sees fit on an accreditation, and may vary or revoke such conditions, by notice in writing given to the designated agency.*
- (2A) *Without limiting subclause (2), the Children's Guardian may impose a condition prohibiting the designated agency from providing, arranging or supervising voluntary out-of-home care.*
- (3) *The Children's Guardian may impose such reasonable conditions as the Children's Guardian sees fit on the process of accreditation (including accreditation by way of a transfer under clause 37B), and may vary or revoke such conditions, by notice in writing given to the applicant.*
- (4) *If an accreditation is transferred, a copy of the notice given under subclause (3) is to be given to the transferee.*
- (5) *If the Children's Guardian is satisfied a condition should be imposed under subclause (2) on a departmental designated agency, the Children's Guardian must first report to the Minister on the need to impose the condition.*
- (6) *A condition imposed under this clause may authorise any matter or thing to be from time to time determined or applied by any specified person or body.*

*Note. Contravention of a condition of accreditation is not an offence but is grounds for shortening the accreditation period, or suspending or cancelling the accreditation, of a designated agency.*



 NSW OFFICE FOR CHILDREN the Children's Guardian	
<b>Notice of Conditions of Accreditation as a Designated Agency</b> <small>issued under clause 39 of the Children and Young Persons (Care and Protection) Regulation 2000</small>	
<b>Catholic Care Newcastle</b> ABN 44568352340	
<p>In addition to the general conditions of accreditation in clause 39 of the <i>Children and Young Persons (Care and Protection) Regulations 2000</i>, the Children's Guardian has imposed the following condition on the accreditation of Centacare Newcastle:</p>	
<b>Condition 1:</b>	Foster care only may be provided.
<p>The Children's Guardian may suspend or cancel Centacare Newcastle's accreditation if it fails to comply with this condition.</p>	
<p>The Children's Guardian may publish details of failure to comply with conditions of accreditation in the Children's Guardian's Annual Report to Parliament.</p>	
<p>A decision of the Children's Guardian to impose, not impose, vary or revoke a condition of accreditation is reviewable by the Administrative Decisions Tribunal, under clause 6B of the <i>Children and Young Persons (Care and Protection) Regulation 2000</i>, following an internal review by the Office for Children – the Children's Guardian.</p>	
<p>The Children's Guardian has provided a copy of this Notice to the NSW Department of Community Services, the NSW Department of Ageing, Disability and Home Care and the NSW Ombudsman.</p>	
 <small>New South Wales Government</small>	<b>Kerryn Boland</b> <b>Children's Guardian</b>

CatholicCare Newcastle is due for reaccreditation by 13 June 2011.

## Commission for Children and Young People (CCYP)

The CCYP has a tertiary role in the promotion of safety, welfare and wellbeing for all children and young people in NSW. The CCYP was one of the recommendations from the NSW Royal Commission (Paedophile Inquiry) and the Commissioner is a statutory position appointed by NSW Governor, under the Commission for Children and Young People Act 1998.

The CCYP is not responsible to any one Minister and answers directly to the NSW Parliament, with the powerful and highly influential Parliamentary Joint Committee on Children and Young People having primary oversight of the Commission.

The CCYP has four core guiding principles:

1. The safety, welfare and wellbeing of children is paramount.
2. The views of children and young people are taken seriously.
3. The relationships between children, their families and their communities are important for their safety, welfare and wellbeing.
4. Vulnerable children and young people will be given priority.

In working to fulfil these principles, the CCYP does not directly address the complaints or concerns of individual children, rather the CCYP works for the 'collective' good through a number of key strategies including:

- Promoting children's participation in decisions that affect them, such as child protection casework decisions and case planning through the *TAKING PARTicipation Seriously* framework,
- Encouraging organizations to develop their capacity to be safe and friendly for children through the *Child-Safe Child-Friendly* framework,
- Acting as lead agency in the development, maintenance and monitoring of the employment screening processes through the *NSW Working With Children Check Employer Guidelines*,
- Maintaining and administering the *NSW Working With Children Check* database of relevant employment proceedings for the Working With Children Check and employment screening, and
- Administering the Child Sex Offender Counsellor Accreditation Scheme

The CCYP also undertakes a range of other responsibilities including:

- Promoting and monitoring the overall safety, welfare and wellbeing of children and young people in the community
- Making recommendations to government and non-government agencies on legislation, policies, practices and services affecting children and young people
- Promoting the provision of information and advice that assists children and young people
- Conducting, promoting and monitoring training, public awareness and research on issues affecting children and young people, and
- Supporting the Child Death Review Team (CDRT) in the exercise of its functions.

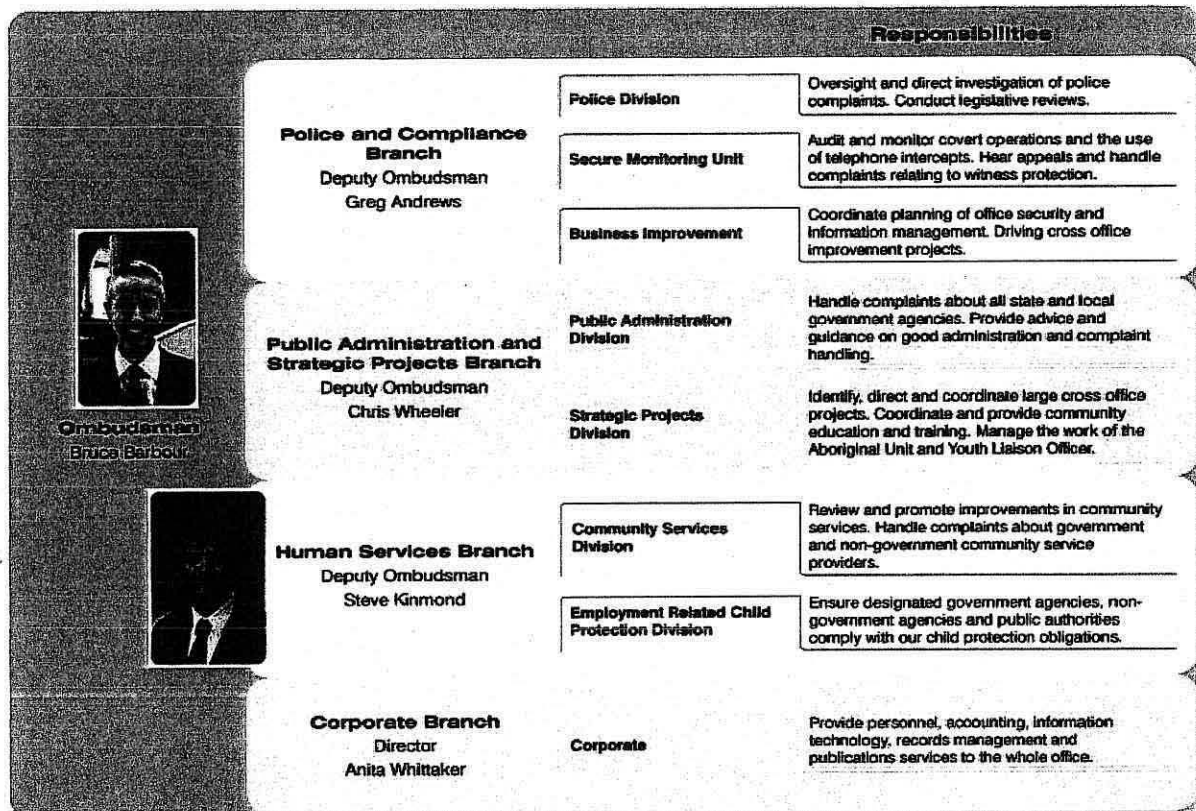
## The NSW Ombudsman

There was a major expansion of the role of the NSW Ombudsman as a direct consequence of the Woods Royal Commission. The introduction of Part 3A of the Ombudsman Act brought the Ombudsman into child protection as a principal oversight authority. The NSW Ombudsman carries out this oversight through the following roles:

- Monitoring and review of preventative strategies and the management of reportable conduct and reportable allegations by employers of all government and designated agencies involved in the provision of OOHC services, in NSW

- Ensuring designated government agencies, non-government agencies and other public authorities are aware of their reporting obligations under Part 3A of the Ombudsman Act 1974
- Oversight of employers' handling of individual allegations against their employees that constitute 'Reportable Conduct' matters, including providing the agency with recommendations or suggestions for action at the conclusion of a direct investigation or after monitoring an investigation
- Educating consumers of community services, including children and young people, of their right to complain about access to services or about unreasonable conduct in the provision of services
- The monitoring and review of the provision of services provided by Community Services, DADHC and organizations that are funded, licensed or authorised by their ministers (including designated agencies). This includes the receipt and investigation of complaints by service users or other interested parties,
- Reviewing complaints-handling systems within services or in Programme areas and making recommendations for improvements

The Office of the NSW Ombudsman consists of three branches headed by Deputy Ombudsmen:



There are two divisions of the Ombudsman's Office that relate to all or part of the Diocese have been placed under a single Deputy Ombudsman (Steve Kinmond) as the "Human Services Branch".

**Child Protection Division** oversees the Diocese child protection and reportable conduct policy, procedures and practices on a case by case basis. Zimmerman House relate to the Child Protection Division constantly.

**Community Services Division** is responsible for reviewing and promoting improvements in the standards of delivery of community services through the case by case resolution of complaints and monitoring delivery of community services.

The Ombudsman also has two specific programmes that are of relevance to the Diocese, notably CatholicCare:

**Official Community Visitors** is administered through the Community Services Division. Official community visitors monitor the quality of out-of-home care services. The Ombudsman provides education and training for official community visitors about indicators of abuse and neglect and the procedures for reporting suspected risk of significant harm.

**Reviewable Deaths** The Ombudsman reviews the deaths of children, or siblings of children, who were reported to Community Services within three years prior to their death, and the deaths of children in care which occurred in suspicious circumstances or were due to abuse or neglect. The scope of reviewable deaths includes children and adults with disabilities. The Ombudsman analyses the causes and patterns of deaths and recommends ways to improve services to reduce early and preventable deaths

The Ombudsman's powers are far reaching, including the ability to monitor specific investigations whilst they occur, investigate a specific allegation directly, or investigate an entire agency, or part thereof, if deemed warranted. The NSW Ombudsman may compel an agency to provide information on a broad range of matters.

## Administrative Decisions Tribunal (ADT)

The ADT is a judicial body established to provide an easily, and speedily, accessible body for the review of administrative decisions made by statutory authorities, including designated agencies. The ADT works under the Administrative Decisions Tribunal Act 1997. For the Diocese, notably CatholicCare, nearly all matters would be dealt with by the Community Services Division of the ADT. The type of decision that can be reviewed by the Community Services Division include decisions:

- Granting to, or removing from, an 'authorised carer' the responsibility for the day-to-day care and control of a child or young person
- Authorising or not authorising a person to be an 'authorised carer', imposing conditions on an authorisation or cancelling or suspending a person's authorisation
- Providing financial assistance where the provision of assistance does not conform with the objects and principles of the Disability Services Act
- Accrediting or refusing to accredit an adoption service provider or imposing conditions on their accreditation
- Failing to provide information or assistance under the Adoption Act
- Refusing to terminate the Minister's guardianship of a ward
- Terminating a person's custody of a child who is a ward

- Directing a licensee of a family day care children's service to remove the name of a family day carer from the register for the service, or
- Suspending a family day care carer's name from the register for the service.

When determining an application to review a decision of a government agency or designated agency, the ADT can:

- Affirm the decision
- Revoke all or part of the decision
- Substitute a new decision for the original decision, or
- Require the decision maker to reconsider the decision.

## 4. RISK OF SIGNIFICANT HARM

### Risk of Significant Harm

#### **Children and Young Persons (Care and Protection) Act 1998**

#### **Section 23: Child or young person at risk of significant harm**

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

- (a) the child's or young person's basic physical or psychological needs are not being met or are at risk of not being met,
- (b) the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care,
- (b1) in the case of a child or young person who is required to attend school in accordance with the Education Act 1990—the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with that Act,
- (c) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated,
- (d) the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm,
- (e) a parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm,
- (f) the child was the subject of a pre-natal report under section 25 and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.

**Note.** Physical or sexual abuse may include an assault and can exist despite the fact that consent has been given.

(2) Any such circumstances may relate to a single act or omission or to a series of acts or omissions.

There are also a number of other circumstances in which a child or young person is deemed to be at risk of significant harm, including:

#### **Section 154: Restriction on who may provide supported out-of-home care**

(2) If a person, other than the Director-General or an authorised carer, provides out-of-home care in respect of a child or young person:

- (a) the child or young person is, for the purposes of Parts 2 and 3 of Chapter 3, taken to be at risk of significant harm,



**Section 156A: Voluntary arrangements for out-of-home care**

- (2) If a child or young person is placed in out-of-home care under a voluntary arrangement:
- (a) the child or young person must not remain in out-of-home care for more than 3 months in any period of 12 months unless the care is provided by, or is under the supervision of, a designated agency, and
  - (b) the child or young person must not remain in out-of-home care for more than 180 days in any period of 12 months unless the designated agency responsible for the child or young person has, in accordance with the guidelines issued by the Children's Guardian for the purposes of this section, prepared a plan that meets the needs of the child or young person under the arrangement.
- (3) If subsection (2) is not complied with in relation to the provision of out-of-home care under a voluntary arrangement, the child or young person to whom the arrangement applies is, for the purposes of Parts 2 and 3 of Chapter 3, taken to be at risk of significant harm.

**Section 24: Report concerning child or young person at risk of significant harm**

A person who has reasonable grounds to suspect that a child or young person is, or that a class of children or young persons are, at risk of significant harm may make a report to the Director-General.

**Section 25: Pre-natal reports**

A person who has reasonable grounds to suspect, before the birth of a child, that the child may be at risk of significant harm after his or her birth may make a report to the Director-General.

Note. The intentions of this section are:

- (a) to allow assistance and support to be provided to the expectant mother to reduce the likelihood that her child, when born, will need to be placed in out-of-home care, and
- (b) to provide early information that a child who is not yet born may be at risk of significant harm subsequent to his or her birth, and
- (c) in conjunction with section 23 (f) and section 27, to provide for mandatory reporting if there are reasonable grounds to believe that the child is at risk of significant harm subsequent to his or her birth.

**Mandatory Reporters****Children and Young Persons (Care and Protection) Act 1998****Section 27: Mandatory reporting**

- (1) This section applies to:
- (a) a person who, in the course of his or her professional work or other paid employment delivers health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children, and
  - (b) a person who holds a management position in an organisation the duties of which include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children.



- (2) *If:*
- (a) *a person to whom this section applies has reasonable grounds to suspect that a child is at risk of significant harm, and*
  - (b) *those grounds arise during the course of or from the person's work,*
- it is the duty of the person to report, as soon as practicable, to the Director-General the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm.*
- (3) *A person to whom this section applies satisfies his or her obligations under subsection (2) in relation to two or more children that constitute a particular class of children if the person reports that class of children to the Director-General together with:*
- (a) *a description that is sufficient to identify all the children who constitute the class, and*
  - (b) *the grounds for suspecting that the children of that class are at risk of significant harm.*

## Protections for Reporters

### **Children and Young Persons (Care and Protection) Act 1998**

#### **Section 29: Protection of persons who make reports or provide certain information**

- (1) *If, in relation to a child or young person or a class of children or young persons, a person makes a report in good faith to the Director-General or to a person who has the power or responsibility to protect the child or young person or the class of children or young persons:*
- (a) *the making of the report does not constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct, and*
  - (b) *no liability for defamation is incurred because of the report, and*
  - (c) *the making of the report does not constitute a ground for civil proceedings for malicious prosecution or for conspiracy, and*
  - (d) *the report, or evidence of its contents, is not admissible in any proceedings (other than care proceedings in the Children's Court, or any appeal arising from those care proceedings), and*
  - (e) *a person cannot be compelled in any proceedings to produce the report or a copy of or extract from it or to disclose or give evidence of any of its contents, and*
  - (f) *the identity of the person who made the report, or information from which the identity of that person could be deduced, must not be disclosed by any person or body, except with:*
    - (i) *the consent of the person who made the report, or*
    - (ii) *the leave of a court or other body before which proceedings relating to the report are conducted,**and, unless that consent or leave is granted, a party or witness in any such proceedings must not be asked, and, if asked, cannot be required to answer, any question that cannot be answered without disclosing the identity or leading to the identification of that person.*

The protection of a reporter's identity may be overridden in s.29(4) and (4A) if protecting the reporter's anonymity would:

- prevent the proper investigation of the report, or

- interfere with a the investigation of a serious offence alleged to have been committed against a child or young person, or
- interfere with the safeguarding or promoting the safety, welfare and well-being of any child or young person (whether or not the victim of the alleged offence)

## Helping the Child after Reporting

### **Children and Young Persons (Care and Protection) Act 1998**

#### **Section 29A: Person who makes report is not prevented from helping child or young person**

*For avoidance of doubt, it is declared that a person who is permitted or required by this Part to make a report is not prevented, by reason only of having made that report, from responding to the needs of, or discharging any other obligations in respect of, the child or young person the subject of the report in the course of that person's employment or otherwise.*

## Homelessness of Children & the Obligation to Report

### **Children and Young Persons (Care and Protection) Act 1998**

#### **Section 120: Homelessness of children**

- (1) *Any person may report the homelessness of a child to the Director-General.*
- (2) *On receipt of a report, the Director-General must conduct such investigation and assessment concerning the child as the Director-General considers necessary.*
- (3) *The Director-General may provide or arrange for the provision of services, including residential accommodation, where appropriate, for a child whose homelessness has been reported to the Director-General.*

#### **Section 121: Homelessness of young people**

*Any person may, with the consent of the young person, report the homelessness of a young person to the Director-General.*

#### **Section 122: Mandatory reporting of child who lives away from home without parental permission**

*A person who provides residential accommodation for another person who the person has reasonable grounds to suspect:*

- is a child, and*
  - is living away from home without parental permission,*
- must, as soon as practicable, inform the Director-General of the child's whereabouts.*

*Maximum penalty: 200 penalty units.*

**Note:** *The police will notify the Director-General of the details of children who have been reported to the police as missing. If the Director-General becomes aware that a child reported missing is safe, the Director-General is required to advise the police that the child is safe*

*but not of the whereabouts of the child. The purpose of this provision is to avoid wasting resources in having the police search for missing children whose whereabouts are known to the Director General.*

*The parents should be informed that the child is safe, but nothing in this section requires any person to reveal the whereabouts of the child to a person other than the Director General.*

The homelessness provisions balance the need to keep children safe with the need to inform parents about their whereabouts. It makes clear the responsibilities of agencies providing residential accommodation, and promotes partnership and clear communication between police, agencies and Community Services. The Community Services has responsibility for assessing any safety issues involved, and taking action if necessary to protect the child.

## Managing matters that are below the threshold

Section 27A provides for alternative reporting arrangements for key governmental agencies to report matters that are assessed not to be risk of significant harm.

### CHILD WELLBEING UNITS

For governmental agencies there are **Child Wellbeing Units (CWU)**, established in "the big four" reporting departments; NSW Police, NSW Health, DET, the newly established Department of Human Services.

CWUs are call centres designed to address the inter-related issues of:

- Reducing the flood of matters being referred to the Child Protection Helpline, filtering those child protection concerns that are not significant (i.e. below the threshold).
- Providing support and follow-up to departmental officers who have child protection concerns assessed as being below the threshold, (i.e. an alternate reporting pathway)

The NSW Government Factsheet on CWUs (March 2010) defines the CWU's role as:

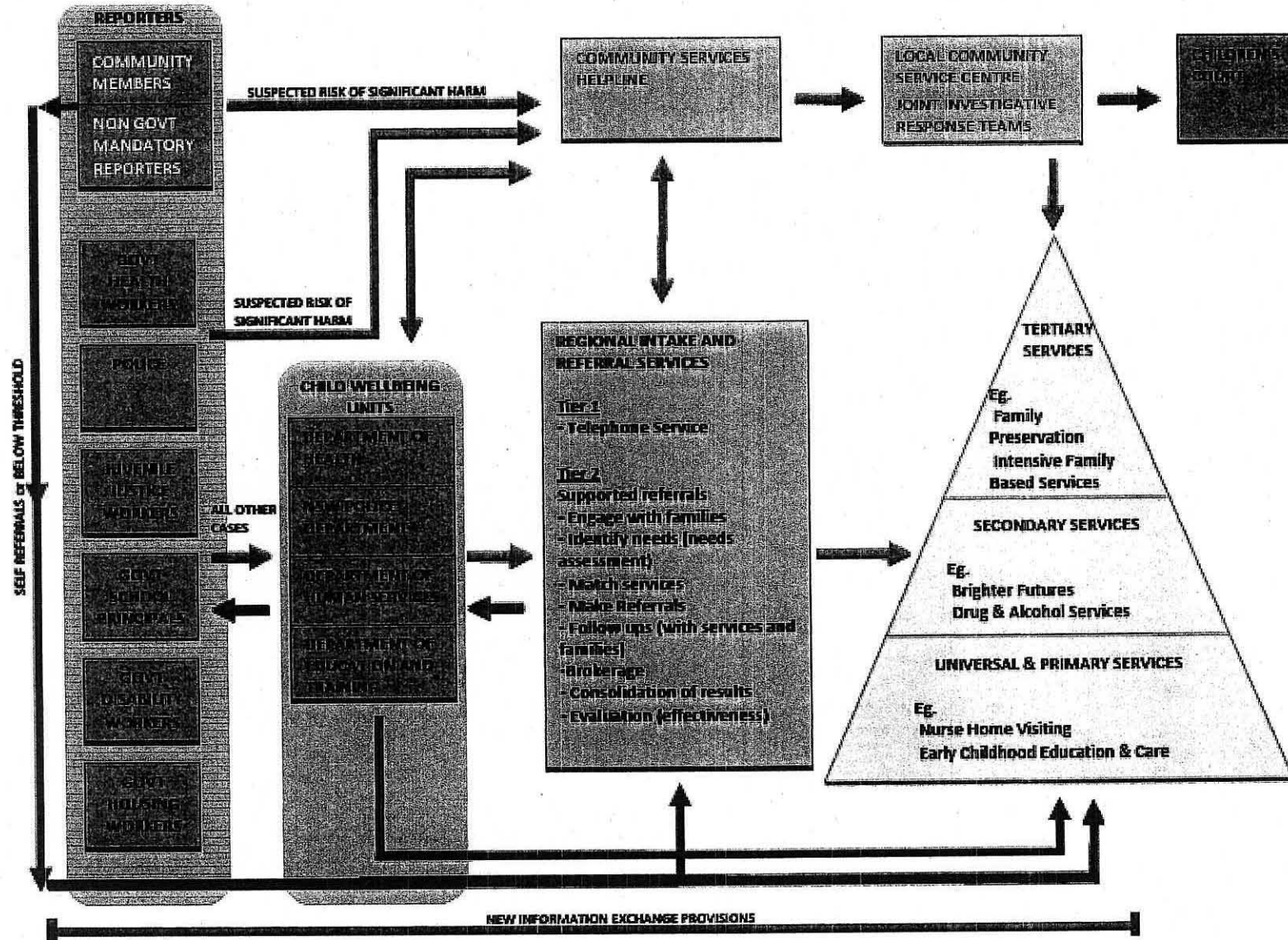
- *Help agency mandatory reporters identify whether a child or young person is likely to meet the risk of significant harm threshold.*
- *Provide advice to mandatory reporters about possible service responses in cases where concerns for a child or a young person fall below the threshold.*
- *Drive better alignment and coordination of agency service systems over time, to enable better responses to children and families in need of assistance.*

The CWUs are also a key strategy to ensure that government agencies can meet their obligations to identify and report accumulative harm, as the CWUs will record and store below the threshold concerns. CWUs have limited access to other agencies' CWUs and Community Services' KIDS child protection database.

For the Diocese and other non-government agencies, there is no access to a CWU and the issue of how accumulative harm will be managed remains unclear.

The following page is a graphic developed by the NSW government to describe the new processes in child protection under the Keep Them Safe reforms. Please note that the Regional Referral and Intake Service is now renamed Family Referral Services

# Flowchart for managing child protection concerns under Keep Them Safe Reforms



Title: Keep Them Safe Reform Model (based on ACWA's model)

## Family Referral Services

From mid 2010, the NSW Government commenced three pilot programmes, to establish and operate Family Referral Services, originally called Regional Intake and Referral Services.



Family Referral Services (FRS) are intended to assist children, young people and families who fall below the threshold for child protection intervention (i.e. assessed as not being at risk of significant harm), but would benefit from accessing specific services to address current problems, prevent escalation, and foster a protective and nurturing environment.

FRS are intended to link vulnerable children, young people in need of assistance, and their families, with the most appropriate available support services in their local areas.

FRS provide a voluntary service, i.e. the family must agree to their involvement with the FRS. Community Services' statutory child protection services are non-voluntary and have the legal responsibility to intervene. The Diocese, along with governmental and community agencies, as well as individuals can refer families to FRS where circumstances do not warrant statutory intervention.

FRS will refer client families to services such as housing, child care, supported play-group, drug and alcohol/mental health services, and youth services. The KTS Fact Sheet 9a Family Referral Services (May 2010) states the purposes of FRS as:

- To identify and refer children, young people or families to appropriate services, building on (rather than replacing) agency action, expertise and capacity.
- To drive improved links between government and non-government services.
- To provide advice to agencies to support better coordination of local services.

### THE HUNTER FAMILY REFERRAL SERVICE

The NSW Government is currently undertaking a trial of 3 different models of FRS in three sites across NSW, the Hunter is one of those sites. The Benevolent Society has commenced operation of a 'augmented' FRS model in the Hunter which will include:

- a telephone service which will provide children and their families with information on support services in their local area, and
- the capacity to support families who have greater and more complex needs through more active referrals with, in some instances, some case management and access to support supplemented via brokerage funding.

The Newcastle FRS covers the entire Central Coast, Lake Macquarie and Hunter region with the main service (telephone and augmented) based in Rutherford and three augmented services provided from:

- Newcastle (servicing Newcastle, Port Stephens, Gloucester, Dungog, Cessnock)
- Muswellbrook (servicing Muswellbrook, Upper Hunter Shire and Singleton)
- Watanobbi (servicing Wyong, Gosford, East of Lake Macquarie).

**The Hunter Referral Service operates 8am to 6pm, Monday to Friday**

**Contacted by phone**



**1300 006 480**



## 5. INDICATORS OF ABUSE AND NEGLECT

### Understanding the Use of Indicators

To report child protection matters, you need to be aware of some of the indicators of abuse and neglect.

It is the responsibility of every Diocesan employee of the Diocese's to have some understanding of the indicators of abuse and neglect in children or young people.

The following indicators provide guidance on possible concerns and potential causal relationships. They act as a trigger, encouraging practitioners and others to consider whether an injury, behaviour or disclosure raises the possibility that a child or young person may be at risk of significant harm from abuse or neglect. Some indicators are sufficient as single signs to give reasonable grounds to suspect risk of significant harm. Others are meaningful when they co-exist with other indicators.

The absence of indicators does not necessarily mean that a child or young person is safe as some maltreated children or young people will not display any noticeable symptoms. Equally, many of the indicators listed may be the consequence of other factors besides from abusive or neglectful care.

Indicators need to be considered in the context of a child or young person's circumstances and their age or other vulnerabilities, for example disability or chronic illness. Interpretation of indicators always involves adopting a child or young person's perspective and having the child at the centre of consideration. The focus is on the consequences of the actions or inactions by parents or other authority figures for the child.

Children who have experienced abuse or neglect will often experience more than one type of maltreatment. For example, sexual abuse will most probably co-exist with psychological or emotional harm.

General indicators of abuse or neglect include:

- a child or young person tells you of their abuse or neglect
- someone else tells you of the abuse or neglect of a child or young person
- a history of previous abuse or neglect to the child, young person or a sibling
- unexplained and marked changes in a child or young person's behaviour or mood
- the parents' or caregivers' misuse of alcohol or drugs is affecting their ability to care for the child or young person
- ongoing or sporadic violence between the parents
- the parents or caregivers are experiencing significant problems in managing their child, which is incongruent with the child's or young person's behaviour or special needs
- a deficiency in functional parenting skills required to provide for the safety, welfare and wellbeing of the child or young person.

Learning to identify indicators and to use them effectively in recognising child abuse and neglect is complex because of the unique nature of children and families. For this reason, it is important to access the guidance of your supervisor/manager and consult with staff from Zimmerman House when uncertain.

## Neglect

Neglect is the failure to provide the basic necessities of life. It is typically regarded as an act of omission or commission, and as such may or may not be intentional. Neglect is potentially serious and can have long-term developmental consequences for children.

Both the Children and Young Persons (Care and Protection) Act 1998 and the Crimes Act 1900 provide significant penalties against a person who neglects to provide adequate and proper food, nursing, or lodging for a child or young person, or intentionally abandons or exposes a child under seven years of age to risk if it causes danger of death or serious injury to the child.

Neglect can take one or more of the following forms:

**(i) Neglect of basic physical needs** occurs where there is a risk of significant harm or actual harm caused by the parent or caregiver's failure to provide for a child's basic physical needs, such as:

- food
- clothing and hygiene
- physical shelter
- safety from harm – including issues of appropriate supervision.

Neglect of basic physical needs is the most well known and recognised form of child neglect. Depending on the age and circumstances of the child, the focus is not simply and solely on the absence of safe physical care, adequate nutrition or appropriate clothing. Rather, the issue is whether the omission of such basic care needs has impaired or could risk impairing the child's welfare, health and development.

**(ii) Neglect of basic psychological needs** occurs when a child or young person is not receiving sufficient or appropriate interaction, encouragement, nurturing or stimulation from their parents or caregivers. This form of neglect also refers to the persistent ignoring of a child's signals of distress, pleas for help, attention, comfort, reassurance, encouragement and acceptance.

Without this care a child or young person may not develop appropriate attachments with primary carers and others, significantly impairing their ongoing emotional, cognitive and physical development. These are important for participation in school, forming friendships, playing sport or participating in other recreational activities, and later, in employment and for raising their own children.

**(iii) The neglect of necessary medical care** presumes that risk of significant harm is likely to arise from a failure to provide for the required medical service or treatment. This can include the withholding or failure to provide essential medication for a child. For very young children the risk of significant harm in not receiving appropriate medical attention may be quite high.

Physical and behavioural indicators of neglect are often readily observable by people in close contact with the child – most particularly doctors, teachers, child care workers, relatives and neighbours.



**INDICATORS OF NEGLECT:**

<b>In Children<sup>1</sup></b>	<b>In Young People<sup>1</sup></b>	<b>In Parents or Carers</b>
<p><b>Physical</b></p> <ul style="list-style-type: none"> <li>• low weight for age and/or failure to thrive and develop</li> <li>• poor primary health care (e.g. untreated sores, serious nappy rash, significant dental decay)</li> <li>• poor standards of hygiene (i.e. child consistently unwashed, bad odour)</li> <li>• poor complexion and hair texture</li> </ul>	<p><b>Physical</b></p> <ul style="list-style-type: none"> <li>• poor standards of hygiene and self-care</li> </ul>	<p><b>Physical</b></p> <ul style="list-style-type: none"> <li>• may have poor standards of hygiene and self-care</li> </ul>
<p><b>Social/psychological</b></p> <ul style="list-style-type: none"> <li>• child not adequately supervised for their age</li> <li>• scavenges or steals food;</li> <li>• focus is on basic survival</li> <li>• longs for or indiscriminately seeks adult affection</li> <li>• displays rocking, sucking, head-banging behaviour</li> <li>• poor school attendance</li> </ul>	<p><b>Social/psychological</b></p> <ul style="list-style-type: none"> <li>• stays at the homes of friends and acquaintances for prolonged periods, rather than at home</li> <li>• cannot access adequate self-care resources such as washing facilities and food</li> <li>• poor school attendance</li> </ul>	<p><b>Social/psychological</b></p> <ul style="list-style-type: none"> <li>• unable/unwilling to provide adequate food, shelter, clothing, medical attention, safe home conditions</li> <li>• leaves the child without appropriate supervision</li> <li>• abandons the child</li> <li>• withholds physical contact or stimulation for prolonged periods</li> <li>• unable or unwilling to provide psychological nurturing – low-warmth parenting</li> <li>• has limited understanding of the child's needs</li> <li>• has unrealistic expectations of the child</li> </ul>

**Physical abuse**

**Physical abuse** is harm to a child or young person that is caused by the non-accidental actions of a parent or other person responsible for their care. Physical abuse is often a particularly visible form of child maltreatment. Acts such as beating, shaking, biting, deliberate burning with an object, attempted strangulation and female genital mutilation are a range of examples of physical abuse or ill treatment.

Caution has to be exercised in interpreting the cause of injuries as bruising, bone and other injuries can also occur accidentally. Suspicions may be raised where:

- the injuries relate to an infant or a child under two years of age
- there is inconsistency between the presentation of the injury and the explanation provided
- there are multiple injuries that appear to be of different ages
- there is a pattern and/or an unexplained frequency to injuries.

<sup>1</sup> Indicators of neglect that are listed for children may also be evident in young people

**The boundary between physical discipline of children and abusive behaviour** is a particularly vexed one. In some instances, excessive discipline can constitute physical abuse and lead to criminal charges. The *Crimes Act 1900* has been amended to limit the use of physical force to discipline, manage or control a child. Section 61 AA of the *Crimes Act* precludes force (other than in a manner that could reasonably be considered trivial or negligible in the circumstances):

- to any part of the head or neck of a child, or
- to any part of the body of a child in such a way as to be likely to cause harm to the child that lasts for more than a short period.

**Risk of physical abuse involving infants** require extra vigilance and attention. A study by Dale, Green and Fellows in 2002 (based on a Welsh child protection sample) provides powerful illustrative data, finding that severe physical abuse in babies under one year was:

- six times more common than for children from one to four years, and 120 times more common than in five to 13-year-olds
- brain injury and fractures are more common than for older children, and are at their most frequent in the first six months
- the non-accidental death rate is ten times higher than for children one to five years of age.

#### INDICATORS OF PHYSICAL ABUSE:

In Children <sup>2</sup>	In Young People <sup>2</sup>	In Parents or Carers
<p><b>Physical</b></p> <ul style="list-style-type: none"> <li>• bruises on face, head or neck</li> <li>• other bruises or marks which may show the shape of the object that caused it</li> <li>• lacerations and welts</li> <li>• head injuries where the infant may be drowsy or vomiting, or have glassy eyes, fixed pupils or pooling of blood in the eyes suggesting the possibility of having been shaken</li> <li>• adult bite marks and scratches</li> <li>• bone fractures, especially in children under three years old</li> <li>• dislocations, sprains, swelling</li> <li>• burn marks and scalds</li> <li>• multiple injuries or bruises</li> <li>• child's explanation inconsistent with injury</li> <li>• abdominal pain (may be caused by ruptured internal organs)</li> <li>• ingestion of poisonous substances, alcohol or drugs</li> </ul>	<p><b>Physical</b></p> <ul style="list-style-type: none"> <li>• lacerations, welts, bruising, burn marks</li> <li>• unspecified internal pains</li> </ul>	<p><b>Physical</b></p> <ul style="list-style-type: none"> <li>• frequent visits with child to health or other services with unexplained or suspicious injuries, swallowing of non-food substances or internal complaints</li> <li>• explanation of injury is not consistent with the visible injury</li> </ul>

<sup>2</sup> Indicators of physical abuse that are listed for children may also be evident in young people