OPERATIONAL DIRECTIVE

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Subject: Mandatory reporting of sexual abuse of children under 18 years

PURPOSE

The purpose of this document is to advise Department of Health staff of the procedures to follow in order to comply with mandatory reporting requirements for child sexual abuse.

BACKGROUND

Mandated reporting of child sexual abuse has been introduced through the Children and Community Services Act Amendment (Reporting Sexual Abuse of Children) 2008 (the Act). From 1st January 2009 doctors, midwives, nurses, teachers and police are legally required to report when they have a reasonable belief that child sexual abuse has occurred, or is occurring. The Act places the responsibility for making a mandatory report on the mandated reporter. A report may be written or oral, but if oral the Act requires the reporter to make a written report as soon as practical after the oral report is made.

While in the Department of Health only doctors, nurses and midwives are mandated under law to report child sexual abuse, there is a clear duty for all health professionals to report child abuse or neglect. Refer to the Guidelines for responding to child abuse, neglect and the impact of family and domestic violence for information on child abuse and neglect: http://cahs.hdwa.health.wa.gov.au/__data/assets/pdf_file/0008/68381/2193CHILDABUSEGUIDELINES.pdf. This document is being reviewed and will be re-published in early 2009 with this Operational Directive included.

This Directive includes:
- Scope of mandatory reporting of child sexual abuse
- Sexually transmitted infections (STI)
- Responsibilities of mandated reporters who are employed by the Department of Health
- When to make a report
- Forming ‘Reasonable grounds for a belief’
- Patient confidentiality and professional liability
- Flow chart for reporting - Attachment One
- Information to be provided – Attachment Two
- Contacts for Department for Child Protection and Statewide Protection of Children Coordination Unit - Attachment Three

Other related documents
WA Department of Health Protection of Children Policy

This information is available in alternative formats upon a request from a person with a disability.
SCOPE OF MANDATORY REPORTING OF CHILD SEXUAL ABUSE

Sexual abuse occurs when a child has been exposed or subjected to sexual behaviours that are exploitative and/or inappropriate to his/her age and developmental level. Examples include sexual penetration, inappropriate touching, and exposure to sexual acts or pornographic materials.

Under the Act, sexual abuse in relation to a child includes sexual behaviour in circumstances where:

(a) the child is the subject of bribery, coercion, a threat, exploitation or violence; or
(b) the child has less power than another person involved in the behaviour; or
(c) there is significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.

Note: cases of informed, consensual sex between two teenagers of similar age that is not exploitative is not part of this legislation.

SEXUALLY TRANSMITTED INFECTIONS PROTOCOLS AND MANDATORY REPORTING

Current interdepartmental protocols governing the reporting of sexually transmitted infections (STI) in children aged under 14 years and children 14-17 years (previously 14-16) where there is a suspicion of sexual abuse still apply. The Operational Guidelines for interagency management of children under 14 who are diagnosed with a sexually transmitted infection (STI), and children aged 14-16 (now 14-17) diagnosed with an STI where there is suspicion of sexual abuse are available from [http://intranet.health.wa.gov.au/circularsnew/circular.cfm?Circ_ID=12243](http://intranet.health.wa.gov.au/circularsnew/circular.cfm?Circ_ID=12243).

For all STI’s in children under 14 years a mandatory report must be lodged. For children aged 14-17 years where sexual abuse is suspected, a mandatory report must also be made. Mandatory reporters are required to fill out Attachment 2 DOH Referral Form on pages 5-6 of the Operational Guidelines for interagency management of children under 14 who are diagnosed with a sexually transmitted infection, and send these to the Department for Child Protection Mandatory Reporting Unit. Contact details are provided in Attachment Three.

In March 2009 the STI form will be incorporated into the online Department for Child Protection mandatory reporting form. Further information will be provided once available.

RESPONSIBILITIES OF HEALTH STAFF

While the Act applies to individuals, not agencies, health staff will be supported to comply with the mandatory reporting legislation. This document outlines the basic requirements and further support, information and training is available from the Department for Child Protection and the Department of Health’s Statewide Protection of Children Coordination (SPOCC) unit. Contact details are provided in Attachment Three.

WHEN TO MAKE A REPORT

Mandatory reporters must make a report if they have a belief formed on reasonable grounds through the course of their work, that a child is or has been the subject of sexual abuse. Reports must be made to the Department for Child Protection who are required under the Act to provide the Police with a copy of the report. Reports can also be made directly to the Western Australia Police if a child is at high risk.
Evidence of abuse is not required to make a report and reporters should not conduct an investigation to establish if there is evidence, as this may jeopardise subsequent investigations by the Department for Child Protection or Western Australia Police.

Mandatory reporters who fail to report a belief that a child is being sexually abused commit an offence and can be fined up to $6000 [s124B(1)].

FORMING REASONABLE GROUNDS FOR A BELIEF

Professional judgement and objective observation that identify warning signs or possible indicators of abuse, knowledge of child development and consultation with colleagues or other professionals contribute to “reasonable grounds”.

Possible indicators of sexual abuse include:
- Inappropriate sexual behaviour for the age of the child including sexually touching other children and themselves
- Knowledge of sexual behaviour inappropriate to a child’s years
- Disclosure of abuse either directly or indirectly through drawings, play or writing that describes abuse
- Pain or bleeding in the anal or genital area with redness or swelling
- Fear of being alone with a particular person
- Child or young person implies that he/she is required to keep secrets
- Presence of sexually transmitted disease
- Sudden unexplained fears
- Enuresis and/or encopresis (bedwetting and bed soiling).

The context is important in determining if a situation is abusive, such as the role of coercion or unequal power in a relationship. This is particularly important in relation to sexual behaviour between children as the respective ages of the children, developmental level and the nature of the relationship are important considerations. Parents whose behaviours could place their children at more risk of abuse by others may also be an important contextual factor.

If you are unsure, you should clarify your concerns by discussing them with your colleagues, supervisor, the Department for Child Protection and/or staff at the SPOCC unit. This can be done without identifying the child about whom you are concerned.

MAKING A REPORT

Mandated reporters employed or contracted by the Department of Health should make an immediate oral/verbal report to the Mandated Reporting Service, Department for Child Protection when a ‘belief’ is formed. If a verbal report is made a written report must also be made. Failing to provide a written report after lodging a verbal report is an offence with a fine of up to $3000 [s124C(1)]. The Department of Health requires that the written report be made within 24 hours of the verbal report.

Where are reports made?

1. By phone to the Department for Child Protection Mandatory Reporting Service

   A report of suspected child sexual abuse should initially be made by a telephone call to the 24 hour Mandatory Reporting Service at the Department for Child Protection on
1800 708 704. The Service will provide the reporter with a unique mandatory reporting number for the records.

2 In writing to the Department for Child Protection Mandatory Reporting Service

The verbal report must be followed with a written report (quoting the report number). Forms can be accessed via a link from the WA Health site at www.health.wa.gov.au/mandatoryreport or directly through the Department for Child Protection website www.mandatoryreporting.dcp.wa.gov.au. Hard copies can be faxed through to the Mandatory Reporting Service on 1800 610 614.

What Information Should I Provide?

The child abuse report form should guide staff in providing as much detailed information as possible to Department for Child Protection when phoning that department. In addition, the Department for Child Protection officer may ask clarifying questions.

Attachment Two includes the information that should be provided for both a verbal report and the written report.

What Else Should I Do or Not Do?

- Listen to the child and let them take their time to tell their story.
- Reassure the child that telling an adult was the right thing to do.
- Comfort the child if they are very distressed, without making any promises.
- Write down what the child has told you and your observations.
- Tell the child what you will do next.
- Do not ask leading questions.
- Do not interview or investigate, this is the role of trained professionals.
- Avoid making the child repeat their story/disclosure to another person in your agency.
- Do not confront the person alleged by the child to be responsible for abuse.

If the child or their family requires support services, the local Department for Child Protection District Office or Mandatory Report Service can provide information on services available. Attachment Three provides contact details.

What do I do with the report?

The Department for Child Protection will allocate each mandatory report a unique number as soon as a mandatory reporter provides a report to the Department by phone, email or fax. The Department for Child Protection will further provide a written acknowledgement of receipt of the report and a subsequent letter identifying actions taken, if any.

For WA Health mandatory reporters the mandatory report, receipt and letter must be retained in accordance with area health procedures for the retention of records relating to child abuse and neglect and the Department of Health’s Operational Directive 0133/08 Patient Information Retention and Disposal Schedule:
CONFIDENTIALITY AND LIABILITY

Reporter’s Identity

As a general rule, the legislation provides that a reporter’s identity must not be disclosed to others, apart from the report to the Department for Child Protection. The Department for Child Protection must send a copy of the written report to the Western Australia Police which will include the reporter’s identity. The reporter’s name may also be disclosed in child protection processes or Court and legal proceedings at the direction of the Court.

Patient Confidentiality

Where a reporter has formed a belief, on reasonable grounds, that a child is or has been the subject of ongoing sexual abuse, making the report does not breach information sharing processes, professional codes of conduct or ethics or breach confidentiality requirements. Professional codes are overridden by the requirement to report child sexual abuse.

Liability

The legislation affords legal protection to staff that make mandatory reports in good faith. If you truly believe a child is or has been sexually abused, you will not incur civil or criminal liability and will not have breached any legal or professional confidentiality [s124F].

More information can be found at the Department for Child Protection’s Mandatory Reporting website www.mandatoryreporting.dcp.wa.gov.au. Alternatively, contact the Department of Health Statewide Protection of Children Coordination Unit (SPOCC) on 6216 7700.
ATTACHMENT ONE

PROCESS FOR REPORTING CHILD SEXUAL ABUSE OF A CHILD AGED 0-17 YEARS FOR MANDATED REPORTERS: MEDICAL PRACTITIONER, NURSE, MIDWIFE

Concern that a child has or is being sexually abused

Consultation with colleague, supervisor, DCP helpline or WA Health SPOCC unit to determine if there is a reasonable belief.

STI diagnosed in a child <14 years or STI diagnosed in a 14-17 year old in whom sexual abuse is suspected

A belief is formed that a child has been or is being sexually abused

Phone DCP Mandatory Reporting Service on 1800 708 704 and provide as much information as possible from the attached list. DCP will issue an acknowledgment receipt number.

Carer/Parent present

Advise of intention to make a report to DCP if relevant and appropriate - i.e. no safety risk to child or staff. Advice parent of DCP contact number or other support agency eg Legal Aid.


Print a copy of the report and file according to area health child abuse and neglect protocols.

Email the report to DCP Mandatory Reporting Service mrs@dcp.wa.gov.au or fax 1800 610 614. DCP will send an acknowledgment letter indicating they have received the report.

File the acknowledgment letter in accordance with area health child abuse and neglect protocols.

DCP will provide a letter following the assessment.

File the letter in accordance with area health child abuse and neglect protocols.
ATTACHMENT TWO
INFORMATION TO BE PROVIDED FOR A REPORT

Child Details
- Child’s full name (including any other names/surnames they may be known by), or if not known, a description of the child or information that can assist in identifying the child.
- Date of birth/age.
- Current address and telephone number.
- Names of the child’s parents or other responsible persons.
- School, day care, kindergarten.
- Ethnicity e.g. culturally and linguistically diverse, Aboriginal, Caucasian.
- Names, ages and whereabouts of any siblings.

Family/Carer Details
- What are the child’s care arrangements e.g. both parents, extended family, single carer, kinship carers?
- Are there any Family Court orders in place governing the child’s care arrangements?
- Is the family experiencing any issues that may impact on functioning such as: physical or mental illness, substance use, family and domestic violence, social isolation, intellectual impairment, lack of support networks or extended family?

Immediate Safety Concerns
- Current whereabouts of the child.
- If known, the person believed to have caused the harm.
- If known, details of when the child is expected to have contact with this person.

Reporter Details
- Reporter’s first name and surname, and contact details.
- Your profession/job title and area in which you are employed.
- Reporter’s relationship with the family and child/children.

Further Information
- Is the child aware of the report?
- Are the family/carers aware of the report?

The Grounds for Your Belief that the Child has been Sexually Abused
Reporters need to provide as much specific information as possible on the grounds by which they formed the belief that a child has been, or is being abused.

Important information includes:
- What has the child said or done to suggest they are being sexually abused?
- If the child has disclosed abuse, what did they say happened? Who did they disclose to and when?
- What was the child’s emotional state?
- Describe any behaviours/interactions with the child that are of concern, including frequency and severity of behaviours.
ATTACHMENT THREE

DEPARTMENT FOR CHILD PROTECTION

Metropolitan Offices:

Armadale: (08) 9497 6555
Fremantle: (08) 9431 8800
Midland: (08) 9274 9411
Perth: (08) 9214 2444

Cannington: (08) 9351 0888
Joondalup: (08) 9301 3600
Mirrabooka: (08) 9344 9666
Rockingham: (08) 9527 0100

Regional Offices

Albany (08) 9841 0777 Kununurra (08) 9168 0333
Broome (08) 9192 1317 Mandurah (08) 9535 6688
Bunbury (08) 9722 5000 Meekatharra (08) 9981 1104
Busselton (08) 9752 3666 Merredin (08) 9041 1622
Carnarvon (08) 9941 1244 Moora (08) 9651 1100
Collie (08) 9734 1699 Narrogin (08) 9881 0123
Esperance (08) 9083 2566 Newman (08) 9175 1051
Fitzroy Crossing (08) 9191 5002 Northam (08) 9622 0170
Geraldton (08) 9921 0768 Onslow (08) 9184 6005
Halls Creek (08) 9168 6114 Port Hedland (08) 9173 1877
Kalgoorlie (08) 9022 0700 Roebourne (08) 9182 1208
Karratha (08) 9185 0200 Southern Cross (08) 9049 1016
Katanning (08) 9821 9000 Tom Price (08) 9189 1592

24 hour services:

Crisis Care 9223 1111 or 1800 199 008

Mandatory Reporting Service
Freecall: 1800 708 704
Fax: 1800 610 614
Email: mrs@dcp.wa.gov.au
Website: www.mandatoryreporting.dcp.wa.gov.au

DEPARTMENT OF HEALTH

WA Health mandatory reporting website
www.health.wa.gov.au/mandatoryreport

Statewide Protection of Children Coordination Unit
Phone: 6216 7700
Fax: 6216 7711
Email: spoccunit@health.wa.gov.au

Princess Margaret Hospital Child Protection Unit: 9340 8646