

When should I make a report of risk of significant harm?

Relevant legislation

The legislation addressing reports of risk of significant harm is found in s.23 and s.24 of the *Children and Young Persons (Care and Protection) Act 1998*.

Threshold

The statutory threshold or the point at which a concern should be reported to the Community Services Helpline is, risk of significant harm. A child or young person is at risk of significant harm if the circumstances that are causing concern for the safety, welfare or well being of the child or young person are present to a significant extent.

What is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare or wellbeing, or in the case of an unborn child, after the child's birth. The threshold was determined by the 2008 Woods Inquiry which recommended that a statutory threshold of risk of significant harm was appropriate so that:

- those children and young people who do not require a statutory response are no longer reported to the Community Services Helpline
- more families are supported at a local level by other government organisations and non-government services
- Community Services is able to focus on the most serious cases

Current concerns

The Child Wellbeing and Child Protection Interagency Guidelines describe current concerns as:

“Significant harm arising from abuse or neglect is recent or likely in the foreseeable future should circumstances continue unchanged. Current concerns may also arise from a child or young person having contact with someone who is known to be responsible for causing harm to a child in the past. Current concerns also refer to situations where the abuse or neglect of the child or young person occurred sometime in the past but continue to have an impact on the child or young person's safety, welfare or wellbeing.”

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Reasonable grounds

The Child Wellbeing and Child Protection Interorganisation Guidelines describe reasonable grounds as:

„Reasonable grounds refers to the need to have an objective basis for suspecting that a child or young person may be at risk of significant harm, based on:

- first hand observations of the child, young person or family
- what the child, young person, parent or another person has disclosed
- what can reasonably be inferred based on professional training and/or experience

It does not mean that reporters are required to confirm their suspicions or have clear proof before making a report.

Harm circumstances

The legislation requires the presence of one or more harm circumstances which are summarised below (s.23(1) Children and Young Persons) Care and Protection Act 1998).

- (a) basic physical or psychological needs not being met or are at risk of not being met
- (b) parent/carer unwilling or unable to provide necessary medical care
- (b1) parent/carer unwilling or unable to arrange for the child or young person to receive an education
- (c) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated
- (d) risk of serious physical or psychological harm resulting from exposure to domestic violence
- (e) serious psychological harm resulting from parent or carer's actions
- (f) mother did not act to eliminate or minimise risks following prenatal report under s.25

S.23 also says that a child or young person should be taken to be at risk of significant harm where the following sections of the Children and Young Persons) Care and Protection Act 1998) apply:

s.154(2): situations involving a child being in out-of-home care for more than 28 days unless this is arranged by Community Services or is provided by an authorised carer or a close relative.

S.156A(3): voluntary out-of-home care arrangements made by a relevant agency where the child or young person remains in out-of-home care for more than three months in any period of 12 months unless care is provided by a designated agency, or where a child or young person remains in voluntary out-of-home care for more than 180 days unless *Keep Them Safe* CHCCHILD401A –

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the agency has prepared a plan to meet the needs of the child or young person in accordance with the Children's Guardian's Guidelines.

Cumulative harm

S.23 (2) says: "Any such circumstances may relate to a single act or omission or to a series of acts or omissions. Cumulative harm may be caused by an accumulation of a single adverse circumstance or event, or by multiple different circumstances and events. The unremitting daily impact of these experiences on the child can be profound and exponential, and diminish a child's sense of safety, stability and well-being".

Since the majority of children who experience maltreatment experience multiple incidents and multiple types we need to be alert to the possibility of cumulative harm in all reports.

NOTE: For further information about the threshold of risk of significant harm refer to the Mandatory Reporting Guide.

References

Bromfield, L.M. and Miller, R.,(2007),*NSW Children and Young Persons Care and Protection Act Specialist Practice Guide*, 'Cumulative Harm'. Victorian Government Department of Human Services

NSW Child Wellbeing and Child Protection Interagency Guidelines (2009)

<http://www.community.nsw.gov.au/kts/guidelines/reporting/index.htm>

'*Keep Them Safe Fact Sheet*' – New Statutory Threshold (2009)

Keep Them Safe: <http://www.keepthemsafe.nsw.gov.au/>