

# **Interagency Code of Practice:**

**Investigation of suspected harm  
to children and young people**



**Government  
of South Australia**

The Interagency Code of Practice sets out at an operational level how agencies and organisations work together to investigate and respond to suspected harm to children and young people.

The content of the Interagency Code of Practice does not constitute legal advice, is not intended to be a substitute for legal advice and must not be relied on as such. If in doubt, agencies and organisations must seek their own legal advice in relation to any particular matters they may have.

# Preface

The Interagency Code of Practice (ICP) provides a single framework to be applied by all agencies and organisations in South Australia who are involved in investigating and/or responding to suspected harm, or a risk of harm, to children and young people. It guides effective, high quality, and coordinated responses to children and young people who have suffered harm or are at risk of harm and describes how agencies and organisations work together collaboratively to plan, investigate and respond to suspicion that a child or young person is at risk of harm or if there are concerns that they have been harmed.

The timing, effectiveness and quality of the investigative response influences the speed in which the child or young person is protected from further harm and the likelihood of them receiving long-term support and/or services to support their recovery. It also influences the quality of the criminal investigation, successful identification and prosecution of people who harm children and young people, the identification of other victims and/or the identification of parents, guardians and carers who may require service support to be able to provide safe care to a child or young person.

Each agency has a complementary and essential role in investigating and/or responding to suspected harm to children and young people. The ICP aims to complement individual agency guidance as well as staff knowledge and expertise to ensure agencies collaborate to provide timely, effective and appropriate responses that prioritise the safety and best interests of the child or young person.

The ICP recognises that consistent responses to all children and young people in South Australia are better achieved when everyone follows a single code of practice. This ICP places a strong focus on ensuring all actions and decisions made during an interagency response are culturally responsive and support Aboriginal and Torres Strait Islander children and young people to maintain connections to their family, community, culture, traditions and language. When undertaking statutory child protection investigations involving Aboriginal and Torres Strait Islander children and young people, agencies must be mindful of the enduring trauma and intergenerational disadvantage past policies have had upon these communities. Investigations must be approached sensitively and in a manner that aims to minimise the traumatic effects of statutory child protection involvement, acknowledging that family-led decision making achieves best outcomes for Aboriginal and Torres Strait Islander children and young people. Agencies must also be aware and critically reflect on bias within both their own, and other agencies', decision making.

The ICP is periodically updated in response to changes in legislation, agency responsibilities and practice. The ICP is revised by the Interagency Code of Practice Reference Group representing the core agencies involved in its operationalisation, including DCP, SAPOL, the Department for Health and Wellbeing (including Child Protection Services and the Paediatric Forensic Medical Service), the Department for Education, the Department for Human Services and the Department for Public Prosecution. Each agency has endorsed the ICP at an executive level.

# Contents

- Section 1: Purpose and Principles ..... 7**
  - Purpose ..... 7
  - Scope ..... 7
  - Principles ..... 7
- Section 2: Child protection reports/notifications and urgent referrals ..... 8**
  - How to notify ..... 8
  - DCP assessment and response ..... 8
  - Process after assessing a child protection report/notification ..... 8
  - Making a referral to Child Protection Services (CPS) and Pediatric Forensic Medical Service (PFMS) ..... 8
  - Making a referral to SAPOL ..... 9
  - Making a referral to another agency with investigative responsibilities ..... 9
- Section 3: Strategy discussion ..... 10**
  - When should a strategy discussion be convened? ..... 10
  - Consider urgency ..... 11
  - Who convenes a strategy discussion? ..... 11
  - What are the convenors' responsibilities? ..... 11
  - Who participates in a strategy discussion? ..... 11
  - What are the responsibilities of participants? ..... 13
  - Information gathering to inform a strategy discussion ..... 13
  - Confidentiality and relevance of information ..... 14

- What information should be shared during a strategy discussion? ..... 14
- Strategy discussion record template ... 15

**Section 4: Investigation and assessment following strategy discussion ..... 16**

**Section 4.1: Important considerations and initial actions ..... 17**

- Interagency collaboration ..... 17
- Consent and participation in decision making ..... 17
- Possibility of other victims ..... 18
- Initial response to the child, young person and parent, guardian or carer. 19
- Engaging with the child, young person and their family ..... 20
- Conducting an initial discussion/interview with the child or young person ..... 21
- Minimising the impact of interviews and assessments on children and young people ..... 23
- Remote communities ..... 23
- Use of interpreters ..... 24
- Referring to/accessing therapeutic services ..... 24

**Section 4.2: Interviews and assessments involving children and young people ... 26**

- Prescribed interviews ..... 26
- Psychosocial forensic assessments ..... 28
- Forensic medical assessments ..... 28
- Statement of complaint ..... 29
- Other examinations and assessments ..... 29

Role of CPS and PFMS .....	30	Child protection proceedings in the Youth Court.....	45
Role of SAPOL .....	30		
<b>Section 4.3: Gathering other evidence .32</b>		<b>Section 6: Follow up strategy discussion and ongoing support .....</b>	<b>46</b>
Child and young person images – photography .....	32	Outcome discussion .....	46
SAPOL crime scene assessment.....	32	Ongoing support.....	46
Interviewing the person suspected of being responsible for the harm .....	32	Lead agency.....	46
Interviewing others.....	32	Ongoing support aims.....	47
Parenting capacity assessments .....	33	Further child protection reports/notifications .....	48
Alcohol and other drug assessments..	33	<b>Section 7: Management of records .....</b>	<b>49</b>
<b>Section 4.4: Investigation considerations.....</b>	<b>34</b>	Strategy discussion and follow up strategy discussion record .....	49
Investigation considerations for specific physical harm circumstances.....	34	Reports produced by agencies .....	49
Investigation considerations following allegations of sexual harm/assault.....	35	CPS and PFMS reports – forensic, medical or psychosocial assessments, photographs .....	49
Child and young person neglect .....	36	SAPOL record of interview, transcripts, photographs.....	50
Severe domestic squalor .....	37	Storage and destruction of the child or young person’s audio visual recording .....	51
Medical neglect.....	37	<b>Section 8: Essential support for interagency work .....</b>	<b>52</b>
Domestic and family violence.....	38	Interagency structures.....	52
Suspicious or unexplained death of a child or young person.....	38	Training and development.....	52
Harmful sexual behaviour between children and young people.....	38	Dispute resolution .....	52
Allegations of harm within, or potentially involving, family law proceedings.....	40	<b>Appendix 1: Principles .....</b>	<b>55</b>
<b>Section 5: Prosecution and court matters.....</b>	<b>42</b>	<b>Appendix 2: Explanation of terms .....</b>	<b>60</b>
Decision making.....	42	<b>Appendix 3A: Strategy discussion record template .....</b>	<b>67</b>
The prosecution process and role of the Office of the Director of Public Prosecutions (DPP).....	43	<b>Appendix 3B: Follow up strategy discussion record template .....</b>	<b>68</b>

**Appendix 4: Assessment and interviews**  
..... 69

**Appendix 5: Other agency or  
organisation roles.....77**

**Appendix 6: Issues specific to the  
Education Sectors ..... 80**

**Appendix 7: List of acronyms ..... 82**

# Section 1:

## Purpose and Principles

### Purpose

The ICP provides the key actions and considerations required at each stage of an investigative and therapeutic response when it is suspected that a child or young person has been harmed or is at risk of harm. It outlines agency roles and responsibilities and describes how the interagency team should operate to meet their responsibilities and address the complexities inherent in this work.

The ICP provides high level guidance that supports and complements each agency's internal processes and procedures so each member of the interagency team has clarity about their role as an interagency partner.

Each agency must be guided foremost by the child or young person's safety and best interests, while also working towards supporting an effective criminal justice response for victims when required.

### Scope

The ICP applies to:

- > all investigations conducted by DCP or SAPOL of suspected harm or risk of harm to children and young people, both intra-familial and extra-familial
- > all responses to care concerns relating to children or young people in care that may include an interagency component
- > all staff of government agencies and non-government organisations (receiving state and/or Australian Government funding) who are responsible for the practice outlined in the ICP, or whose involvement /information is essential to the ICP's purpose.

### Principles

The ICP is underpinned by the following eight key principles:

1. Safety of children and young people is paramount.
2. Rights of children and young people are safeguarded.
3. Cumulative harm is considered.
4. Vulnerability is acknowledged.
5. All decisions and actions are culturally responsive.
6. Timely and high quality information sharing is essential.
7. Risks to other children and young people are identified and responded to.
8. Harmful sexual behaviour involving children and young people is responded to.

Adherence to these key principles is critical for the effective operation of the ICP. All staff must ensure they are familiar with and are able to apply each of these principles when undertaking their role and responsibilities as an interagency partner.

For a full description of each of these principles, refer to [Appendix 1](#).

## Section 2:

# Child protection reports/notifications and urgent referrals

A mandated notifier is required by the *Children and Young People (Safety) Act 2017* (CYPs Act) to report to DCP if they suspect on reasonable grounds that a child or young person is, or may be, at risk, and they form this suspicion during the course of their employment.

Staff should refer to the [DCP website](#) and their agency or organisation's mandatory reporting procedure for further information.

### How to notify

The DCP Child Abuse Report Line (CARL) is the central point for all child protection reports/notifications where it is suspected that a child or young person is, or may be, at risk of harm. It operates 24 hours a day, 7 days a week – phone 13 14 78 or [online](#).

An online system for reporting, known as e-CARL, is available to mandatory notifiers. The online system will guide notifiers as to whether their child protection report/notification can be lodged electronically or whether it requires phone contact.

### DCP assessment and response

DCP Call Centre workers assess the information provided by notifiers to determine whether the concerns of harm meet the statutory threshold for intervention under the CYPs Act.

For those cases that do meet the statutory threshold or relate to a care concern, DCP workers assess whether intervention is required and the appropriate response time. The assessment is influenced by a number of factors including whether an urgent response is required to establish immediate safety, seek treatment or preserve forensic evidence.

DCP can refer screened-in notifications to a state authority or other agency for a non-investigative response if appropriate.

### Process after assessing a child protection report/notification

If a strategy discussion is required, this will be convened according to the guidance in [Section 3](#).

Where possible, a strategy discussion will take place before visiting the family. However, DCP or SAPOL will act to protect a child or young person before a strategy discussion is convened if the child or young person is in immediate danger and/or has life threatening injuries.

In situations where a visit to the family uncovers new information that indicates a strategy discussion is required, DCP or SAPOL will convene a strategy discussion following the visit.

DCP may also convene a strategy discussion in any circumstances where an investigation may require an interagency response.

### Making a referral to Child Protection Services (CPS) and Pediatric Forensic Medical Service (PFMS)

DCP and SAPOL can make a referral to CPS and PFMS.

#### Office hours

All referrals or consultations are initially managed by the CPS intake/duty worker rostered on that day. The normal daily roster is between 9am and 5pm Monday to Friday.

If it is more appropriate for other members of CPS or PFMS staff to be involved then the intake/duty worker will arrange this. When making a referral or seeking consultation, it is important to respect that this is the initial stage in the process of service provision at the CPS.

**Telephone referrals:**

- > Women's and Children's Health Network (WCHN) CPS: 8161 7346
- > Women's and Children's Health Network (WCHN) PFMS 8161 7346
- > Southern Adelaide Local Health Network (SALHN) CPS: 8204 5485 and 8204 5484
- > Northern Adelaide Local Health Network (NALHN) CPS: 8282 2566

**Email referrals:**

- > WCHN CPS: [HealthCYWHSCPSintakeWorker@sa.gov.au](mailto:HealthCYWHSCPSintakeWorker@sa.gov.au)
- > WCHN PFMS: [WCHN.PaediatricForensicMedicalService@sa.gov.au](mailto:WCHN.PaediatricForensicMedicalService@sa.gov.au)
- > SALHN CPS: [FMCchildprotectionservice@sa.gov.au](mailto:FMCchildprotectionservice@sa.gov.au)
- > NALHN CPS: [CPSintakeNALHN@sa.gov.au](mailto:CPSintakeNALHN@sa.gov.au)

When urgent referrals are emailed to CPS, they must be followed by an urgent telephone call to the CPS intake/duty worker by the appropriate DCP or SAPOL employee.

**After Hours**

The CPS and PFMS provides an emergency after-hours on-call service. On-call staff can be contacted by telephoning the switchboard of the relevant hospital and asking for the CPS or PFMS on-call clinician:

- > Flinders Medical Centre switchboard: 8204 5511
- > Women's and Children's Hospital switchboard: 8161 7000
- > Lyell McEwin Hospital switchboard: 8182 9000

**Making a referral to SAPOL**

DCP will promptly refer to SAPOL:

- > extra-familial matters
- > matters with an extra and intra-familial

component where the information indicates a criminal offence may have been committed.

The referral will identify cases assessed by DCP to be urgent (for example, to respond to imminent safety concerns, seek an urgent CPS/PFMS medical assessment and/or to secure evidence).

**Referrals to SAPOL are made via the following pathways:**

State Crime Assessment Centre:

- > for matters assessed as requiring a 24 hour response and serious care concerns.

District Child and Family Investigation Section (CFIS)/Regional Local Service Area (LSA) Criminal Investigation Branch (CIB):

- > for matters assessed as requiring a 10 day response and minor or moderate care concerns that have an interagency element.

In extra-familial matters SAPOL will have the lead in determining further action.

**Making a referral to another agency with investigative responsibilities**

In addition to SAPOL, DCP refers extra-familial matters to a number of agencies that have investigative responsibilities in accordance with its legal requirements and any relevant agreements or protocols. This includes where the alleged perpetrator is contracted by a State Government agency to provide a service.

Agencies to which matters may be referred include (but are not limited to) the Department for Education, Education Standards Board SA, the NDIS Quality and Safeguards Commission and the Office for Public Integrity.

## Section 3:

# Strategy discussion

A strategy discussion is a collaborative interagency discussion about the child protection report/notification.

It is the platform for each agency to share and discuss all relevant information and coordinate agency response, including what role and actions each agency will take, and in what order.

A strategy discussion results in a single plan that all agencies follow for the purpose of:

- > providing timely and effective responses to protect children and young people from harm and/or to prevent ongoing harm
- > securing forensic evidence for use in a criminal prosecution and/or care and protection application
- > discussing any agency specific requirements, concerns and information sharing needs.

A strategy discussion may be held by teleconference, videoconference or face to face. It may be necessary to convene multiple strategy discussions in some circumstances (refer to [Section 6](#)).

### When should a strategy discussion be convened?

A strategy discussion should be convened when at least one of the following conditions are met and it is assessed that an interagency response is required:

- > the child or young person is in need of immediate protection from imminent or current serious harm
- > the matter may necessitate a prescribed interview or forensic assessment
- > the concerns raise the possibility of criminal behaviour which impacts the safety of the child or young person
- > the child or young person requires medical attention

- > the child or young person is reported to have current suspicious injuries/signs of severe neglect
- > the child or young person is reported to have been recently sexually harmed/assaulted
- > harmful sexual behaviour involving children or young people is alleged
- > the situation notified requires an urgent SAPOL investigative response (for example, to secure evidence and commence the criminal investigation process)
- > one or more children or young people are at risk of serious harm or are considered to have suffered serious physical or psychological harm, including harm as a result of the cumulative effect of their history of care
- > DCP or SAPOL intend to interview/discuss the concerns with the child or young person prior to informing the parents or carers about the investigation and there is the likelihood of a criminal investigation proceeding
- > the matter relates to a serious care concern against a child or young person in care (in these cases, a strategy discussion is also known as a planning discussion)
- > the child or young person is in care and suspected of being harboured or concealed
- > the child has high risk chronic non-attendance and is at risk of serious education neglect
- > SAPOL, DCP, CPS, PFMS or another involved agency consider a strategy discussion is necessary.

Where necessary, DCP or SAPOL will take action to protect a child or young person before a strategy discussion is convened (such as if a child or young person is in immediate danger and/or has life threatening injuries).

## Consider urgency

An urgent strategy discussion should be convened when there are imminent risks to the child or young person's safety and/or when evidence must be preserved. This includes (but is not limited to):

- > where there is suspicion of recent sexual harm
- > where there is an injury such as a bruise that requires a forensic medical examination
- > the child or young person has a medical condition attributable to, or exacerbated by, physical or medical neglect that requires hospitalisation and/or forensic assessment
- > the child or young person has not been sighted by professionals for a significant period.

## Who convenes a strategy discussion?

In general, DCP convenes strategy discussions for intra-familial matters and care concerns. SAPOL convenes strategy discussions for matters that exclusively relate to extra-familial allegations.

DCP may also convene strategy discussions for reports/notifications that have both intra-familial and extra-familial components.

CPS, PFMS and other agencies can request that a strategy discussion is convened by negotiation with DCP and/or SAPOL.

## What are the convenors' responsibilities?

The convenor of a strategy discussion is responsible for:

- > establishing the meeting time, date and venue (where applicable)
- > inviting participants
- > providing relevant details of the child protection report/notification to all participants before the meeting
- > ensuring participants understand the

process and their information sharing, record keeping and confidentiality obligations

- > chairing the meeting (or ensuring an appropriate meeting chair)
- > completing the strategy discussion record and distributing it promptly to all agency/organisation participants (excluding private citizens)
- > scheduling and convening follow up strategy discussions and distributing the follow up record
- > ensuring ongoing support and/or case management is agreed to and identified on the strategy discussion record, noting this is not a requirement for care concerns
- > ensuring participating agencies are updated about actions and outcomes.

## Who participates in a strategy discussion?

### Primary participants

The primary participants involved in a strategy discussion are SAPOL, CPS, PFMS and DCP. The convenor of the strategy discussion is responsible for ensuring that, where applicable, each primary participant is invited to attend the strategy discussion.

Agency participants should be invited in accordance with the following instructions.

### DCP: (in order)

- > the supervisor, the senior practitioner, or assigned case worker
- > if after hours, contact the DCP Call Centre (13 14 78)
- > if the child or young person is Aboriginal or Torres Strait Islander, a Principal Aboriginal Consultant.

**SAPOL:** the following SAPOL members can be involved in a strategy discussion (in hierarchical order):

- > Detective Senior Sergeant/Detective Sergeant of the relevant CFIS or Regional CIB Manager when appropriate

- > on most occasions the CFIS investigator or Regional CIB investigator who is involved in the investigation should attend. If the investigating officer is unable to attend a delegate who has been appropriately briefed should attend in their place.

Police Communications may be contacted who will then contact the relevant on duty member or, if after hours, will recall the on-call relevant CIB if appropriate.

**CPS:** The intake/duty worker and/or senior on duty between 9am to 5pm Monday to Friday and via on call worker and/or Senior on Duty after hours. The CPS Paediatrician may also participate.

**PFMS:** A PFMS Paediatrician is available 24/7 to participate in a strategy discussion if requested.

Where known, the person who will be responsible for interviewing the child or young person should also attend the strategy discussion.

### Other participants

The other participants at a strategy discussion will vary depending on who holds critical information and/or may be involved in the investigative response. Consider:

- > Is the child or young person subject to custody or guardianship orders?
- > Who else holds critical information that will help establish the urgency to act?
- > Who else holds critical information relevant to the alleged risk (for example, the notifier)?
- > Who else is currently working with the child or young person and their family (for example, DHS Intensive Family Support (IFS) provider)?
- > Has DCP referred the family to another State authority or agency for a non-investigative response?
- > Who will be involved in, or relied on, as part of the initial/therapeutic response? (including people with statutory roles)
- > Is the child or young person Aboriginal

or Torres Strait Islander (and who holds critical information about culture and language)?

- > Is the child or young person from a culturally and linguistically diverse background (and who holds critical information about culture and language)?

Participants may include people from a range of relevant service providers. This includes IFS providers, Child and Adolescent Mental Health Service (CAMHS), Child and Family Support Providers, Youth Justice, SA Housing Authority, Department for Education (a school, Student Support Services, Aboriginal Education, Attendance Directorate or member of the Incident Management Directorate), a health service, a disability service or an Aboriginal Community Controlled Organisation or advising authority.

If not convened by the Department for Education, then an appropriate representative from the Department for Education and/or the child or young person's school must be invited to participate where the concerns relate to:

- > high risk chronic non-attendance of a child or young person of compulsory school age from their education program, or
- > harmful sexual behaviour involving children or young people in education or care settings.

If the child or young person is in care, the following additional stakeholders may need to participate:

- > the child or young person's DCP case worker or the case worker's representative
- > a Principal Aboriginal Consultant (if the child or young person is Aboriginal or Torres Strait Islander)
- > a practice leader if required
- > if the child or young person resides in South Australia but is subject to an interstate order, their interstate case worker who is responsible for case management

- > the DCP Care Concerns Management Unit and DCP Investigation Team (for all serious care concerns)
- > the Guardian for Children and Young People or their delegate (if sexual harm is alleged)
- > a relevant staff member from DCP, the support agency for the carer and/or the child or young person's residential care facility.

## What are the responsibilities of participants?

The responsibilities of strategy discussion participants include:

- > gathering and sharing information held by the agency that is relevant to the allegations of harm and the planning of an investigation response
- > being authorised to make the necessary planning decisions and commitments (including regarding resourcing) that are likely to arise out of discussions
- > being aware of their own values and biases and how these impact on decision making and record taking
- > ensuring agreed actions are undertaken in a timely manner and seeking clarification and further advice on actions if required
- > providing cultural advice (where relevant)
- > following the discussion and updating the convenor on progress regarding agreed actions.

## Information gathering to inform a strategy discussion

Participants should gather as much information as possible prior to the discussion. Good quality and timely information sharing is critical for ensuring a comprehensive and coordinated response. This includes any information held by the agency relating to:

- > the child protection history of the child or young person and their siblings or other children and young people in the

household, including evidence of cumulative harm

- > known information about the child or young person, such as risk factors, immediate and ongoing safety, current circumstances and needs, health/treatment needs, developmental status, if the child or young person has a disability (including cognitive or communication impairments)
- > address, current location and contact details for the child or young person and their parents, guardians or carers
- > relevant information (for example, child protection history, history of domestic or family violence as victim or perpetrator) relating to any adult who may be able to protect the child or young person
- > the alleged perpetrator/s (including history of suspected or confirmed harm (either as a victim or alleged perpetrator), criminal history, history of violent, unpredictable or out-of-control behaviour (including domestic or family violence), disabilities that may impact on caring for the child or young person, ongoing contact between the alleged perpetrator and the child or young person (or other children and young people)
- > an unborn child (antenatal attendance)
- > relevant health history of the parent, guardian or carer (including mental health, disability and alcohol and other drug use)
- > cultural considerations, including who may have cultural authority
- > specific community and location information (including where working in remote communities)
- > current or prior contact with the child, young person or family (for example, hospital presentations for injuries, mental health or domestic and family violence, failure to attend appointments)
- > in the case of injuries to a child or young person, any explanation provided for the

injuries by the child, young person, family or other person, when the child or young person was last sighted and any photographs that have been taken

- > information to assist the safety and security of workers who will be conducting the home visit
- > any other information useful to planning an effective response, such as medical history of the child or young person, language spoken at home, whether an interpreter is required and/or who can give legal consent to an examination or assessment.

It is also critical that information is gathered to help establish what opportunity an alleged perpetrator had to offend against other children or young people and if there are 'reasonable grounds to suspect that there might be other victims'.

The possibility of other victims must be considered at every strategy discussion. This is important because every circumstance is different and every environment can operate differently.

### Other information sources

The convenor should consider whether any other person or body may hold relevant information to inform the strategy discussion. This includes providers of IFS, housing, education, disability, alcohol and other drug, mental health, family violence services and Aboriginal Community Controlled Organisations.

In some cases, gathering relevant information may negate the need for a person or body to attend the discussion itself, particularly if the person or body is unlikely to be involved in the investigative response.

The convenor may seek information from an agency, organisation or provider using the Information Sharing Guidelines (ISG), section 152 of the CYPS Act or through the Multi Agency Protection Service (MAPS) process. DCP may also require information under section 150 of the CYPS Act (refer to [Appendix 1](#) – Principle 6).

If the child or young person is subject to

interstate child protection orders and the interstate worker will not be attending the strategy discussion, the convenor should consult with the DCP interstate liaison team to obtain relevant information from the interstate child protection agency.

## Confidentiality and relevance of information

Unless the participant instructs otherwise, the information brought to the strategy discussion should be treated as sensitive and confidential.

Strategy discussion participants should focus only on what is relevant to the purpose of the strategy discussion and record only what is necessary for people to know in order to take the protective or investigative actions outlined on the strategy discussion record template.

In accordance with the ISGs and the CYPS Act:

- > confidential information should not be used or disclosed by participants for another purpose
- > the strategy discussion record must be stored securely according to individual agency specifications and legal obligations
- > notifier information must be managed in accordance with section 163 of the CYPS Act.

Agencies and organisations must also comply with any other legal requirements that may apply to particular information. Information that is disclosed unlawfully may constitute a criminal offence (see, for example, sections 163 and 164 of the CYPS Act).

## What information should be shared during a strategy discussion?

Refer to the strategy discussion record template in [Appendix 3A](#).

## Strategy discussion record template

An ICP strategy discussion (or follow up) record template must be completed after each strategy discussion ([Appendix 3A](#) and [3B](#)). The template is completed by the convenor and distributed to participants within two working days.

The use of this record template is mandatory to ensure that:

- > an agreed record, updated with outcomes and ongoing support and/or case management is followed by all participating parties
- > participants understand and agree\* to the planned actions
- > the safety of any other children or young people is considered
- > information is shared with relevant people and organisations to protect the safety of children and young people
- > ongoing support and/or case management is informed by relevant information from agencies involved in the initial response.

\*A participant's receipt of the record represents agreement with the actions recorded. If a participant does not agree with the outcomes recorded, it is their responsibility to return the record with proposed amendments.

## Section 4:

# Investigation and assessment following strategy discussion

This section provides the important considerations and core components that comprise an interagency response to suspected harm.

### Components of investigations and assessments may include, but are not limited to:

- > gathering and analysing background information, including:
  - any interstate/overseas police and statutory agency information
  - information from other involved professionals such as IFS providers, teachers, Student Support Services, general practitioners and health professionals
- > information sharing to prevent risks to children and young people's safety
- > obtaining consent
- > prescribed interviews of children and young people
- > forensic psychosocial assessments of children and young people
- > forensic medical assessments
- > interviews of parent, guardian or carer/family members/young people
- > interviews of alleged offenders
- > parenting capacity assessments
- > alcohol and other drug assessments
- > mental health assessments
- > witness statements
- > removal of children and young people
- > use of police warrants
- > SAPOL site visits/re-enactments/seizing of evidence
- > joint agency visits

- > home environment assessments
- > case conferences
- > referrals for therapy and/or other supports as identified.

Safety of children and young people is the paramount consideration for all actions and decisions relating to an investigation and/or assessment. In some cases, securing children and young people's safety may require the use of statutory powers, such as the sharing of information, emergency removal and/or seeking child protection orders to create safety.

For information about specific components of an investigation and/or assessment, refer to:

- > [4.1 Important considerations and initial actions](#)
- > [4.2 Interviews and assessments involving children and young people](#)
- > [4.3 Gathering other evidence](#)
- > [4.4 Investigation considerations](#)

## Section 4.1:

# Important considerations and initial actions

### Interagency collaboration

The ICP is a collaborative and agreed approach that supports agencies to:

- > determine what may or may not have happened to a child or young person
- > assess the child or young person's current and future safety
- > consider whether there is sufficient evidence to determine that a criminal act against a child or young person has been committed
- > consider the needs of the child, young person and their family and ensure they receive appropriate support and referrals to services during and following investigation and assessment
- > seek advice or consultation to optimise quality of decision making and ensure that agency actions will not compromise an investigation.

Effective interagency practice relies on SAPOL, DCP, CPS, PFMS and other relevant agencies engaging in an ongoing flow of information to ensure decisions and assessments are coordinated and based on the fullest possible picture of children and young people's circumstances.

### Consent and participation in decision making

Children, young people and their protective parents have a right to be informed about, and where possible, involved in decisions that affect them.

Where appropriate, the views of significant others who have cultural authority for the child or young person should also be sought and considered.

Each of the agencies responsible for interviewing and assessing children and

young people follow specific requirements on when and how to obtain consent. These are set out in [Appendix 4](#).

Consent must not be sought at the expense of a child or young person's physical or emotional safety. If a parent or guardian refuses to give consent for a forensic medical assessment or prescribed interview, this must be regarded as a very serious matter and the use of appropriate statutory authority (including seeking a child protection order) should be considered. Alternative means for obtaining consent for a prescribed interview or forensic medical assessment must be considered by the responsible agency in accordance with [Appendix 4](#).

In some cases, it may not be possible or appropriate to seek a person's consent. Where appropriate, agencies should still consider what information may be provided so the person understands what decisions are being made and is able to have their views heard and considered.

### Seeking consent from children and young people

The recommended way to assess whether a child or young person has understood the implications of providing their consent is to ask them to say in their own words:

- > what the request or suggestion is and why it has been made
- > what they understand will happen if they do or do not give consent, and
- > why they have either given or withheld their consent.

For Aboriginal or Torres Strait Islander children and young people, asking these questions in the presence of a cultural support person they trust will contribute to a culturally safe environment where they are supported to share their feelings openly and honestly.

Consideration should also be given as to whether an interpreter is required.

The clarity and consistency of the answers given to these questions will help determine whether or not a child or young person's consent is genuinely informed.

Note: Some actions and decisions under the ICP (such as forensic medical examinations) have specific legal requirements regarding who may provide consent. Where this applies, the agency should consider whether it is appropriate and possible to seek the child or young person's agreement (for example, for a medical procedure). The process outlined above can be adapted to seek a child or young person's agreement.

### Helping children, young people and families make informed decisions

Children, young people, their protective parents, significant others with Aboriginal or Torres Strait Islander cultural responsibility and/or carers have a right to be advised about the nature of any investigation and/or court process and to be informed that they have a level of control over the process, including having their wishes considered in decisions regarding the prosecution of the accused.

It is important that this is done at an early stage, so that those impacted by the investigation have a clear and full appreciation of the process. When deciding what information should be shared with the child, young person or protective adults in their life, agencies should consider all relevant factors, such as the age and developmental level of the child or young person, their psychological wellbeing and relationship with their parent, guardian or carer.

### Possibility of other victims

The responsibility to consider the possibility of other victims applies to cases of intra-familial harm, extra-familial harm and care concerns. It is a key consideration for the strategy discussion (refer to [Section 3](#)).

The test to be applied when deciding whether to act on this possibility is 'that there are reasonable grounds for suspecting that there might be other victims.

The factors to be taken into account in assessing whether reasonable grounds exist include, but are not limited to:

- > the nature of the alleged offending
- > the circumstances in which the alleged offending occurred
- > the place or places where the alleged offending occurred
- > whether the alleged offender had regular and frequent contact with other children, young people or a group or groups of children or young people and the nature and circumstances of that contact
- > the opportunities that were available to the alleged offender to offend against other children and young people.

Once an individual child, young person or groups of children or young people are identified as possible victims, SAPOL will undertake and/or approve actions to be taken by other agencies to ensure an appropriate response. Responsibilities may be agreed to at the strategy discussion, follow up strategy discussion or during the subsequent investigation.

Where it is suspected that another child or young person has been harmed, DCP must be notified as required under the CYPs Act (refer to [Section 2](#)).

### Responsibility to inform about other possible victims

A number of authorities and persons may need to be informed about suspected harm in order to:

- > assist in the identification of possible victims
- > safeguard other children and young people exposed to an alleged offender or harm caused by the sexualised behaviour of another child or young person
- > meet various legislative requirements or administrative agreements such as notifying the Guardian for Children and Young People or Training Centre Visitor if the child or young person is in State care and/or in custody

- > notifying the relevant education sectors (where applicable) in accordance with the requirements of [Appendix 6](#).

SAPOL and DCP are the lead agencies in approving the process of informing others while an investigation and/or prosecution is in progress. The process for responsibly and lawfully informing people who have a legitimate interest in matters relating to the sexual harm of children and young people is set out in the [2012–2013 Royal Commission Independent Education Inquiry \(IEI\)](#).

## Initial response to the child, young person and parent, guardian or carer

### Ensuring the immediate safety of the child or young person – including consideration of an emergency removal

If, prior to the strategy discussion, DCP or SAPOL have serious concerns about the immediate safety of a child or young person while in the care of a parent, guardian or carer (including the parent, guardian or carer who is not the subject of the report, notification or care concern), immediate actions must be taken to secure their safety.

Under section 41 of the CYPS Act, a child protection officer may remove a child or young person from any premises, place, vehicle, or vessel, if the child protection officer believes on reasonable grounds that:

- > a child or young person has suffered, or there is a significant possibility that a child or young person will suffer, serious harm, and
- > it is necessary to remove the child or young person from that situation in order to protect them from suffering serious harm or further serious harm, and
- > there is no reasonably practicable alternative to removing the child or young person in the circumstances.

When removing a child or young person, a child protection officer may use such force (including breaking into the premises, place, vehicle or vessel) as is necessary in the circumstances.

A child protection officer can either be a police officer or DCP worker. If the child protection officer removing the child or young person is a police officer, section 41(3) of the CYPS Act requires that the police officer must seek prior approval from a police officer of or above the rank of inspector. If the child protection officer is an employee of DCP, section 41(4) requires that they must seek prior approval of the Chief Executive or a DCP officer (such as a supervisor) who has delegated authority to approve the exercise of powers under section 41.

The requirements of section 41(3) and section 41(4) do not apply if the child protection officer believes on reasonable grounds that the delay in seeking prior approval would significantly increase the risk of serious harm, or further serious harm, being caused to the child or young person.

### Ensuring the immediate safety of the child or young person – exercising other powers as a child protection officer

In addition to emergency removal, child protection officers may exercise a range of powers under section 149 of the CYPS Act to protect children and young people. These powers include (but are not limited to):

- > inspecting any place or premise
- > using reasonable force to break into or open any part of, or anything in or on, any place or premises
- > taking photographs, films, audio, video or other recordings
- > seizing and retaining a child or young person's passport (where they are suspected to be at risk of removal from the State for marriage or female genital mutilation)
- > seizing and retaining anything that may constitute evidence in, or evidence of, a contravention of the CYPS Act.

Authorised child protection officers can be accompanied by such assistants as are reasonably required in the circumstances.

However, when exercising any of these powers, a child protection officer may only use force on the authority of a warrant issued by a

magistrate, except:

- > when entry to the premises or place has been refused or cannot be gained, and
- > the authorised child protection officer believes on reasonable grounds that the delay resulting from applying for a warrant would significantly increase the risk of harm, or further harm, being caused to the child or young person.

If the circumstances involve the enforcement of a Court order, section 149(3) of the CYPS Act may be used, without obtaining a warrant, to remove from any premises, place, vehicle or vessel a child or young person using such force (including breaking into the premises, place, vehicle or vessel) as is reasonably necessary for that purpose.

Staff should refer to their agency's policies and procedures for guidance about the exercise of child protection officer powers, relevant delegations and applying for warrants.

### **Sighting the child or young person and identifying the presence of any injury**

Children and young people who are the subject of an investigation must be sighted by DCP or SAPOL.

When sighting a child or young person staff should make careful observations of their physical and cognitive development stage, behaviour, reactions, presentation and interaction with others (including their parent, guardian or carer).

Where physical injury or physical signs of neglect are alleged, it is important that the DCP practitioner or SAPOL officer attending for the initial response to the child or young person or family determines whether any reported injury of concern is present or not. The DCP practitioner or officer should sight the injury or injuries if possible and appropriate.

Injuries to infants must be viewed very seriously and infants should have their entire skin surface checked for injury at the beginning of and at appropriate intervals during an investigation.

Consideration needs to be given to whether the notifier who has reported injury to a child

or young person is a health professional, how recently the injuries were seen, the age of the child or young person and whether the child or young person requires assessment by a doctor or other health professional.

In some cases, consultation with a CPS or PFMS doctor may be necessary to help clarify the presenting concerns and assist in the investigation process. This should occur by direct telephone contact between DCP, SAPOL (if present) and the CPS or PFMS doctor, intake worker and Senior on Duty.

If DCP or SAPOL attend a home visit and have concerns about the immediate health and medical needs of a child or young person, arrangements for urgent medical attention should immediately be made.

### **Contacting SAPOL in a dangerous situation**

If at any time during an investigation or assessment an agency requires the assistance of SAPOL to ensure their safety, the worker may contact the relevant police District CFIS or Regional LSA CIB for advice regarding the best response or person to respond to the matter.

In non-urgent matters, if a breach of the peace is anticipated when DCP intervenes, a patrol may be requested by telephoning Police Assistance on 131 444.

In life-threatening or urgent situations when a police patrol is required, telephone 000.

### **Engaging with the child, young person and their family**

#### **Engaging with the child or young person and their protective parent, guardian or carer**

At the outset it is critical to determine whether there is a protective parent, guardian or carer in the home. For Aboriginal or Torres Strait Islander children and young people, agencies should consider the child or young person's kinship structures as there may be a protective adult in the home who is not biologically related but who does have Aboriginal or Torres Strait Islander cultural responsibility for the child or young person.

The child or young person and their parents, guardians or carers, significant others with

Aboriginal or Torres Strait Islander cultural authority and/or carers who are not the subject of the allegation or concern must be informed of their right to be involved in, and kept fully informed of, the process of investigation and assessment.

An assessment of whether a parent, guardian or carer is protective will usually occur following a strategy discussion. If, on the basis of the information available, a parent, guardian or carer is assessed to be protective, DCP will negotiate appropriate safety plans with them.

When engaging with a protective parent, guardian or carer who has a disability, an agency must consider the impact of the disability on the parent, guardian or carer's functioning and parenting and what supports need to be put in place.

If no direct response to the family has occurred before the strategy discussion, agreed actions at the strategy discussion will inform the initial response.

### **Engaging with parent, guardian or carers where concerns are raised about their protectiveness**

Engaging respectfully with parents, guardians and carers is crucial to gathering the most detailed and accurate information to inform assessment and investigation. In consultation with SAPOL, all parents, guardians and carers should be informed of child protection concerns and asked to provide their perspective. Where there is potential for criminal prosecution and concerns have been raised about the protectiveness of a parent, guardian or carer, prior discussion must occur with SAPOL to ensure any discussion or actions will not compromise the criminal investigation process (refer to [Section 4.3](#) for more information relating to interviewing the person suspected of being responsible for the harm).

When discussing concerns with the person alleged to be responsible for harm, staff must be mindful of their safety and the safety of others (for example, the non-offending parent, guardian or carer, child or young person and/or other children/young people in the home). This includes where there is a known history of domestic or family violence.

## **Conducting an initial discussion/interview with the child or young person**

### **What is an initial discussion?**

The initial discussion refers to the communication process with the child or young person to identify initial safety concerns, whether a prescribed interview is warranted and/or to prevent any loss of evidence. The initial discussion can be undertaken by a DCP staff member or a SAPOL officer (including an officer who is not a prescribed interviewer).

An initial discussion is not conducted for every case (for example, it may not be required where a clear disclosure of harm has already occurred or where there is already enough information to determine that a forensic medical assessment or prescribed interview is warranted).

In some cases, it may be possible to obtain a detailed account from the person to whom the child or young person initially spoke, such as the notifier or initial complaint witness. The discussion with the child or young person should then centre more on safety and emotional needs, and on discussing any future issues, such as the need for a prescribed interview.

The number of personnel who initially respond to allegations should be minimised wherever possible. Careful sequencing of who does what and when will serve to limit the number of interviewers and minimise the child or young person's distress.

Staff conducting the initial discussion must be aware of, and responsive to, the physical and emotional safety and wellbeing of the child or young person, both during and after the discussion. The information received during an initial discussion will likely be limited if a child or young person does not feel safe and supported during the discussion.

The aims of an initial discussion with a child or young person will be influenced by the nature of the notified concerns.

The discussion should be conducted in an age and developmentally appropriate manner and be guided by an understanding about trauma, culture and attachment theory.

Planning for and conducting the initial discussion may involve:

- > if appropriate, clarifying information from the child protection report/notification
- > considering and taking into account cultural factors including seeking guidance from relevant people who are familiar with the Aboriginal or Torres Strait Islander child or young person's background
- > determining whether the child or young person has any immediate needs/requests
- > considering whether an interpreter is required
- > talking to the child or young person about how safe they are feeling
- > enquiring about the child or young person's psychological wellbeing
- > enquiring about any injury or health concerns, if relevant
- > explaining in developmentally appropriate language what is going to occur during the investigation
- > ascertaining the developmental status/emotional wellbeing of the child or young person, informally assessing whether they might be capable of participating in a prescribed interview and if so, whether they may require communication assistance during the interview.

It is important to ask general open-ended questions to encourage narrative responses from the child or young person. Do not ask questions that are leading about the concerns raised.

The timing of when to cease initial discussion with the child or young person is a matter of professional assessment. Care must be taken to not compromise evidence.

If a child or young person begins to provide information about the allegation or other concerns, it is important that the person receiving this information listens, does not interrupt their flow, and then reassures the child or young person that they have been heard. The person receiving a disclosure must

not ask any additional questions or seek more information from the child or young person at this time. This information should instead be obtained in the context of a prescribed interview.

It is also important to accurately document in question and answer format what the child or young person has said as soon as possible after the discussion has concluded.

### Venue for the initial discussion

The location of the initial discussion needs to be considered on a case by case basis to ensure the child or young person is comfortable and able to provide information in a safe setting.

It is important to consider whether the discussion with the child or young person should take place away from the home. This may be necessary when:

- > the child or young person has expressed a fear of going home
- > there is reasonable suspicion that the parent, guardian or carer will be unsupportive of the child or young person
- > the person suspected of being responsible for harming the child or young person may place pressure on the child or young person not to disclose
- > the alleged perpetrator may be present in the home.

For Aboriginal or Torres Strait Islander children or young people, the location of an initial discussion is an important consideration in promoting cultural safety to subsequently engage in more open discussions. Agencies should speak with the child or young person about where they would like to have a discussion and consider using outdoor venues and non-departmental settings where possible.

Wherever the venue, staff should be mindful of minimising the number of people present and likelihood of interruptions so as to respect the child or young person's needs for privacy and confidentiality, and to minimise any feelings of anxiety or embarrassment.

Consideration must also be given to whether

to advise the child or young person's parents, guardians or carers before or after the discussion (noting that they should be informed as soon as reasonably practicable in the circumstances).

### **Conducting an initial discussion at a school or children's service**

If it is necessary for SAPOL or DCP to speak to a child or young person at a school or children's service, then:

- > sufficient time should be allowed to contact the school/service to arrange for the meeting with the child or young person
- > all parties need to be sensitive to the needs of the child or young person (consider non-uniformed personnel)
- > the presence of the principal, director or a nominated staff member to support the child or young person during the discussion should be considered depending upon the circumstances surrounding the alleged harm and/or to whom the initial allegation was made
- > consideration must be given to attending and/or consulting with a Principal Aboriginal Consultant if the discussion is to be conducted by DCP
- > DCP must provide a letter to the principal or director outlining its authority under the CYPS Act
- > following the initial discussion, the school or children's service must coordinate with SAPOL, DCP and CPS before applying their internal processes for supporting the child or young person and their family with therapeutic services.

Where the allegation of harm is against a staff member it will generally not be appropriate for the discussion to be held at the school or children's service and/or be attended by other school or children's service staff members. Refer to [Appendix 6](#) for further information about issues specific to the education sector.

The person to whom the child or young person first disclosed the alleged harm is a potential witness. Only in exceptional circumstances

should this person be present for any subsequent discussion or interview with the child or young person. If the alleged harm relates to a sexual offence, a statement must be obtained from the initial complaint witness prior to them being present during any discussion or interview with the child or young person.

### **Minimising the impact of interviews and assessments on children and young people**

Agencies must use their professional judgement to assess the potential impact repeated interviews may have on a particular child or young person on a case by case basis.

Repeated interviews and assessments by multiple professionals may:

- > increase the child or young person's distress
- > make the child or young person feel as if they are not being taken seriously
- > decrease cultural safety
- > give rise to inconsistencies in statements, which may lessen the credibility of the child or young person's account within both the civil and criminal jurisdictions.

A prescribed interviewer may assess that it is appropriate to conduct more than one interview with a child or young person to increase rapport and allow them the best chance of disclosing traumatic events.

### **Remote communities**

There are specific factors that agencies must consider when investigating and/or responding to suspected harm in remote communities. These include ensuring that:

- > responses are culturally safe, competent and sensitive
- > location and community specific information is obtained and shared between all agencies while planning and undertaking the investigative response
- > location-based responses are provided for the child, young person

and their family wherever this is safe and practicable

- > information is sought from and shared with local services and providers who have a relationship with the child, young person and/or their family
- > interagency responses are timely and coordinated.

### Use of interpreters

During investigation planning, consideration must be given to the need for an interpreter for children, young people and their families where English is not their first language.

It is possible that the language and specific dialect for a family may not be known prior to the investigation or they may speak multiple languages. It is important to ask the family what their preferred language is.

### Referring to/accessing therapeutic services

Children, young people and their protective parent, guardian or carer have a right to information relevant to the child or young person's immediate and long-term health and wellbeing needs. It is not appropriate to significantly delay the referral for therapeutic or counselling services for children and young people who have experienced harm, based on concerns that it may impact the justice response.

However, at times it may be appropriate to delay a child or young person's engagement in therapy for a short period of time to enable a prescribed interview to take place to clarify a child or young person's experiences and assess their safety. It is important that all decisions are made in the best interests of the child or young person. These decisions should be made in consultation with CPS and the child or young person's protective parent, guardian or carer.

Protective parents, guardians or carers, children and young people must be informed by CPS of the reasonably foreseeable consequences of delaying treatment.

They should also be informed that participating in some therapeutic approaches could impact on a child or young person's

memory or perceived distress if they are later examined in trial.

Agencies are responsible for ensuring that other services involved in providing support to a child, young person and/or protective parent, guardian or carer are given information:

- > to support the service provider to understand the child or young person's past and current situation (where relevant to the service being provided), current level of safety and to meet the child or young person's needs
- > necessary for the service provider to avoid compromising an investigation and/or trial.

Where children and young people reside in remote communities that are isolated and/or experience limited service provision, agencies must carefully consider what support can be provided within or close to the child or young person's community.

### CPS

CPS counselling and therapeutic services play an important role in helping protective parents, guardians or carers understand how to support their child or young person without questioning them in an inappropriate manner. This consistent advice also protects against tainting a child or young person's evidence.

Therapy referrals to the CPS should be routine for children or young people where they have been:

- > identified by SAPOL to have been sexually assaulted or physically abused, and
- > interviewed by SAPOL or CPS, and assessed to have a therapeutic need.

CPS may also receive referrals and provide specialist therapy where a child or young person:

- > has experienced trauma (for example physical harm, witnessing or being involved in domestic or family violence, violence/homicide, psychological maltreatment etc)
- > is in care
- > is under 12 years of age and displays

serious problematic sexualised behaviour.

Not all services are provided by each CPS. The CPS will decide the best therapeutic source for the child or young person and family and coordinate the beginning of the referral process within CPS or refer appropriately to another agency such as CAMHS.

The same process of referral should be followed in rural and remote areas. CPS will advise DCP and/or SAPOL about whether the child or young person should be seen in Adelaide or in another location and by whom.

### **DCP**

Where a child or young person is in care, DCP will assume responsibility for ensuring appropriate therapeutic referrals are made.

Where DCP is involved in a matter that has an intra-familial component, it is the role of the DCP practitioner to consider the referral of family members/carers for therapy. This includes siblings, parents, guardians or carers and other relevant members of the household.

Family members/carers can be referred to a number of different health professionals. It is important that the DCP practitioner making the referral understands the range of services available, has a clear knowledge of the skills of the various agencies providing such services and discusses the reason for the referral with the client as well as the therapist to whom the referral is being made.

Consultation with DCP Psychological Services may assist in understanding the mental health needs and available therapeutic services for the family.

The DCP practitioner should seek to ensure that families are engaged with services as some vulnerable families will find the referral process challenging.

Culturally specific services should be considered for Aboriginal or Torres Strait Islander children and young people. Families should be consulted about the services to which they are referred to ensure the right services are offered to the family as soon as possible.

Consent for release of information must be discussed with the family at the time of referral.

### **SAPOL**

In all instances, information about available therapeutic services should be provided to the child, young person and/or their carer.

In the metropolitan area, SAPOL may consider referring the matter on to a victim contact officer so they can assist with the victim's needs. However, the number of professionals that the child or young person comes into contact with should be kept to a minimum.

### **Education**

Where appropriate, school and children's services leaders may develop a temporary support plan for a child or young person following an initial discussion. For Government schools, Student Support Services can provide assistance in developing this plan.

## Section 4.2:

# Interviews and assessments involving children and young people

During the course of an investigation, information and evidence can be gathered from children and young people through a number of pathways. These include:

- > prescribed interviews
- > psychosocial forensic assessments
- > forensic medical assessments
- > general medical examinations and assessments.

Key decisions about what interviews or assessments are required, who undertakes them and in what sequence are made during the strategy discussion.

A description of interviews and assessments that are commonly conducted during an interagency investigation to gather information and evidence, including agency roles and responsibilities, are set out in [Appendix 4](#).

### Prescribed interviews

A prescribed interview refers to an interview of a vulnerable witness conducted for the purpose of criminal proceedings. It can also help inform decisions regarding the safety of a child or young person. A prescribed interview is also known as a forensic or investigative interview.

The person conducting the interview must be a prescribed interviewer (refer to section 74EB of the [Summary Offences Act 1953](#)) and must comply with the requirements set out under Part 17 Division 3 of the [Summary Offences Act 1953](#) and Regulation 23 of the [Summary Offences Regulations 2016](#). Importantly, to be used as evidence, the interview must be conducted alongside an audio visual recording with all persons visible at all times in the recording.

Section 74EA of the [Summary Offences Act 1953](#) defines who can be interviewed in a prescribed interview, namely a child of, or

under 14 years of age, a person with a disability that adversely affects the person's capacity to give a coherent account of the person's experiences or to respond rationally to questions, or any other person who is being interviewed as the victim of an alleged child sexual offence.

A prescribed interview can be conducted on its own (usually by SAPOL), or as part of a psychosocial forensic assessment conducted by CPS.

CPS conduct prescribed interviews for children aged seven years or under and can also conduct interviews of children over seven years of age if they have a complex communication need or any disability/diagnosis that impacts their developmental age. WCHN CPS also conduct interviews for Aboriginal or Torres Strait Islander children and young people up to 12 years of age who reside on the APY Lands. Prescribed interviews conducted by CPS social workers or psychologists are observed by a SAPOL police officer.

SAPOL prescribed interviewers conduct prescribed interviews with children and young people aged seven to 14 years of age (for any offence), or any child or other person who is a victim of child sexual abuse. SAPOL prescribed interviewers can assist in interviewing children under seven years of age in discussion with CPS.

If a prescribed interview is to be conducted by SAPOL and the child or young person is a victim or witness to any offence and has a significant cognitive impairment or a complex communication need the Victim Management Team at the Public Protection Branch should be contacted. Before the prescribed interview, the prescribed interviewer should be apprised of relevant information so that they know what topics need to be canvassed and what needs clarification. This will enable them to conduct an interview that covers all the essential elements of the alleged offence.

The interview needs to specify with some particularity the identity of the alleged offender and to provide sufficient detail of the alleged offence/s to enable the Director of Public Prosecutions (DPP) to identify the appropriate charges.

Cultural safety must be considered for an Aboriginal or Torres Strait Islander child or young person to support their participation in an interview and lessen the trauma that speaking with statutory agencies may cause. What promotes cultural safety for an Aboriginal or Torres Strait Islander child or young person should be determined in consultation with the child or young person themselves and may include a consideration about the location of the interview, language used in the interview, gender of the prescribed interviewer, and whether it would be beneficial and appropriate to have a cultural support/mentor or interpreter present.

Further considerations for minimising the impact of an interview on the child or young person can be found at [section 4.1](#) of the Interagency Code of Practice.

### Consider urgency

The urgency of a prescribed interview is routinely considered by CPS and SAPOL, with the safety and best interests of the child or young person being the paramount consideration in all interagency negotiations.

Criteria to help determine the urgency of a prescribed interview include:

- > a suspicion of recent sexual harm
- > ongoing high risk to the child or young person based on the report/notification and/or by SAPOL needing to detain a suspect
- > where the child or young person has been removed from their home pending the outcome of the interview
- > a suspicion relating to an adult perpetrator involving an incident that may have occurred in care, child care, a school environment or a health/other government/non-government facility
- > a high level of distress in a child, young person and/or their parent, guardian or carer as a result of the allegation and surrounding circumstances

- > the age and developmental capacity of the child or young person.

The prescribed interviewer should also consider the timing of the interview. Wherever possible, interviewing children and young people at night should be avoided.

### Assessing whether the child or young person is capable of participating in a prescribed interview

The possibility of a young child managing the demands of a prescribed interview is dependent upon their safety, developmental capabilities and emotional wellbeing.

It is rare for children under three years of age to be able to provide sufficient information with the necessary contextual detail for the interview to have potential forensic value, unless they have exceptional developmental capabilities.

CPS clinicians will consider the appropriateness of conducting a prescribed interview for all children three years of age and older based on a range of factors, including, but not limited to, the nature of the allegation, the child's safety, the child's language and narrative abilities, the child's capacity regarding their attentiveness and the child's emotional regulation and resilience.

Unless there are clear developmental difficulties, children between three and four years may have the developmental capacity to provide information of forensic value. Language problems, in and of themselves, should not automatically preclude an interview from occurring. Consideration must always be given to the ability of a very young child to provide a suitable narrative within the unfamiliar context of a prescribed interview. The use of an interpreter and/or a communication partner should be considered to support an interview.

### Legal provisions to support vulnerable witnesses

Vulnerable witnesses have a legal right to expert assistance and additional support through the prescribed interview process.

They are entitled to be supported by a communication partner and, where required, to be provided with a prescribed

communication device for the interview. It is the responsibility of the prescribed interviewer to engage an appropriate communication partner and/or ensure an appropriate communication device is available to assist the child or young person to participate in an interview where required.

Those involved in interviewing children and young people and supporting them through the court process must be familiar with the *Supporting Vulnerable Witnesses in the Giving of Evidence: Guidelines for Securing Best Evidence*, available from [childabuseroyalcommission.gov.au](http://childabuseroyalcommission.gov.au).

### **Presence of a prescribed companion during a prescribed interview**

The parties that should be present during a prescribed interview should be agreed during the strategy discussion. In most instances, the child or young person should be interviewed without the presence of a family member or any other person who may have a vested interest in the matter.

The child or young person may request a prescribed companion to be present for emotional support, communication support, or other assistance during a prescribed interview. A request for a prescribed companion (including for the provision of cultural support, if applicable) to attend a prescribed interview must generally be supported. However, care must be taken to ensure a prescribed companion will not be a potential witness or suspect in the matter or hold a conflict of interest that may otherwise compromise a prescribed interview. In these instances, efforts should be made to find an alternative prescribed companion.

Any prescribed companion must have the rules associated with their presence explained – that is, not to interrupt, ask or answer questions, prompt answers or display strong emotional reactions.

Where the prescribed interviewer believes the witness may require emotional support during the interview but as a social worker or psychologist they are able to provide this support, this must be stated in an Affidavit.

### **Psychosocial forensic assessments**

CPS conducts psychosocial forensic assessments of children aged seven years or under, or older children with complex communication needs, at the request of SAPOL. CPS may also interview older children where they are part of a sibling group being interviewed by CPS. In addition, CPS WCHN assesses Aboriginal or Torres Strait Islander children and young people in rural/remote communities up to age 12.

These assessments may include prescribed interviews of children and young people, parent, guardian or carer interviews, interviews with the alleged perpetrator (alleged intra-familial harm only) and the gathering of any additional collateral information thought necessary (refer to also [Section 4.3](#) Gathering other evidence).

Once a child or young person has been allocated for a psychosocial forensic assessment, it is the responsibility of the CPS clinician to ensure that the prescribed interview process and structure reflects the developmental and emotional needs of the individual child or young person. This includes the need for the child or young person to have access to communication assistance or an emotional support person.

### **Forensic medical assessments**

A forensic medical assessment frequently complements the prescribed interview/psychosocial forensic assessment conducted by the CPS or SAPOL.

Whether or not a forensic medical assessment is indicated will be discussed at the strategy discussion and then again, if necessary, after the prescribed interview has been conducted.

Forensic medical assessments are conducted by CPS or PFMS paediatricians.

While an important focus of the forensic medical assessment is on the documentation of injury and, when possible and appropriate, the collection of forensic specimens, the primary consideration is always the health and wellbeing of the child or young person.

In some cases, forensic medical examinations of adolescents are undertaken by trained

health professionals outside of the CPS or PFMS. This is particularly the case in country and remote areas. However, in more serious cases, police officers should consider accessing the services of the metropolitan-based CPS or PFMS.

A specialist forensic medical assessment conducted by CPS or PFMS establishes the child or young person's current condition in the context of the suspicion of harm and arranges referrals for treatment or management of any injury or condition found. Following the assessment, a forensic medical report is prepared. The report complies with the rules of evidence in the relevant court/jurisdiction and addresses the medical findings and opinion.

When conducting forensic procedures with victims of harm, regard should be given to the General Principles for Carrying Out Forensic Procedures as detailed in part 3, division 1 of the *Criminal Law (Forensic Procedures) Act 2007*. Agencies should also refer to [Section 4.4](#) for forensic procedure processes relating to specific scenarios.

### Statement of complaint

As part of a criminal investigation, SAPOL may obtain a formal statement from young people aged 15 years and older who are not vulnerable witnesses under the *Summary Offences Act 1953*.

### Other examinations and assessments

A general medical examination or assessment of the child or young person, including a paediatric health assessment (with or without a toxicology screening) may be required at any time during an investigation. These examinations and assessments are usually arranged by DCP.

Consideration of whether a forensic medical assessment, or other examination or assessment, is required should occur at the strategy discussion.

The circumstances in which an examination or assessment can be conducted, and who is able to authorise or consent to this, is set out in [Appendix 4](#).

### Transportation of the child or young person to the interviews and assessments

Where it is safe and appropriate to do so, the protective parent, guardian or carer will usually transport the child or young person to the interview or assessment. DCP may assist with transport if the child or young person is in care. In some circumstances, for example where the child or young person is located regionally, professionals may be able to travel to an appropriate site near the child or young person's location to conduct an interview or assessment.

SAPOL may also assist in transporting children and young people in special circumstances – for example:

- > if the family has limited financial or physical means to attend the interview or assessment
- > if country investigation personnel request transportation of the child or young person from the airport to the interview and/or medical assessment.

Agencies should agree who will be responsible for transportation and/or accommodation arrangements and costs to facilitate an interview or assessment at the earliest opportunity to prevent delays.

In cases where an Aboriginal or Torres Strait Islander child or young person needs to be transported for assessment, the appropriateness of SAPOL transport, as well as the child or young person's cultural safety must be considered, and how they could be supported by an appropriate and available Aboriginal or Torres Strait Islander staff member, volunteer or other person.

In rural and remote areas, Regional Local Service Areas may develop their own arrangements within their local networks to transport children and young people.

It is the responsibility of the officer in charge of a Regional Local Service Area to ensure that liaison is established and maintained between the local SAPOL and DCP members. If any difficulties are encountered in these negotiations, referral for assistance can be made to the officer in charge, Public Protection Branch (PPB).

Also refer to the interagency agreements

regarding removal and transportation of children contained within *General Order: Children and Young People – Protection from harm*.

### Role of CPS and PFMS

CPS and PFMS are responsible for conducting forensic medical assessments.

CPS is also responsible for conducting prescribed interviews, psychosocial forensic assessments, paediatric health assessments for children and young people and parenting capacity assessments. All prescribed interviews and psychosocial forensic assessments are conducted by senior social workers or psychologists who have undertaken specialised training and are prescribed interviewers under the *Summary Offences Act 1953*.

Agencies should refer to [Appendix 4](#) for information about when a child or young person can be referred to CPS or PFMS for assessment and/or interview.

In planning to refer a child or young person to CPS or PFMS for an assessment or prescribed interview, it is important to ensure the child or young person's safety and psychological wellbeing. Generally, this will include separating the child or young person and the alleged perpetrator at the initial stages of the investigation and throughout the CPS or PFMS assessment and/or interview process.

Children and young people who are referred to CPS for a prescribed interview should be accompanied by an appropriate adult who is able to support the child or young person. They must not be accompanied by the alleged perpetrator of harm.

For very young children who are unable to be interviewed, CPS or PFMS may provide a written opinion on the probability of harm based on collateral information. In these cases, an assessment with respect to the allegations of harm may be appropriate by gathering collateral information from parents, guardians or carers and sometimes other sources such as SAPOL, DCP, education services and/or other professionals engaged with the child or young person and family.

This information may assist in assessing and clarifying the probability of harm having

occurred and CPS or PFMS opinions can then be used to inform future decision making for very young children. The CPS and PFMS welcome interagency discussion and negotiation in all such situations.

### Role of SAPOL

Generally, the responsibility for responding to an allegation of suspected harm will belong to the District or Regional Local Service Area where the offending is alleged to have occurred. This may involve members from:

- > stations or patrols
- > District CFIS/Regional LSA CIB
- > CIB
- > Public Protection Branch (PPB).

### Child and Family Investigation Section

The District CFIS operate in each of the four metropolitan Districts and comprise one arm of the District's CIB. The CFIS provides an overarching response to family violence and child or young person harm. A Regional LSA CIB section also incorporates the roles and responsibilities of a CFIS.

District CFIS and Regional LSA CIB provide a whole of family response to ensure the safety of victims and children, whilst ensuring offenders are held accountable for their behaviours. Primary roles within CFIS include, but are not limited to, high risk victim management, domestic and family violence offence investigations and investigations relating to child or young person harm (intra-familial and extra-familial).

CFIS also arrange forensic medical examinations of children and young people (unless out of hours when PPB should be contacted or the Investigation Support Desk) and coordinate submission of the Forensic Evidence Collection Kit (FECK) and investigations relating to child or young person harm.

### Public Protection Branch (PPB)

PPB provides a specialist service for the prevention, detection and investigation of sexually related crimes and provides specialist advice and assistance to Districts/Regional LSAs on these crimes.

Sexual offences will be assessed and classified by SAPOL as Tier 1 or Tier 2. Districts will be responsible for Tier 1 investigations and the Sexual Crimes Investigation Team (SCIT) will assume the responsibility of Tier 2 investigations. These are offences that are complex, stranger related, high profile or a crime series.

PPB comprises of multidisciplinary sections with skills in sexual crime investigation, vulnerable witness interviews and victim management, the management of registered child sex offenders and the investigation of online child exploitation offences in partnership with Australian Federal Police (AFP).

When it is determined by the PPB officer in charge that an alleged offence involving a child or young person falls within the ambit of the PPB in accordance with SAPOL policy, they will be responsible for both investigating the offence and interviewing the child or young person.

### **Victim Management Team (VMT)**

VMT is part of PPB and supports SAPOL to deliver services to vulnerable persons. It includes the provision of expert investigative interviewing and the management of vulnerable victims and witnesses.

The VMT is responsible for investigative interviews where the child, young person or adult has a significant cognitive impairment or complex communication need for any crime type.

When the expertise of VMT is sought by an investigator attached to a District or Regional LSA a request should be made to the VMT Supervisor.

VMT facilitate arrangements for forensic medical assessments at Yarrow Place for young people aged 16 and over. SAPOL district members should contact VMT (or if out of hours PPB or the Investigation Support Desk) to arrange a forensic medical assessment, noting advice for regional areas will be provided as necessary.

## Section 4.3:

# Gathering other evidence

### Child and young person images – photography

Before photographing a child or young person for the purpose of a child protection investigation, a discussion should first be held with CPS or PFMS. This discussion will establish whether CPS, PFMS or SAPOL crime scene investigators should take the photos and/or whether photographing is necessary and/or appropriate in the circumstances (for example, DCP officers may email photographic images of suspected injuries to PFMS or CPS clinicians as part of an initial consultation). Staff should be aware and respectful of any cultural implications associated with the taking of photographs.

For children and young people who reside in the country or in a remote community, if there is likely to be more than a one-day delay before transfer to Adelaide for a forensic medical assessment, it may be necessary to have initial photographs taken by crime scene investigators, so that vital information about the injury is not lost.

Parents, guardians or carers will commonly photograph young children with injuries. SAPOL officers should obtain such photos during normal chain of evidence procedures and provide them to CPS or PFMS doctors if required. The weight given to such photos will be limited in the absence of a formal medical examination.

### SAPOL crime scene assessment

During the course of a police investigation involving allegations of harm, a crime scene investigator may forensically examine a scene.

Scene examination may include, but is not limited to, seizing forensic material, examining and photographing a scene or recreating a scene to assist with the forensic brief and/or investigation.

### Interviewing the person suspected of being responsible for the harm

Agencies must cooperate in the interviewing of the person suspected to be responsible for the harm to ensure the most timely and effective intervention.

The focus of the interview for SAPOL is the criminality of the alleged behaviour. For CPS and DCP it is part of their overall assessment of the safety of the child or young person.

Where a SAPOL investigator has reasonable suspicion that an offence has been committed, SAPOL is responsible for leading any interview with the parent, guardian or carer suspected to be responsible for the alleged harm. In these circumstances, DCP will not interview a parent, guardian or carer as part of a child protection investigation or response until SAPOL have completed their interviews and provided approval.

Arrangements between CPS and SAPOL to coordinate the interview/s of an alleged perpetrator and response to the child or young person will be discussed during the initial strategy discussion and as required during the ongoing response. Where a child is to have a prescribed interview at CPS, the CPS clinician should consult with the appropriate SAPOL officer before they conduct any interview with the alleged perpetrator to ensure that this will not interfere with the police investigation.

### Interviewing others

Where the investigation identifies other persons who may hold relevant information (such as a non-offending parent, guardian or carer), arrangements between CPS and SAPOL to coordinate the interview(s) will be discussed during the initial strategy discussion and as required during the ongoing response.

## Parenting capacity assessments

During a child protection investigation, DCP may request that a parenting capacity assessment is undertaken to assist DCP to understand the parent, guardian or carers' ability to safely care for and meet the unique needs of the child or young person.

Parenting capacity assessments are undertaken by DCP Psychological Services, CPS or a private provider.

Parenting capacity assessments often provide information about the:

- > nature of a child or young person's relationship with their parent, guardian or carer
- > impact/s of any past trauma
- > parent, guardian or carer's ability to improve their parenting in a timeframe consistent with the child or young person's developmental need for stability and permanency
- > recommendations for future care and contact arrangements.

A parenting capacity assessment can be undertaken voluntarily (this is the preferred method), via DCP Chief Executive direction or by Youth Court order.

The circumstances in which a parenting capacity assessment can be conducted, and who is able to authorise or consent to this, are set out in [Appendix 4](#).

## Alcohol and other drug assessments

Where the available information suggests that a parent, guardian or carer is using alcohol and other drugs and this is impacting on their capacity to care for their child or young person, DCP may request that a specialist external alcohol and other drug assessment is undertaken.

An alcohol and other drug assessment can be undertaken voluntarily (this is the preferred method), via DCP Chief Executive direction or by Youth Court order.

The circumstances in which an alcohol and other drug assessment can be conducted, and who is able to authorise or consent to this, are set out in [Appendix 4](#).

## Section 4.4:

# Investigation considerations

### Investigation considerations for specific physical harm circumstances

#### Infants with injuries

In cases of inadequately explained injury in infants who are not independently mobile (generally under one year of age) or older children with limited mobility due to disability, there should be a strong consideration that the injury may have been inflicted. All matters involving young infants with inadequately explained injuries should be treated with the upmost seriousness and urgency.

Infants with current injuries will likely be admitted to hospital for a forensic medical assessment to ensure their immediate safety, and also because forensic radiology and other investigations are commonly required. Careful consideration of the safety of an infant is required at the time of the admission and will usually involve DCP conducting an initial assessment of the infant's parent, guardian or carer and developing a plan for the infant's safety. This plan may involve supervision of all contact, limited visiting hours, and/or other measures. Given the high degree of vulnerability of infants, a statutory response and/or court proceedings should be considered in a timely way, to secure safety.

#### Children and young people with injuries

Reports/notifications that relate to children and young people with current injuries where there is no reasonable explanation provided, or where the injuries are suspected of being inflicted, should immediately be referred to SAPOL and CPS or PFMS for an urgent strategy discussion.

This is particularly important where a same-day forensic medical assessment may be required, including, but not limited to, situations where:

- > there is a serious injury to a child or young person's head, ears, neck, abdomen or ano-genital area (taking into account the age and vulnerability of the child or young person)
- > there are multiple areas of injury
- > the injury may have involved the use of an object
- > the injury may be associated with the transmission of DNA evidence (bite mark, ano-genital injury).

In young children with limited verbal capacity and in children and young people with a disability, the appearance of their injuries is an important piece of evidence in determining whether they are likely to have suffered an inflicted injury. This information plays an important role in any future criminal proceedings and assessments of the child or young person's future safety. With the passage of time and healing, the appearance of injuries, particularly bruising, changes. This limits the conclusions that can be made about the original appearance of an injury and a forensic assessment as to whether the injury may have been inflicted.

For these reasons it is essential that a strategy discussion is convened as urgently as possible, to explore the need for a referral for a forensic medical assessment and/or to photograph the injuries.

#### Suspected induced or fabricated illness

Fabricated or induced illness (FII – previously referred to as Munchausen by Proxy/factitious disorder and still referred to as 'medical child abuse' by some experts) refers to situations where a child or young person is or is very likely to be harmed due to caregiver behaviours and actions carried out to convince health professionals and others that the child's physical and/or psychological health and/or neurodevelopment is more impaired than is actually the case.

Where FII is suspected, an urgent notification to DCP must be made prior to case conferences in the situation of suspected illness induction. Notification by telephone call to CARL is required and e-CARL must not be used in relation to all suspicions of fabricated and induced illness due to the level of complexity.

Initial case conferencing should occur with involved medical staff and a CPS or PFMS paediatrician to determine whether there is a consensus view amongst the treating team that caregiver driven over-medicalisation of the child has occurred and that the child is being harmed as a result, necessitating DCP intervention.

A focus of the interagency investigation will be on the collation of all medical and other relevant records (including those on the internet). Obtaining the full breadth of relevant information will often require statutory agency powers. Witness interviews may need to be conducted. A period of separation from the suspected perpetrator of FII is often necessary. An inpatient admission for diagnostic clarification and de-medicalisation may be required. Child or young person interview/parenting capacity assessments may be indicated. Review of the records for evidence of deception, over-medicalisation and harm will be undertaken by a CPS/PFMS paediatrician and if identified will allow for a forensic medical opinion as to whether a situation meets the definition of FII. Criminal charges of Deception / Criminal Neglect/ Cause harm will require consideration.

### **Suspicious ingestion of non-prescribed medication or illicit drug**

Child protection reports/notifications that identify information about the suspicious presentation of children and young people suspected to be exposed to, or intoxicated by, non-prescribed medication or drugs require an urgent response so that toxicological samples can be collected for forensic analysis. Collection of these samples requires consent under the [Criminal Law \(Forensic Procedures\) Act 2007](#).

Children and young people living in households in which drugs are manufactured may be exposed environmentally and are also at higher risk of ingestion.

Toxicological analysis can be conducted on hair, blood and urine samples. The CPS or PFMS paediatrician will determine the most appropriate sample based on the specific circumstances.

A focus of the interagency investigation will be the determination of whether the child or young person was administered the drug by an adult or obtained the drug as a result of inadequate parental, guardian or carer supervision or neglect.

### **Investigation considerations following allegations of sexual harm/assault**

CPS or PFMS paediatricians, in conjunction with psychosocial clinicians, will provide forensic medical assessments for children and young people less than 16 years depending on the agreed geographical distribution, based on the child or young person's primary place of residence.

If a child or young person has any significant medical needs (altered consciousness, serious injury or significant intoxication) they should be transferred to the nearest hospital emergency department. Children or young people that are not presenting with significant medical needs should not be transferred to hospital until discussion has been held with the appropriate CPS or PFMS. Emergency department doctors do not conduct forensic medical assessments on children and young people.

Whether or not a forensic medical assessment in relation to allegations of sexual assault is indicated will be discussed initially at the strategy discussion and then again, if necessary, after the prescribed interview of the child or young person has been conducted.

CPS or PFMS paediatricians will determine the urgency of the forensic medical assessment based on the following considerations:

- > the likelihood of DNA evidence being present (including evidence of paternity in the context of terminations or miscarriages)
- > time since the assault occurred (DNA in the high vagina can still be obtained up to 5-7 days)

- > the relationship of the alleged perpetrator to the child or young person (limited value in contact DNA when the alleged perpetrator has regular care of the child or young person, particularly care that would involve contact with the genital area of young children)
- > the type of sexual contact alleged (oral and anal ejaculation require a more urgent response)
- > presence of any symptoms indicative of injury (genital pain, bleeding)
- > age of the child or young person.

It is important that a strategy discussion involving the investigating SAPOL detective who has the most comprehensive knowledge of the case occurs before any arrangements for a forensic medical assessment are made.

When conducting forensic procedures with children and young people who have experienced harm, consideration should be given to the general principles for carrying out forensic procedures as detailed in part 3, division 1 of the *Criminal Law (Forensic Procedures) Act 2007*. Information regarding who may consent to a procedure and in what circumstances, are set out in [Appendix 4](#).

In all situations the child or young person must provide their assent and cooperation with the forensic medical examination. If they are not agreeable as expressed verbally or, for young children, by their behaviour, the forensic procedure cannot proceed. Urgent medical treatment can be provided to the child or young person in accordance with the *Consent to Medical Treatment and Palliative Care Act 1995*, but this does not extend to the collection of forensic samples.

Consent for the collection of forensic samples is required to be obtained in accordance with the *Criminal Law (Forensic Procedures) Act 2007*.

In specific circumstances forensic medical assessments will be indicated when a sexual assault is not recent (historical), as residual signs of injury may be present and thereby support a child or young person's allegations.

At times, a child, young person or their family may request a medical assessment by CPS or PFMS in a non-forensic capacity to provide

reassurance about the physical or medical implications of a sexual assault.

If a young person does not provide consent for a forensic medical assessment and/or does not want to proceed with a SAPOL investigation, advice regarding contraception and follow up for sexually transmitted infection (STI) screening and therapeutic services should be provided to the young person and their family by SAPOL (CPS and PFMS is available for advice in this regard).

All children and young people referred to CPS or PFMS for a forensic medical assessment will be seen by a CPS psychosocial clinician (either a social worker or psychologist). The psychosocial clinician may play a role in coordinating the forensic medical assessment and act as chaperone during the assessment. The role of the psychosocial clinician in this context is to undertake the psychosocial assessment and observation as well as providing emotional support, information and crisis counselling to the child or young person and family and to make appropriate referrals for therapy. The doctor and/or psychosocial clinician will follow up with the child or young person, on a short-term basis as required.

## Child and young person neglect

Neglect is the most common category of harm notified. It relates to omissions in care of a child or young person, which have caused the child or young person to suffer physical and/or psychological harm. It more often relates to an ongoing or fluctuating level of inadequate care rather than a single event of neglect.

As a result the harm from neglect is cumulative and can be associated with extremely damaging effects on a child or young person's wellbeing and development which may be lifelong. Most critically, neglect can be fatal for children and young people.

It is quite common in circumstances of neglect for there to be multiple child protection reports/notifications that do not reach the statutory threshold for investigation. It is therefore crucial for the history of previous child protection reports/notifications to be considered when determining whether a new report/notification requires a thorough investigation.

Responding to the breadth of factors that may

be contributing to the child or young person's experience of neglect (such as alcohol and other drug misuse, mental health, domestic and family violence etc.) often requires a range of agencies to be involved in a coordinated response. The guidance in [Section 3](#) and the strategy discussion prompts are designed to ensure that information is sourced and shared with all the agencies that will play a role in responding to both the cause and result of child and young person neglect.

A forensic medical assessment should be considered when a child or young person has signs of physical neglect including malnourishment, failure to thrive, head lice, skin infection, injuries due to lack of supervision, or an untreated medical condition.

The safety of children and young people is the paramount consideration when undertaking investigations and assessments that involve neglect. However, agencies must consider the socio-economic and community level disadvantage that contributes to the vulnerability of some families. Consideration of the biases, social determinants and systemic factors which can lead to Aboriginal and Torres Strait Islander families being brought to the attention of DCP, for example, should be considered as part of a well-balanced investigation and assessment. Agencies must critically reflect on the biases that may underlie reports and assessments of neglect for Aboriginal and Torres Strait Islander children and young people and look for areas of cultural strength that promote safety for families.

Cultural differences in child rearing practices may be unfairly misconstrued as unsafe parenting and family dysfunction, instead of acknowledging the strength and safety present within extended family and kinship relationships.

### Severe domestic squalor

Exposure of children and young people to severe domestic squalor is harmful to their physical and psychological wellbeing and puts them at high risk of sustaining injury and developing infestations and infections. Such exposure can be considered criminal behaviour with SAPOL investigations and prosecutions being undertaken in accordance

with sections 14 and 14A of the [Criminal Law Consolidation Act 1935](#) (criminal neglect and failing to provide food etc) in certain circumstances.

SAPOL and DCP staff who are authorised child protection officers may take photographs and recordings under section 149 of the CYPS Act and conduct a squalor assessment. Refer to 'A Foot in the Door: Stepping towards solutions to resolve incidents of severe domestic squalor in South Australia' available at [www.sahealth.sa.gov.au](http://www.sahealth.sa.gov.au)

SAPOL may also use their general search warrant if investigating a criminal offence such as criminal neglect.

A SAPOL and/or DCP investigation typically involves other agencies such as the Metropolitan Fire Service (fire risk), health authority (hygiene risk), and SA Housing Trust (details about the tenancy).

### Medical neglect

Medical neglect arises when:

- > a parent, guardian or carer fails to adhere with recommended medical treatment that has, or is likely to, cause significant harm to the child or young person
- > a parent, guardian or carer has not sought timely medical attention for the child or young person in relation to a significant health or development issue
- > all reasonable attempts have been made by health professionals and others to address any barriers to the parent, guardian or carer agreeing to, accessing and maintaining the medical treatment
- > these concerns have been put to the parent, guardian or carer both verbally and in writing wherever possible, ensuring that any cultural and language barriers have been addressed and medical treatment is still not sought or adhered to.

An expected outcome from a strategy discussion involving issues of medical neglect would be the organising of a case conference between medical staff and DCP. It can then be

further established whether all reasonable efforts to engage the family and overcome any obstacles to treatment have been undertaken and documented, and that statutory intervention may be required as a next step. How the family should be approached and the urgency of the medical treatment must be established during the case conference or prior in urgent situations.

The CPS or PFMS paediatrician and psychosocial clinician may be involved along with DCP in convening/contributing to the case conference.

## Domestic and family violence

Children and young people's exposure to domestic and family violence and coercive control is a form of harm. Domestic and family violence can be, and has been, fatal for children and young people. Its impact may involve physical, emotional or sexual harm and various forms of cumulative neglect.

Even very young infants can be adversely impacted by being exposed to domestic and family violence.

Depending on their nature, child protection reports/notifications relating to domestic and family violence may require a strategy discussion.

Where available, MAPS documents should be sought and considered when gathering background information. Information provided by MAPS relating to the presence or history of domestic and family violence contributes to an assessment regarding the level of risk the children and young people are exposed to, and to the subsequent planned interagency actions (including whether a prescribed interview of the child or young person is required).

The vulnerability of infants to harm in violent environments and the impact of violence on brain development are critical factors that must be considered within the strategy discussion.

## Suspicious or unexplained death of a child or young person

When a child or young person dies unexpectedly and there are suspicious or

unexplained circumstances surrounding that death, it is imperative that a child protection report/notification is made and that a strategy discussion is convened. An important focus of this interagency discussion will be the existence of any siblings or other children/young people residing in the home and an agreed approach to ensuring their safety. It is also imperative that siblings or other children or young people residing in the household are sighted so that any injuries or signs of neglect can be documented as soon as possible.

The child or young person's siblings or other children or young people residing in the household may be referred to CPS or PFMS for a forensic medical assessment as required. For example, the possibility of exposure to illicit substances or non-prescribed medications are likely to warrant a forensic medical assessment of siblings.

In situations where there are current or past concerns related to neglect, consultation with CPS or PFMS may be required. In circumstances where other children under seven years of age, or over in negotiated situations may have information of importance with regards to the circumstances surrounding the child or young person's death, a referral to CPS to conduct a prescribed interview is necessary.

Agencies should also refer to the Investigation of sudden and unexplained infant and child deaths in South Australia interagency protocol (2022).

## Harmful sexual behaviour between children and young people

### Assessing seriousness

Harmful sexual behaviour is explained in [Appendix 2 Explanation of terms](#).

Many factors influence an assessment of the seriousness of sexual behaviour between children and young people, such as the age and developmental capability of all of the children or young people involved, the context in which the behaviour has taken place, the behavioural history of the children or young people, whether there has been a history of sexual harm and the impact of the behaviour on other children and young people.

Like other matters responded to under the ICP, the assessment of seriousness will be based on the contextual information provided by each agency, including a consideration of previous child protection reports/notifications. Each case will need to be considered on its individual characteristics. Consulting the behaviour chart in the [Sexual behaviour in children and young people Guideline](#) will assist in establishing a more consistent understanding across agencies about what should be considered harmful sexual behaviour in children and young people of particular ages.

Some common features of 'serious' sexual behaviours in children and young people are:

- > their persistent nature despite education or interventions, and/or
- > where younger or developmentally less able children have been targeted and/or
- > where a child or young person has suffered serious harm.

Some sexual behaviour is immediately recognisable as serious. For example, an older adolescent accused of rape or sexual assault may be charged with a criminal offence, appear before the Youth Court and may be placed in youth detention.

However, young children may engage in a range of harmful sexual behaviours that are not understood by them to be harmful or unsafe and may not necessarily be experienced by the children and young people involved as harmful. In these circumstances agencies need to gather as much information as possible to consider whether the behaviours:

- > prompt a suspicion of adult sexual harm and/or
- > indicate serious neglect on the part of the parent, guardian or carer and/or
- > indicate serious lack of appropriate parental boundaries and/or
- > indicate exposure to violence or other traumatic events.

Consideration must also be given to the proximity of the children or young people involved, including whether they reside together and how any ongoing risk or safety

issues will be addressed.

Adults need to be made aware of children or young people's harmful sexual behaviours in order to help divert them from continuing to engage in those behaviours, protect other children and young people in the same environment and to be able to recognise new behaviours of concern. This may also require a period of separating the children or young people from each other until therapeutic interventions have occurred.

The feature of 'persistence' is also important in the assessment of neglect as it helps distinguish between parents, guardians or carers who respond protectively when made aware of concerning sexual behaviours and those that are unwilling or incapable of acting protectively. It should be noted that persistence of harmful sexual behaviour across a cohort of children and young people may also indicate broader community-based issues.

In such circumstances the environmental or situational factors underlying the persistence of children and young people's harmful sexual behaviours may only be remedied through community-wide involvement and change.

All sexual behaviour involving children and young people that is assessed as 'serious' will prompt a strategy discussion.

In some cases (usually involving very young children) harmful sexual behaviour may not require an investigative response, but one or more agencies may still be involved in ensuring the children or young people involved receive appropriate therapeutic intervention, ongoing support and/or case management. In these cases, it is important that agencies (such as DCP and SAPOL) share relevant information with the agency providing the response to assist them to manage a risk to a child or young person, and/or to assist the agency to perform their functions (refer to [Appendix 1 Principle 6](#)). Consideration must be given to what information should be shared with a school or children's service where children or young people are engaging in persistent harmful sexual behaviour and other children or young people may be at risk.

Where a child protection concern relates to harmful sexual behaviour, it is important that

the parents, guardians or carers of all affected children or young people are informed by the agency who is leading the response to the concerns.

### Respecting the status of 'child'

All responses to children involved in harmful sexual behaviour must ensure their status as children is properly recognised and respected. This means that:

- > children under the age of ten years cannot be charged with a criminal offence (section 5 *Young Offenders Act 1993*). Children aged between ten and 14 are presumed not capable of forming intent to commit a criminal offence, but can be charged when there is evidence to rebut this presumption
- > the ICP refers to children against whom allegations have been made as 'children who have engaged in harmful sexual behaviour'. This is intended to neither minimise nor exaggerate the seriousness of the behaviour, but to help prevent the use of misleading and inappropriate labels such as 'offender' or 'perpetrator' being applied to children
- > using the term 'children who have engaged in harmful sexual behaviour' incorporates situations where a child has engaged in harmful sexual self-harm as well as situations where a group of children have been involved without an obvious victim
- > all children involved in harmful sexual behaviour require support (which may include specialist therapeutic services) to recover from harm and/or to be diverted from harming others and/or themselves. The strategy discussion record and ongoing support and/or case management reflect these non-negotiable dual responsibilities – that is, to children who have engaged in the behaviour and to children harmed by the behaviour
- > allegations involving children's harmful sexual behaviour can change quickly from an extra-familial to an intra-familial assessment and vice versa. Agencies need to be open and

responsive to these changes, while also considering referral pathways for therapeutic support and intervention.

The *Young Offenders Act 1993* and *Youth Justice Administration Act 2016* prohibit publication of identifying information about children and young people involved in the youth justice process. This means agencies must protect children and young people's identities when planning written or verbal communication with broader stakeholder groups, such as parent communities. The legislation does not prohibit private and confidential communication between ICP agencies and other professionals who are responding to reports/notifications involving children and young people.

### Allegations of harm within, or potentially involving, family law proceedings

When a child protection report/notification alleging harm to child or young person is made and there are Federal Circuit and Family Court of Australia ('FCFCOA') orders about a child or young person's living arrangements, there is an onus on agencies to act with a degree of urgency in regard to the child or young person returning to the protective parent's care.

Interagency discussion about how to best proceed in these instances is necessary and should follow normal procedure.

Agencies should be aware that where FCFCOA proceedings are underway, they may be invited by the Court to provide information.

There are a number of options that can be taken when matters involve or potentially involve proceedings in the FCFCOA, as outlined below.

#### When a court order is in place

If allegations arise about a child or young person's safety in the care of one parent, where FCFCOA ordered care arrangements are in place, the strategy discussion should consider who will advise the parent to consult with their solicitor and the FCFCOA to explore their legal options for seeking a parenting

order with respect to the child or young person. Advice will include the current concerns and the possibility of the safe parent, guardian or carer assuming fulltime care of the child or young person to ensure their safety.

**When there is no court order**

Many separated parents have private arrangements or parenting plans rather than formal court orders. The parent should be advised to retain the child or young person in their care pending the outcome of the investigation and to seek legal advice. The Legal Services Commission offers a free initial consultation service for family law matters. In many situations there is no need to go through lengthy and costly litigation.

## Section 5:

# Prosecution and court matters

### Decision making

Action to protect a child or young person from further harm may be appropriately taken by family members, including extended family. Sometimes this may involve applications to the FCFCOA for parenting orders.

It may also be necessary to consider whether an intervention order may be appropriate in the circumstances to protect the child, young person and/or another member of their family or household from further risk of harm (refer to *SAPOL General Order – Intervention Order*).

There may be circumstances however, when intervention from statutory child protection agencies is needed to secure the safety of the child or young person. Different agencies are empowered by different pieces of legislation to bring applications or invoke powers for the protection of the child, young person, family or household members.

Court applications and prosecutions require a coordinated approach by agencies. The various activities undertaken by agencies during this stage should represent a planned and coordinated response to the investigation and assessment conclusions.

Within the criminal jurisdiction, SAPOL investigators gather the evidence and then decide whether to report or arrest the person suspected of having committed the harm, or to file the matter. In all situations the investigating police officer is to consider whether the intended action is in the best interests of the child or young person and should consult with all relevant agencies to obtain their views.

The evidence is submitted to the relevant prosecuting authority to decide whether a criminal prosecution is warranted.

Each agency has a particular role and mandate. It is important in such cooperative arrangements that staff from each agency do

not assume the responsibility for, nor prejudice, another agency's role in the child protection or criminal process.

The following information provides guidance relating to this:

#### DCP

DCP are responsible for making applications to the Youth Court for orders under the CYPS Act for the care and protection of the child or young person. When applying for an order, DCP is represented by the Crown Solicitor's Office (CSO).

Where the requirements of section 41 of the CYPS Act are met, a child protection officer can remove a child or young person to protect them from serious harm. DCP can also pursue orders from the Youth Court for appropriate assessments to be undertaken, for a family group conference to be convened, or to apply for short or long-term custody or guardianship orders for the child or young person.

The Youth Court is empowered to make a range of orders to secure the safety of the child or young person. The standard of proof for such applications is the balance of probabilities.

Families should be supported to seek legal representation and advice to promote their participation in Youth Court proceedings from the earliest possible opportunity. Culturally specific legal services, such as the Aboriginal Legal Rights Movement (ALRM) should be discussed with Aboriginal and Torres Strait Islander families.

#### SAPOL

The decision to arrest or report a person suspected as responsible for an alleged harm should be made in accordance with SAPOL general orders. The decision making process may involve consultation with DCP and/or CPS

workers who have worked with the child, young person and the family.

Importantly, the wishes of the child or young person, and their protective parent, guardian or carer where appropriate, should be sought and, where possible, respected.

While the threshold of what constitutes a 'reasonable cause to suspect' rests with the individual police officer, consideration should be given to the amount and type of useful information that children of a very young age can communicate before proceeding to charge a person.

SAPOL is also responsible for presenting some matters before District or Regional LSA Prosecution Units.

### **CPS and PFMS**

During investigations and court proceedings, CPS and PFMS paediatricians and clinicians act as expert witnesses who provide opinion evidence. It is important that they receive all relevant interagency information and evidence to assist them in the formulation of this opinion.

CPS and PFMS paediatricians and clinicians will be proofed before providing evidence in court proceedings.

## **The prosecution process and role of the Office of the Director of Public Prosecutions (DPP)**

The DPP is responsible for prosecuting people who have been charged under South Australian laws with serious criminal offences, known as major indictable offences. The role of the DPP in the criminal justice system is to represent the State of South Australia in the prosecution of those matters.

The DPP provides a Witness Assistance Service (WAS) which ensures that victims of crime and their immediate family members have access to information and support services and are aware of their rights and responsibilities when dealing with the criminal justice system.

### **Decisions made by the DPP**

The DPP makes an assessment in all cases about whether there is a reasonable prospect of conviction. This requires an evaluation of

how strong the case is likely to be when presented in court. When evaluating evidence regard may be had to the following matters, noting this is not an exhaustive list and the matters to be considered will depend upon the circumstances of each individual case:

- > the age of the child or young person
- > whether the child or young person is capable of giving an account of events
- > the ability of the child or young person to give sworn or unsworn evidence
- > any supporting evidence, including medical and forensic evidence
- > whether the alleged offender has made any admissions of guilt
- > the views of the child, young person and/or parent, guardian or carer to the matter proceeding through the criminal justice system.

The DPP must also consider whether the public interest requires a prosecution to proceed.

### **Expert reports**

Section 29C of the *Evidence Act 1929* permits evidence of opinion based on specialised knowledge to be led in proceedings relating to sexual abuse of a child. The DPP will in appropriate matters direct SAPOL to commission a report from an appropriately qualified expert, with a view to leading such evidence in the course of the trial. The DPP will provide advice regarding the appropriately qualified expert and topics for the report/opinion.

Section 13A(14) of the *Evidence Act 1929* permits the Court to make directions regarding the form and duration of questions to be asked of the witness, and other measures which might support the witness in giving evidence. The DPP will, in appropriate matters, direct SAPOL to commission a report either from CPS/PFMS or another appropriately qualified expert to identify what measures may assist witnesses in giving their evidence, and to provide a basis for applications.

### **Proofing of the child or young person witnesses**

The DPP will liaise with the investigating police officer to make a convenient time for a

proofing with the child or young person. There are a number of reasons why a proofing may be required including to provide information about the criminal court process, to assist in making the decision whether or not to prosecute and to prepare victims and witnesses to give evidence at trial.

The prosecutor who has conduct of the file and the investigating police officer will be present at the proofing. If a Witness Assistance Officer (WAO) or Communication Partner has been allocated to the child or young person, they will also be in attendance.

The majority of proofings will take place at the Office of the DPP.

This is an important meeting where the prosecutor and WAO will provide general information about their roles, the role of the DPP, the criminal justice system, the prosecution process and the process of giving evidence at trial.

Depending on the purpose of the proofing, the prosecutor may arrange for the child or young person to view the audio visual recording of their prescribed interview before attending the proofing. This is to ensure that the child or young person has the opportunity to refresh their memory as to the content of the interview. In some circumstances they may ask the child or young person questions about the offending.

The proofing is also an opportunity for the child or young person and their protective parent, guardian or carer to ask any questions they may have about the prosecution process or the criminal justice system.

Normally a protective parent, guardian or carer will take the child or young person to the proofing. However, DCP or the investigating police officer may also assist with this if required.

### **Vulnerable Witness Provisions**

A vulnerable witness who has participated in a prescribed interview may have the audio visual recording of that interview tendered as their evidence-in-chief. Special arrangements to assist them in giving evidence can also include the use of closed circuit television, a one-way screen, a court companion or canine court companion and/or a closed court. The court frequently allows for additional breaks

as required for children and young people giving evidence. Vulnerable witnesses identified as having complex communication needs may also be assisted by the presence of a communication partner or use of a communication device. The prosecutor or WAO will confirm which vulnerable witness provisions the witness requires.

### **Pre-trial special hearings**

Pre-trial special hearings are available upon application for a witness who is:

- > a young child (of or under 14 years of age) or
- > a witness with a disability that adversely affects their capacity to give a coherent account of their experiences or to respond rationally to questions.

In the case of a trial of a charge of a child sexual offence\*, pre-trial hearings are available upon application for:

- > all alleged victims of the child sexual offence (regardless of age at trial)
- > a child (under 18 years of age)
- > a vulnerable witness
- > any other witness if the court is satisfied they should be allowed to give evidence in this manner (this may include a sibling or parent of the child victim).

\*A child sexual offence means a sexual offence committed in relation to a person under 18 years of age.

In the case of a trial of an offence relating to domestic abuse, pre-trial hearings are available upon application for an alleged victim of the domestic abuse.

Pre-trial special hearings are only available in proceedings for serious offences against the person or proceedings involving the breach of intervention or restraining orders. If the court grants a pre-trial special hearing, that will mean that the witness is able to give evidence at a time prior to the trial taking place.

Applications for pre-trial special hearings are made only in matters the DPP deem as appropriate and where a priority listing for that has not already been given.

### **Criminal trials**

The purpose of a criminal trial is to put all relevant and admissible evidence before the Court. It is then for the Judge or Jury to decide whether the prosecution has proved the guilt of the accused person beyond reasonable doubt. If not, the accused person will be found not guilty. At trial, witnesses for both the prosecution and defence are called to give oral evidence before the court.

After the trial the child or young person and/or their parents, guardians or carers will be promptly informed of the outcome and given an opportunity to speak to the prosecutor and/or WAO if they wish.

### **Keeping DCP informed**

The DPP WAS endeavours to keep DCP informed at all relevant stages of the process if the child or young person is under the custody or guardianship of the Chief Executive of DCP or DCP are actively involved with the family.

The burden of proof for proceedings under the CYPS Act is on the balance of probabilities (rather than beyond reasonable doubt). This means that even if a matter that involves criminal offending does not proceed to criminal trial, or a verdict of not guilty is returned, the information and evidence collected can still contribute to DCP making a substantiation decision about the safety of a child or young person and assist DCP in the performance of its functions under the CYPS Act (including the priorities set out in Chapter 2, Part 2 of the CYPS Act).

## **Child protection proceedings in the Youth Court**

### **Crown Solicitor's Office**

The CSO represents DCP in Youth Court hearings brought under the CYPS Act.

The evidence presented at court is a combination of information gathered from interagency partners, the social work assessment of DCP case workers, statements taken from witnesses or victims by SAPOL, and other expert evidence such as medical reports, interviews and assessments conducted by the CPS and PFMS.

The CYPS Act requires a child or young person who is the subject of care and protection proceedings to be represented by a legal practitioner (the Child's Representative), unless the Court is satisfied that the child or young person has made an informed and independent decision not to be represented. The Child's Representative is normally provided from the Youth Legal Services of the Legal Services Commission.

The CYPS Act also provides the child or young person with the right to personally present their views to the Court with respect to their ongoing care and protection.

## Section 6:

# Follow up strategy discussion and ongoing support

### Outcome discussion

The length of interagency planning and investigation will vary but will typically start with the strategy discussion and cease when the final follow up strategy discussion is concluded and, where applicable, an agreed lead agency has responsibility for ongoing support and/or case management.

The agency responsible to convene the follow up strategy discussion will be determined and recorded as part of the initial strategy discussion.

The purpose of the follow up strategy discussion is to:

- > share the outcomes of all investigations conducted
- > share the assessments and conclusions of agencies involved
- > collectively formulate an agreed case direction and ongoing support and/or case management responsibilities (see below).

Some matters will require more than one follow up strategy discussion to be convened.

A follow up strategy discussion should be considered following any interagency investigation and assessment and before any lead agency closes their involvement or makes significant case direction decisions.

The agreed outcomes of the follow up strategy discussion will be documented by the lead agency on the follow up strategy discussion record template (refer to [Appendix 3B](#)) and circulated to the other parties involved in the interagency response within two business days following the discussion.

The lead agency is also responsible for maintaining ongoing communication between all relevant agencies during the investigation and response.

### Ongoing support

A criminal investigation and/or investigation by another investigatory body may take a year or more before it is considered concluded. The needs of children and young people subject to the ICP processes, however, may never 'conclude' in the same way that an investigation or court process concludes. Unless supported, children and young people who experience harm may suffer lifelong impacts that disadvantage them in all aspects of their lives and, ultimately, disadvantage the families and communities in which they live.

For this reason, the follow up strategy discussion must consider what ongoing support and services the child or young person may require. It should also consider whether a lead agency is required to provide case management, monitor and record the long-term actions of a number of agencies or organisations that assist a child or young person towards recovery from harm and protect against future harm.

Where applicable, the lead agency should be identified on the strategy discussion record template.

### Lead agency

Initially either DCP or SAPOL should act as the lead agency to an interagency investigation.

DCP will continue to lead the case management of families where harm has been substantiated and where there is an identified risk of further harm. DCP's case management responsibility is to coordinate its service provision with other agencies, ensuring that the level of care is monitored and to evaluate the family's/carer's progress in meeting the objectives of the case plan. DCP also has case management responsibility when a child or young person is placed in care.

After participating in a strategy discussion and where DCP intends to close a child protection case, the responsible DCP case worker will summarise the discussions that have been had with other agencies (including any feedback or opinions regarding interviews or enquiries that were conducted by SAPOL and/or CPS/PFMS) and state that they are satisfied that no further enquires are necessary in an email to the other agencies. The email must be uploaded to C3MS.

Where DCP closes a case, it may be agreed in some circumstances that a health or human services service such as CPS, CAMHS, Youth Justice, a DHS IFS provider or a non-government agency will now act as the lead agency in providing ongoing support.

SAPOL will continue to ensure critical information flows quickly to the lead agency, such as when child or young person harm matters are either withdrawn prior to court or a nolle prosequi is entered during the trial. In these instances, the investigating police officer will advise DCP of the withdrawal of charges, especially where the only orders helping to secure the child or young person's safety are provided for by SAPOL or court bail conditions. During the time leading up to court, the accused may breach their bail conditions. These breaches may place the child or young person's safety in jeopardy and SAPOL needs to ensure the lead agency has this information so protective action is coordinated between the people working with and caring for the child or young person.

The lead agency for ongoing support, case management or therapy may change as a child or young person's circumstances and needs evolve. Whichever agency assumes leadership, it must ensure that a collaborative interagency approach is maintained where relevant, the child or young person continues to be monitored and that relevant information flows quickly between the lead agency and other agencies involved in the response (for example updates regarding any relevant court proceedings, additional child protection reports/notifications relating to new disclosures from a child or young person or new identified risks).

The lead agency must also have regard for cultural matters regarding Aboriginal or Torres Strait Islander children and young people's

connection to family, community and culture.

## Ongoing support aims

The lead agency is responsible for monitoring that the following aims are met:

- > practical arrangements are in place to protect a child or young person's physical and psychological safety based on understanding how and when threats to their safety are likely to arise in their particular environment
- > a child or young person has access to appropriate counselling, support and/or other health services as their needs emerge and change
- > those services either assist their recovery from harm and/or provide therapeutic intervention to prevent further harm of others
- > a child or young person who has been placed in care has received both an initial and comprehensive health and development assessment (to be arranged by DCP)
- > a child or young person is engaged with a recognised educational program that adapts to their needs and helps support their recovery
- > Aboriginal or Torres Strait Islander children and young people are supported to maintain connections to family, community, culture and Country
- > a child or young person's protective parents, guardians or carers are provided with appropriate support, which may include therapeutic intervention and information
- > all ongoing information relevant to protecting a child or young person is immediately shared between the agencies/organisations working with and caring for that child or young person.

In matters that involve harmful sexual behaviour between children and young people, an interagency assessment must be undertaken to determine what level of support or ongoing case management is required to all involved; that is, to children and young

people who have been harmed or who engaged in harmful sexual behaviour and need to be diverted from harming themselves or others. The lead agency for each individual child or young person will not necessarily be the same.

The provision of ongoing support and/or case management is reliant on the support mechanisms outlined in [Section 8 Essential support for interagency work](#).

### **Further child protection reports/notifications**

If, at any time during the investigation or ongoing response, the lead/investigating agency or another agency involved in the response obtains new information that suggests the child or young person or another child or young person is at risk of harm, it must notify DCP as soon as practicable (as required under the CYPS Act – refer to [Section 2](#)).

## Section 7:

# Management of records

### Strategy discussion and follow up strategy discussion record

It is the responsibility of SAPOL, DCP, CPS and PFMS (if participating) to each store a copy of the strategy discussion record and follow up strategy discussion record within their respective agencies in accordance with individual agency requirements.

### Reports produced by agencies

Although it is appropriate and necessary to share information between agencies, the protocols of the agency that owns the report should, as much as possible, be followed before using or releasing any part of that report to third parties.

### CPS and PFMS reports – forensic, medical or psychosocial assessments, photographs

#### Forensic, medical or psychosocial assessment reports

CPS and PFMS paediatricians will provide DCP and/or SAPOL with a forensic medical report for every child or young person seen for a forensic medical assessment. Interim or addendum reports can be provided upon request.

The forensic medical report will be supplied in an Affidavit format at the request of the investigating officer or worker.

CPS clinicians will provide DCP and/or SAPOL with a report for all psychosocial forensic assessments and parenting capacity assessments conducted by CPS.

The child or young person's psychosocial forensic assessment report, which can include an expert opinion and interpretation of any disclosure made by the child or young person, can be attached to the brief of evidence. This

provides the DPP with the family background information that they require to make an assessment of the file. For issues concerning disclosure of these documents to defence counsel, refer to the appropriate DPP prosecution policy.

CPS and PFMS reports are routinely provided to DCP and SAPOL as part of the process of referral and assessment. The investigating police officer/ DCP worker should advise the CPS or PFMS clinician as soon as possible of any specific timeframes for the provision of reports.

Other than as required or authorised by law, CPS and PFMS reports should not be distributed to other parties (for example, therapeutic agencies) without consulting with CPS or PFMS. Where appropriate, CPS or PFMS will provide excerpts or redacted reports where it is in the child or young person's best interests for this information to be shared with a therapist and this would not compromise any criminal investigation.

#### Photographs

To obtain photographs for the purposes of copying them for filing in court proceedings, the following arrangements have been agreed to:

- > WCHN PFMS: Liaise directly with WCHN paediatricians
- > SALHN CPS: Liaise directly with the CPS director
- > NALHN CPS: Liaise directly with the CPS director
- > Any photographs produced by SAPOL remain the property of SAPOL.

#### Audio visual recordings and transcripts of prescribed interviews

Where criminal proceedings have commenced, the DPP will require a copy of any audio visual recording conducted with a

vulnerable witness. A transcript of the audio visual recording will also be required. An affidavit will also be provided by the prescribed interviewer to verify the transcript and compliance with relevant legislation.

The audio visual recording is required so that the prosecution can make an initial assessment of the case. If the matter proceeds to trial, it may be required so that it can be admitted in the trial as the vulnerable witness' evidence-in-chief.

The audio visual recording is also required to be disclosed to the defence in court proceedings. A copy of the audio visual recording and transcript will usually be provided to the defence by SAPOL as part of the preliminary brief of evidence. A copy of the audio visual records will usually be provided to the defence by the DPP once a decision to proceed with charges is made. Both the recording and records will be served under the cover of a Sensitive Materials Notice. If an accused person is unrepresented, they will not be provided with a copy of the audio visual recording or transcript but will be advised to contact the investigating police officer to arrange a time to view the audio visual recording at a SAPOL site. The investigating police officer should contact the SAPOL Prosecution Branch for guidance relating to the protocols for this.

### **CPS/PFMS and the FCFCOA**

The Chief Executive, Department for Health and Wellbeing has signed Instruments of Authorisation allowing CPS and PFMS, upon formal request, to disclose:

- > family assessment reports (parenting capacity assessments) to the FCFCOA
- > personal information obtained in a forensic assessment process to an independent children's lawyer.

Under section 69ZW of the *Family Law Act 1975*, the FCFCOA may make an order in child-related proceedings requiring a prescribed State or Territory agency to provide the Court with the documents or information specified in the order.

## **SAPOL record of interview, transcripts, photographs**

### **Reports produced by SAPOL**

Synopses of child or young person interviews are not to be completed by the SAPOL prescribed interviewer.

When an investigating officer does not personally interview the child or young person, they are to view the interview at the time it is conducted. If this is not possible the interviewing officer is to provide the investigating officer with a video or audio copy of the interview as soon as possible. The investigating officer will then personally view or listen to the interview.

Audio visual recordings will only be transcribed when:

- > a disclosure is made
- > there is a likelihood of the matter proceeding in criminal court
- > other agencies may view the child or young person's electronically recorded interview after prior arrangement with the officer in charge, PPB.

These reports remain the property of SAPOL.

### **Transcript of interview**

Section 152 of the CYPS Act permits SAPOL to share the transcript or electronic copy of the record of interview with the child or young person and/or other relevant information with the investigation units located in DCP, CPS, PFMS, DHS and the Department for Education where it has a reasonable belief that the information or documents requested will assist DCP, CPS, PFMS, DHS or the Department for Education in performing a function relating to children and young people or managing a risk to a child or young person (or class thereof). It is to be noted that the provision of information or documents will not be automatic in all circumstances and the reasonable belief that the provision will assist DCP, CPS, PFMS, DHS or the Department for Education must be present on all occasions prior to release. It may be the case that in order to reach such a belief, SAPOL will need to ascertain from DCP, CPS, PFMS, DHS or the Department for Education how precisely the provision of the information or documents will assist in their functions.

When DCP, CPS, PFMS, DHS or the Department for Education is involved in a concurrent investigation with SAPOL, or needs to have a copy of the transcript of the child or young person's interview for its ongoing work, the agreed protocol is that:

- > a copy of the transcript (or electronic copy when a transcript is not available) of the child or young person's interview may be forwarded to the requesting officer
- > photographs of any injury will not be routinely supplied but can be viewed
- > for court purposes the audio visual recording of the interview must not be released by DCP, CPS, PFMS, DHS or the Department for Education, but can be provided directly to the Youth Court via the use of a subpoena issued by the CSO (refer to 'SAPOL and the CSO' below).

Requests for material held by SAPOL should be made to the SAPOL Information Services Branch (ISB).

Where urgent information is required, due to the risk of harm or further harm to a child or young person, the request can be made to CFIS (metropolitan) or the Officer in Charge of the Regional CIB.

### **SAPOL and the CSO**

From time to time the CSO, which acts on behalf of DCP in Youth Court applications, may need to secure the audio visual recording and/or transcript of a child or young person's prescribed interview. In these circumstances the audio visual recording and/or transcript can be delivered either directly to the requesting solicitor from the CSO or to the Youth Court by subpoena. The release of such recordings or transcripts in these circumstances should be made with due consideration of:

1. possible compromising of the criminal investigation
2. acting against the child or young person's best interests.

### **SAPOL and the FCFCOA**

The audio visual recording or transcript of the child or young person's interview will only be supplied to the FCFCOA by subpoena. Delivery is normally made to the Registrar; however, in some instances production can be made directly to the Court.

### **Storage and destruction of the child or young person's audio visual recording**

#### **SAPOL**

The storage of forensic police electronic recordings will be in accordance with SAPOL General Order – Interviewing suspects and vulnerable witnesses. The destruction of these police electronic recordings should be made in accordance with the [State Records Act 1997](#). An audio visual interview conducted by a SAPOL prescribed interviewer may also form part of a concurrent investigation with DCP or DHS. Therefore, the audio visual disc (irrespective of whether the child or young person made a disclosure) should be retained within the Police Property Management System.

#### **CPS and PFMS**

CPS and PFMS retain any images or audio visual recordings received or recorded in relation to a forensic medical assessment or prescribed interview in the child or young person's medical record.

All files and records are maintained in accordance with the relevant disposal schedule.

## Section 8:

# Essential support for interagency work

The success of the ICP in meeting its purpose relies on:

- > governance and structures that facilitate and embed interagency work
- > mandatory training and/or professional development for ICP agencies
- > support to resolve disputes and escalate systemic issues.

### Interagency structures

The ICP relies on interagency collaboration to achieve a common broad goal of child protection.

The expectation that staff will work in partnership with each other must be supported by systems that promote and facilitate partnerships.

The operation of the ICP will be supported by an interagency discussion comprising representatives from relevant government departments. The key functions will be to provide an escalation point for systematic operational matters arising from the implementation of the ICP when required and to oversee the quality and suitability of interagency training.

Interagency work is also supported when all relevant agencies and organisations:

- > are included in regional partnership meetings promote and maintain formalised interagency meetings and communication structures (outside the operation of the ICP) for frontline staff in metropolitan, rural and remote locations
- > include interagency collaboration as part of performance reviews and set key performance goals that take account of the time required for interagency collaboration.

### Training and development

The ICP outlines responsibilities that apply to agencies when working in partnership. These responsibilities are strongly interdependent because they rely on:

- > joint decision making
- > complementary approaches to speaking with, interviewing and responding to children, young people and their families
- > careful sequencing of actions.

The best possible way for staff to learn about working in partnership is to participate in joint training. To facilitate this, agencies involved in the implementation of the ICP are responsible for developing and co-delivering ICP specific interagency training.

In addition to the delivery of ICP specific training, agencies must ensure they reference the ICP within their professional development and/or induction programs, relevant policies and procedures, during supervision and attempt at all times to co-deliver training with their closest interagency partners.

### Dispute resolution

During the course of a child protection investigation, there may be times where differences in professional opinion arise or matters are in dispute. It is critical that staff maintain professional courtesy and respect at all times and recognise each agency is operating within its own unique legislative and practice environment.

The commitment to work collaboratively to resolve disputes is a professional obligation of all ICP agencies. Differences of opinion during the ICP process can be expected.

However, the manner in which these differences are managed is important to all aspects of the ICP's purpose.

It is critical that disputes are managed promptly and the protection of children and young people from immediate danger remains the priority for all interagency partners.

Responsibility for resolving disputes rests, in the first instance, with those directly involved.

The recommended process for managing disputes:

- > Give participants the opportunity to explain their concerns about the decisions or actions under discussion. This will help identify misunderstandings about relevant legislation, ICP practice or roles.
- > Focus on what each agency believes is in the best interests of the child or young person.
- > Aim to find the exact point of the dispute – is it what should happen, how it should happen, when it should happen or by whom?
- > The above processes will assist in clarifying what may need to be referred to senior personnel for their decision or action. It will help distinguish differences of opinion about what is in the best interests of the child or young person from systemic or resourcing issues that compromise how those interests are met.
- > If agreement cannot be reached on what is in the best interests of the child or young person, or how the interests will be met, urgent assistance should be sought from senior personnel.
- > If a child or young person is in immediate danger, SAPOL/DCP will act to protect a child or young person while the assistance of senior personnel is sought.
- > If the disagreement highlights recurring systemic problems associated with legislation, policy or practice, resourcing or training these must be referred to the relevant senior executive.
- > The senior personnel from whom assistance is sought must respond immediately if the assistance relates to

enabling actions in a specific case.

Relevant positions for managing disputes or escalating matters are:

- > CPS: Director of the relevant CPS
- > PFMS: Medical Unit Head
- > CSO: Crown Solicitor
- > Department for Education:
  - Director Incident Management (matters involving adults)
  - Education Director (matters involving children and young people)
- > DPP: DPP or delegate
- > DCP: Regional Director, noting staff are to follow their line management processes
- > SAPOL: Officer in charge, PPB or delegate
- > DHS: Executive Director Child and Family Support or Manager Incident Management Unit, noting staff are to follow their line management processes
- > Non-government organisation involved in strategy discussion/case management: Senior authority.

### Concerns regarding public sector members

The *Independent Commission Against Corruption Act 2012* (ICAC Act) created the Office for Public Integrity (OPI). The OPI manages complaints about public administration with a view to the identification of corruption, misconduct and maladministration in public administration and ensuring that complainants about public administration are dealt with by the most appropriate body.

Public officers must report suspected corruption to the OPI. Public officers are encouraged to report to the OPI or Ombudsman SA matters that are reasonably suspected to involve serious misconduct or maladministration in public administration.

Further information about what and how to report is available at [www.publicintegrity.sa.gov.au](http://www.publicintegrity.sa.gov.au) or [www.ombudsman.sa.gov.au](http://www.ombudsman.sa.gov.au).

Refer to Appendix 2 - [Explanation of Terms](#) for a full description of the OPI.

# Appendix 1:

## Principles

### 1. Safety of children and young people is paramount

The paramount consideration when following the ICP must always be to ensure that children and young people are safe and protected from harm (section 7 CYPs Act).

A child or young person's right to safety cannot be displaced by any other right or consideration.

### 2. Rights of children and young people are safeguarded

It is critical that when implementing the ICP, the rights of children and young people are safeguarded (noting these rights cannot override the paramount consideration of safety). These rights include:

- > all actions must be in the child or young person's best interests and their needs as set out under section 8 of the CYPs Act
- > children and young people must be supported to be involved and have a voice in decision making
- > access and equity must be actively pursued (and focus on the specific needs of the child or young person)
- > the risk of further trauma to the child or young person must be recognised, limited and/or prevented (including through the provision of therapeutic support)
- > Aboriginal or Torres Strait Islander children and young people have a right to grow up actively connected to family, community, culture and Country and for their kinship structures and relationships to be observed and respected
- > access to justice.

Also refer to:

[United Nations Convention on the Rights of the Child](#) – for information about children and young people's rights.

[Declaration of Principles Governing the Treatment of Victims](#) – for information about the rights of victims of crime in the criminal justice system.

[Charter of Rights for children and young people in care](#) – for information about the rights of children and young people in care.

Children and young people who have experienced harm may also be eligible for redress or compensation. For more information, refer to the AGD [Victim's rights and assistance website](#) and/or the [National Redress Scheme website](#) (for people who experienced institutional child sexual abuse prior to 1 July 2018).

### 3. Cumulative harm is considered

Agencies must have regard to not only the current circumstances of the child or young person's care but also the history of their adverse experiences, the likely cumulative effect of that history on the child or young person and the consequential impact of that history on their future risk of harm.

### 4. Vulnerability is acknowledged

By virtue of their age and stage of development all children and young people are considered vulnerable to varying degrees. However, the circumstances of some children and young people can increase their vulnerability and risk of harm, including:

#### **Aboriginal or Torres Strait Islander children and young people**

It is very important to acknowledge that race itself is not a risk factor for vulnerability. However, colonisation and past government policies have had a negative effect on Aboriginal and Torres Strait Islander children, young people, families and specific nation groups/communities. Many of the Stolen Generations did not have the opportunity to experience being cared for by their own extended family, community and culture. The

traumatic effects of these events and practices, coupled with institutionalised racism, and socioeconomic disadvantage continue to have an impact on Aboriginal and Torres Strait Islander peoples, families and communities today.

Additionally, the effects of intergenerational trauma can mean that Aboriginal and Torres Strait Islander children and young people who were not directly affected by past government policies may still be impacted. For example, some Aboriginal and Torres Strait Islander children and young people may have increased exposure to a range of traumatic events such as illness, accidents, family violence, family disintegration and financial stress. The unique experiences of an Aboriginal or Torres Strait Islander person must be considered as part of a well-informed investigation.

Aboriginal and Torres Strait Islander children and young people may also experience an increase in vulnerability if they lack cultural connectedness and/or are unable to access cultural support.

### **Children and young people from culturally and linguistically diverse backgrounds (CALD)**

Children and young people from CALD backgrounds come from a range of backgrounds, cultures, religions and languages. Some of these children and young people may experience heightened vulnerability as a result of social and systemic factors associated with resettlement in a new country, such as communication barriers, potential social isolation, not being familiar with Australian systems, difficulties in accessing support and cultural variances in child rearing practices.

Children and young people from a refugee background and their families may have also had adverse experiences such as historical dispossession, violence and war, collective grief, loss or trauma which can impact all life domains.

### **Children and young people with disabilities and/or developmental delay**

Children and young people with disabilities (physical or intellectual), developmental

delays and/or communication disabilities are particularly vulnerable to harm. They may have additional care needs (including dependence on others for care) and/or may have difficulties in explaining or indicating their experience of harm in ways ordinarily relied upon by agencies.

### **Children and young people in care**

Children and young people in care are among the State's most vulnerable. In most cases, they will have already experienced harm and may be vulnerable to further harm even with stable placements, good care and consistent schooling and support.

Some children and young people will present with an intersectionality of vulnerabilities. Children and young people with disabilities and Aboriginal and Torres Strait Islander children and young people are over represented in State care and the youth justice system and so an aggregation of vulnerability may be experienced.

### **Additional considerations**

There are a range of further factors and circumstances that may increase a child or young person's vulnerability to harm. These include (but are not limited to):

- > age (for example, infants and very young children)
- > homelessness
- > social and emotional wellbeing
- > children and young people with attachment difficulties and trauma symptoms and behaviours (for example, indiscriminate affection, inability to recognise dangerous situations, trauma symptoms and behaviour)
- > absconding and running away from home
- > exposure to domestic or family violence
- > parent, guardian or carer alcohol and other drug misuse
- > parent, guardian or carer mental health difficulties
- > involvement in the criminal justice

- system
- > chronic lack of supervision
- > social and/or geographic isolation
- > poverty
- > lack of or unidentified family supports.

## 5. All decisions and actions are culturally responsive

When applying the ICP, staff must demonstrate respect for different backgrounds, language, beliefs, values, customs, knowledge, lifestyles and social behaviours.

When people are engaged respectfully and with inclusion in regards to cultural differences, they are empowered to freely express their cultural ideals and to fully participate without the fear of judgment, bias or prejudice.

Staff need the knowledge, skills and ability to:

- > accept difference through awareness and understanding of different cultures
- > identify risk factors without stereotyping
- > reflect and understand preference and biases towards their own cultural values and behaviours over others
- > work with people from different cultures respectfully in a way that is supportive, safe and addresses their individual needs
- > reflect and understand the impact and historical consequences of Australia's colonial history on Aboriginal and Torres Strait Islander peoples
- > identify and respond to barriers to effective engagement, including communication barriers (consider use of interpreters), distrust of government authorities and/or structural barriers
- > provide culturally appropriate support and responses.

It is important to note that there are thousands of unique and distinct Aboriginal and Torres Strait Islander communities, cultural and language groups, clans, families and kinship networks in Australia. Due to the

diversity of Aboriginal and Torres Strait Islander communities there is no one size fits all approach.

When working with Aboriginal and Torres Strait Islander, children, young people and families, it is important that all staff have regard to their own values and biases (and the biases of interagency partners) when conducting their work, noting the importance of recording factual information at all times.

When responding to Aboriginal and Torres Strait Islander children and young people, staff must understand and recognise their human rights as First Nations people. This includes maintaining and developing their individual cultural identities and remaining connected to their families, cultures, communities and Country.

## 6. Timely and high quality information sharing is essential

Sharing information in a timely and effective way is crucial to the operation of the ICP. Sharing the right information at the right time protects children and young people from further harm, informs collaborative interagency investigative responses, and assists children and young people to recover. This is critical to the work of the ICP where uncertainty about what information should be sought or shared may mean that risks are not identified, opportunities to protect a child or young person from harm are missed or a prosecution is unsuccessful.

All agencies must know when and how they can share information to support the operation of the ICP. Some key considerations for information sharing include statutory requirements, the [Information Privacy Principles \(IPPS\)](#) Instruction and the [Information Sharing Guidelines for Promoting Safety and Wellbeing \(ISG\)](#).

For information about sharing certain information and document (such as photographs, audio visual recordings and reports) in the context of an interagency investigation refer to [Section 7](#).

### Statutory requirements

Many state government agencies are subject to legislation that governs when and how they

may share information.

Of particular relevance to the ICP is section 152 CYPS Act. This section permits most state government agencies and state-funded non-government organisations to share information with each other in the following circumstances:

- > to perform functions relating to children and young people, or
- > to manage any risk to a child or young person, or class of children or young people, that may arise in the recipient's capacity as an employer of provider of services.

As part of a child protection investigation, DCP is also able to require by notice in writing that a person or body provide information or documents, or answer questions. This power is generally only used in situations where section 152 does not apply.

Agencies must be aware of the application of the *Young Offenders Act 1993* when sharing information with broader stakeholders, including parent groups, where an offender is under 18 years of age. Information regarding the *Young Offenders Act* is outlined in [Section 4](#).

Agencies must ensure that they are familiar and comply with any specific laws, policies or procedures that are relevant to their agency and/or role, including those relating to confidentiality.

The practical arrangements for the transfer of information in the form of transcripts, recordings etc are outlined in [Section 7](#).

### Information Sharing Guidelines (ISG)

The ISG give government and non-government providers of human services (including domestic and family violence, mental health, drugs and alcohol, youth justice, disability and homelessness services) a single statewide protocol to follow when sharing information. For more information, go to [www.dpc.sa.gov.au](http://www.dpc.sa.gov.au).

Note: The ISG do not apply to the Courts Administration Authority, the Crown Solicitor's Office, the Office of the Director of Public Prosecutions, the Legal Services Commission and members and officers of courts and tribunals.

### Gathering information from other jurisdictions

Provisions allowing for disclosure of personal information, where it is unreasonable or impracticable to obtain the individual's consent, are complementary between jurisdictions. In some cases, there are nationally developed information sharing protocols to facilitate the sharing of information. This includes the Information Sharing protocol between the Commonwealth and Child Protection Agencies and the SA Government and NDIS Quality and Safeguards Commission Information Sharing Agreement.

In most cases, information will be shared where it is necessary to lessen or prevent a serious threat to the life, health or safety of any individual, or to public health or safety. When liaising with federally funded agencies and with other states, staff must ensure that they are clear about the purpose of the information sharing and the specific information relevant to that purpose.

### 7. Risks to other children and young people are responded to

It is critical that agencies and organisations involved in the ICP focus on identifying and responding to potential risks and/or harm that may have occurred against other children and young people.

Agencies must:

- > consider the possibility of other victims in all cases of intra-familial and extra-familial harm (including care concerns)
- > inform other authorities and persons about suspected harm to assist in the identification of possible victims, safeguard other children and young people who may be exposed to the alleged offender and to meet legislative reporting obligations.

SAPOL and DCP are the lead agencies in approving the process of informing others while an investigation and/or prosecution is underway.

A full description of the responsibility to consider other victims and inform others is set out in [Sections 3](#) and [4](#).

## 8. Harmful sexual behaviour involving children and young people is responded to

The ICP focuses on responses to harmful sexual behaviours. All professionals working with children and young people should understand when and how to intervene with harmful sexual behaviours involving children and young people, including understanding when a statutory response is required to protect the children and young people involved and/or when a criminal investigation is warranted.

A full description of the responsibilities in responding to children and young people's harmful sexual behaviour is in [Section 4](#). For a guide to sexual behaviours in children and young people, from birth to adulthood, that are generally considered to be either 'developmentally appropriate', concerning or harmful, staff should refer to the [Sexual behaviour in children and young people procedure Guideline](#) (Department for Education).

## Appendix 2:

# Explanation of terms

The following terms are relevant to this document.

### Aboriginal child or young person

Pursuant to section 16(1) of the CYPS Act, an 'Aboriginal child or young person' means a child or young person who:

- > is a descendant of the indigenous inhabitants of Australia, and
- > regards themselves as Aboriginal or, if they are a young child, is regarded as Aboriginal by at least one of their parents.

However, in child protection responses, the only requirement for a child or young person/family to be identified as Aboriginal is self-identification.

### Age of consent

In South Australia any person aged 17 years or older can legally have sexual relations with another person aged 17 years or older, if they each consent. This can be a person of the same or opposite sex.

Note: It is against the law for a person in a position of authority (for example, a teacher) to have sex, or to try to have sex with a person under 18 years ([Criminal Law Consolidation Act 1935](#)).

### Age of criminal responsibility

In South Australia, a child under 10 years cannot be charged with a criminal offence (section 5 [Young Offenders Act 1993](#)). A child between the ages of 10–14 years can be charged with a criminal offence, but there is a presumption against criminal responsibility, whereby a child is presumed not to be capable of forming intent to commit a criminal offence. This is known as the common law doctrine of *doli incapax*. However, this presumption can be rebutted by evidence.

### Apprehended/Apprehension

This means an arrest or report.

### Arrest

This means that a police officer, who has reasonable cause to suspect that an alleged perpetrator has committed an offence, takes that person into custody.

### Balance of probabilities

'Balance of probabilities' is the civil standard of proof. Section 58 of the CYPS Act states that any fact that needs to be proved in proceedings under the CYPS Act (other than proceedings for an offence) are to be proved on the balance of probabilities. Findings should be based on a conclusion that it is 'more probable than not'.

### Beyond reasonable doubt

'Beyond reasonable doubt' is the criminal standard of proof. The onus is on the prosecution to establish each element of the offence beyond reasonable doubt.

### Care concern

A care concern is a report/notification to the Child Abuse Report Line (CARL) where the following criteria have been met:

- a) The child or young person was, or is in care, pursuant to the CYPS Act at the time of the allegation AND:
- b) The concerns relate to the care provided by:
  - i. an approved carer and/or
  - ii. registered or approved household member or
  - iii. temporary carer (pursuant to section 77 of the CYPS Act) or
  - iv. Department of Human Services, custodial staff or
  - v. DCP employee and/or DCP volunteer, providing direct care and/or acting as a

contracted carer AND-

- c) There is a reasonable suspicion that:
- i. a child or young person has been harmed or
  - ii. there is a risk that the child or young person will suffer harm.

### Carer

Carers approved under section 72 of the CYPS Act, temporary carers under section 77 of the CYPS Act and residential care staff (government and non-government employees) who assume a duty of care for children and young people placed in care. 'Carer' also includes providers of respite care including, but not limited to, children and young people in care (for example, respite to families with children and young people with disabilities).

### Charge

A formal allegation laid in a court that a person has committed a criminal offence.

### Charge sequencing report

This refers to the document prepared by the police officer for prosecution after an accused person is apprehended.

### Child or young person

For the purposes of the ICP, the term means an unborn child\* and a child or young person under 18 years of age.

*\*An 'unborn child concern' (UCC) is raised by DCP when information is received about an unborn child, where it is determined that there are risk factors present likely to impact on the safety and wellbeing of the infant when born.*

### Child abuse and neglect

Refer to 'Harm.'

### Child Abuse Report Line/DCP Call Centre

Both terms describe the operational unit of DCP with the responsibility to receive phone-based and electronic reports/notifications of suspected harm to a child or young person. An after hours response service is also part of the Call Centre operations.

### Child or young person 'at risk'

For the purposes of section 18 of the CYPS Act, a child or young person is 'at risk' if:

- > the child or young person has suffered harm (being harm of a kind against which a child or young person is ordinarily protected), or
- > there is a likelihood that the child or young person will suffer harm (being harm of a kind against which a child or young person is ordinarily protected), or
- > there is a likelihood that the child or young person will be removed from the State (whether by their parent or guardian or by some other person) for the purpose of—
  - being subjected to a medical or other procedure that would be unlawful if performed in this State (including, to avoid doubt, female genital mutilation), or
  - taking part in a marriage ceremony (however described) that would be a void marriage, or would otherwise be an invalid marriage, under the *Marriage Act 1961* of the Commonwealth, or
  - enabling the child or young person to take part in an activity, or an action to be taken in respect of the child or young person, that would, if it occurred in this State, constitute an offence against the *Criminal Law Consolidation Act 1935* or the Criminal Code of the Commonwealth, or
- > the parents or guardians of the child or young person—
  - are unable or unwilling to care for the child or young person, or
  - have abandoned the child or young person, or cannot, after reasonable inquiry, be found,

- or
- are dead, or
- > the child or young person is of compulsory school age but has been persistently absent from school without satisfactory explanation of the absence, or
- > the child or young person is of no fixed address, or
- > any other circumstances of a kind prescribed by the regulations exist in relation to the child or young person.

### Child protection report/notification

Section 30 of the CYPS Act legally requires defined classes of persons to make a report to DCP when they have a suspicion on reasonable grounds that a child or young person is, or may be, at risk of harm and the suspicion was formed in the course of the person's employment (also referred to as a mandatory notifier). What constitutes a child protection report/notification is outlined at section 31 of the CYPS Act.

Any person can make a report to DCP if they suspect a child or young person is, or may be, at risk of harm.

### Consent

For the purposes of the ICP the term consent means informed consent.

Informed consent is permission an individual gives, either implied or explicit, after they have demonstrated that they understand the purpose of the request and the likely outcomes of their consent. Age, intellectual capacity, mental health, cognitive ability and use of alcohol and other drugs will each impact an individual's capacity to demonstrate this understanding and these impacts must be acknowledged and managed – they cannot be 'overlooked'.

In some cases, requirements for seeking consent are set out in legislation (for example, refer to the *Criminal Law (Forensic Procedures) Act 2007*). [Appendix 4](#) outlines who can provide consent for an interview or assessment, and in what circumstances.

Children and young people's safety will always override other principles, which may

include those relating to the obtaining of consent.

### Corroborative evidence

Evidence that strengthens, adds to, or confirms already existing evidence.

### Culturally and linguistically diverse (CALD)

CALD is generally used to refer to those who originate (or have parents who originate) from a country where English is not the dominant language or where cultural norms and values differ from the predominant cultural norms and values present in Australia.

### Cultural authority

It is important to acknowledge that there may be specific circumstances where Aboriginal and Torres Strait Islander people are living within traditional and complex kinship systems and traditional lore. Members of a nation group that hold strong knowledge of culture and lore are recognised to have cultural authority within their community.

### Cultural responsibility

Under Aboriginal and Torres Strait Islander kinship systems, other family and kin can have equal importance to the child or young person's parents, with child rearing responsibilities extending beyond the immediate family group. Decision making responsibility for children and young people may be with other family members, on behalf of the parent. For example, adults within the family group may have an obligation to care for their siblings' children and young people, where children and young people refer to their uncle and aunty as 'father or mother', and their cousins as 'sister or brother'.

Who may have cultural responsibility for an Aboriginal or Torres Strait Islander child or young person should be explored to ensure these individuals are appropriately involved in decision making and safety planning.

### Cultural safety

Cultural safety requires agencies to be aware of a family's experiences and potential traumas, and to discuss factors with a family that can be put in place to promote their sense of safety. Considerations to promote cultural safety should be made in consultation

with the family and could include having a cultural support person present during meetings.

### **Domestic and family violence**

Domestic and family violence refers to acts of violence that occur between people who have, or have had, an intimate relationship, or between people who are related (including through kinship relationships). While there is no single definition, the central element of domestic and family violence is an ongoing pattern of behaviour aimed at controlling a partner through fear, for example by using behaviour which is coercive, controlling, violent and threatening. In most cases, the violent behaviour is part of a range of tactics to exercise power and control over victims and their children; and can be both criminal and non-criminal.

Domestic and family violence may include physical, sexual, emotional, and psychological harm, isolating a victim from their family, friends, and community, and controlling the victims' access to finances, social networks and employment. Partners may be married or not married; lesbian, gay, bi-sexual, transgender, intersex, queer, asexual (LGBTIQA+); living together, separated or dating. Children and young people's exposure to domestic and family violence is a serious form of harm and can be fatal.

### **Evidence**

Evidence means anything that tends to prove the existence of a fact.

### **Extra-familial**

All those matters that do not fall within the definition of intra-familial (see below) are considered 'extra-familial'. This includes matters in which the alleged perpetrator of harm is a friend, visitor, stranger etc, and anyone who may live in the house who is not a relative and who does not have caregiving responsibilities for the child or young person (for example, a boarder).

It also includes persons who provide care and supervision to the child or young person as part of their employment or service delivery role (for example, teachers, child care staff, family day-care providers, school boarding house supervisors).

### **Forensic medical assessment**

A medical evaluation of a child or young person where there are concerns about possible harm (as defined under the CYPs Act). Refer to [Appendix 4](#) for more information about the consent requirements when seeking a forensic medical assessment.

### **Guardian**

A person with court ordered legal responsibility for a child or young person.

### **Harm**

Harm is defined by the CYPs Act as:

- > physical or psychological harm (whether caused by act or omission)
- > it includes such harm caused by sexual, physical, mental or emotional abuse or neglect.

Psychological harm does not include emotional reactions such as distress, grief, fear or anger that are a response to the ordinary vicissitudes of life.

The CYPs Act does not define 'serious harm'. Whether actual or suspected harm is 'serious harm' is assessed by DCP and/or SAPOL on a case by case basis in line with agency policy and guidance.

### **Harmful sexual behaviour involving children and young people**

(Note: this is inclusive of the term 'sexualised behaviour')

For the purposes of the ICP 'serious' sexual behaviour means harmful or concerning sexual behaviour by or between children or young people that is:

- > coercive, excessive, aggressive, secretive, compulsive, degrading or threatening
- > involves a significant difference in age/developmental capability between the children and young people involved
- > represents a serious risk to the mental or physical health of the children and young people involved
- > is self-directed or targeted at/affecting others.

A guide to examples of harmful sexual behaviour for specific age groups is provided in the [Sexual behaviour in children and young people Guideline](#) (Department for Education). Refer to the full description of responsibilities in [Section 4](#).

### High risk chronic non-attendance

High risk chronic non-attendance is defined as per the Memorandum of Administrative Arrangement between Department for Child Protection and Department for Education for High Risk Chronic Non-Attenders.

### Infant

Infancy is generally recognised as the first 1000 days of life after conception.

### Intra-familial

For the purposes of the ICP, intra-familial means those cases in which the alleged perpetrator of harm is a person who is either:

- > a parent or guardian, or
- > a relative of the child or young person, or
- > a member of the household who also has responsibility for the care and supervision of the child or young person.

This includes a natural, adoptive (where a legal adoption order has been granted), or step-parent of the child or young person, a person (other than the Chief Executive) who is the legal guardian of the child or young person or has the legal custody of the child or young person, or any other person who stands in loco parentis (in the place of the parent) to the child or young person (other than those described as extra-familial).

Intra-familial includes other persons who live in the household who are not relatives of the child and young person but who have responsibility for the care and supervision of the child and young person (ie acting in a parenting capacity), such as a parent's live-in partner. It also includes the partner of a member of the household who does not reside in the household but spends time at the home and has responsibility for the care and supervision of the child or young person (ie acting in a parenting capacity).

Harm perpetrated by a relative of the child or young person, whether or not that relative lives in the household and whether or not that relative has the responsibility for the care and supervision of the child or young person, will be considered intra-familial harm.

For Aboriginal and Torres Strait Islander families, 'intra-familial' includes any person who has the cultural responsibility, including kinship and community connections, to care for the child or young person according to kinship rules.

### Lead agency

The agency with agreed responsibility to coordinate the interagency response and/or undertake case management.

### Multi Agency Protection Service (MAPS)

MAPS is a partnership between SAPOL, the Department of Human Services (DHS), DCP, the Department for Health and Wellbeing, Department for Education, Women's Safety Service and the Department for Correctional Services (DCS).

The participating agencies are co-located to facilitate real time information sharing. The aim is to collate information held by the participating agencies to inform a holistic assessment of potential or actual whole family risks related to domestic violence.

Critical information is placed into a summary document which is made available to all participating agencies.

### Nolle prosequi

A decision by the Director of Public Prosecutions not to continue with a prosecution which is recorded on the court record.

### Office for Public Integrity (OPI)

The ICAC Act created the Office for Public Integrity (OPI).

The OPI receives and assesses complaints and reports about potential matters of corruption, misconduct and maladministration in public administration and refers complaints and reports to inquiry agencies, public authorities or public officers for further investigation or action when needed. In addition, the Ombudsman SA

receives complaints and reports about potential matters of misconduct and maladministration in public administration.

### Parent

For the purposes of this document, the term parent means biological parent, adoptive parent, step-parent, or extended family member such as a grandparent who has full-time care of a child or young person. For Aboriginal and Torres Strait Islander families, 'parent' may also include anyone who has cultural responsibility for a child or young person, as applicable within Aboriginal and Torres Strait Islander kinship structures.

Note: A narrower definition of parent applies in some legal contexts (for example Chapter 5, Part 4 of the CYPs Act regarding qualifying offences). Where a narrower definition applies, this is clearly stated in the ICP.

### Parenting capacity assessment

Refer to [Section 4.3](#)

### Prescribed communication device

Regulation 22(2) of the [Summary Offences Regulations 2016](#) prescribes the following communication devices for the purpose of providing communication assistance to a vulnerable witness who is being interviewed:

- > text, symbol or picture boards
- > speak-and-spell communication devices
- > voice output communication devices
- > tablets, laptops or other computers or devices equipped with software designed to assist persons with complex communication needs to communicate more readily
- > any other device, whether electronic or not, as may be approved for the purposes of the interview by the investigating officer or prescribed interviewer who is to conduct the interview.

### Prescribed communication partner

Under the [Evidence Act 1929](#) a communication partner means a person, or a person of a class, approved by the Attorney-General for the purposes of providing assistance in

proceedings to a witness with complex communication needs.

### Prescribed interview

Refer to [Section 4.2](#)

### Prescribed interviewer

For the purposes of section 74EB(b) of the [Summary Offences Act 1953](#), a prescribed interviewer is:

- > a police officer or public sector employee, or
- > a police officer or public sector employee of a class, authorised by the Commissioner of Police or the Minister for Health by written notice to conduct interviews with vulnerable witnesses, or
- > a person, or a person of a class, authorised under a law of the Commonwealth or of another State or a Territory to conduct interviews with vulnerable witnesses, or
- > a person who has successfully completed a training course in conducting interviews with vulnerable witnesses
  - approved by the Commissioner, or
  - approved by the Minister for Health.

### Proofing

A proofing is a meeting between the prosecution and the witness. There are a number of reasons why a proofing may be required including to provide information about the criminal court process, to assist in making the decision whether or not to prosecute and to prepare victims and witnesses to give evidence at trial.

### Protective parent

A parent (as per above definition) who is considered capable and prepared to act protectively towards a child or young person, based on information available at the time. This protective capacity includes being able to ensure that the child or young person is not left in the care/company of persons alleged to have caused harm or pose a risk of harm.

### Psychosocial forensic assessment

Refer to [Section 4.2](#)

### Reasonable cause to suspect

Where the facts of a matter would give rise to a reasonable person forming a suspicion that certain conduct or wrongdoing has occurred.

### Remote community

In this document a remote community means a community situated a long distance from highly populated towns or cities and/or that does not have transportation links or other infrastructures that are typical of more populated areas. Some members of a remote community may have a number of residential rights or associations, both within and across SA's borders and they may move regularly or irregularly between those residential areas. In this document the term 'remote community' includes but is not limited to Oak Valley, Yalata, Maralinga Lands communities, APY Lands communities, Oodnadatta, Maree, Copley and Nepabunna.

### Report/notification

Refer to Child protection report/notification.

### Report

This means that a police officer who has a reasonable suspicion that a person has committed an offence compiles a Charge sequencing report and forwards it to prosecution authorities so that a decision can be made to summons the person to court.

### Severe domestic squalor

Severe domestic squalor refers to households that are extremely cluttered, in a filthy condition, and where the accumulation of items such as personal possessions, rubbish, excrement and decomposing food creates an environment that jeopardises the health and wellbeing of the occupants. Furthermore, 'normal' household activities such as cooking, bathing and sleeping are impeded or impossible.

In extreme cases, severe domestic squalor may also have an impact on neighbours because the property may be a fire hazard, emit a foul odour and harbour vermin.

### Significant person/other

A person of cultural significance under the Aboriginal and Torres Strait Islander kinship system. For more information, refer to Cultural authority.

### Strategy discussion

This is a formalised and documented discussion between DCP, SAPOL, CPS, PFMS and other involved government and non-government agencies to exchange information relevant to a child protection report/notification, and to plan and coordinate the most effective investigation of the alleged harm. The full process of a strategy discussion includes a follow up strategy discussion and identification of the agency with responsibility for ongoing case management. Refer to [Section 3](#).

### Torres Strait Islander child or young person

Section 16(1) of the CYPS Act states a 'Torres Strait Islander child or young person' means a child or young person who:

- > is a descendant of the indigenous inhabitants of the Torres Strait Islands, and
- > regards themselves as Torres Strait Islander or, if they are a young child, is regarded as Torres Strait Islander by at least one of their parents.

## Appendix 3A:

# Strategy discussion record template

The convener of a strategy discussion must complete the strategy discussion record template and provide it to strategy discussion participants within two working days.

To access the template, go to the Department for Child Protection's [website](#).

## Appendix 3B:

# Follow up strategy discussion record template

The convener of a follow up strategy discussion must complete the follow up strategy discussion record template and provide it to strategy discussion participants within two working days.

To access the template, go to the Department for Child Protection's [website](#).

## Appendix 4:

# Assessment and interviews

This table describes the assessments and interviews that are commonly conducted during an interagency investigation where it is suspected that a child or young person is, or may be, at risk of harm. It also sets out who may provide authorisation or consent, and in what circumstances.

Children and young people have a right to be involved in decisions that affect them, and to have their views considered. It is important that practitioners actively involve children and young people in decision making and obtain their consent wherever it is safe and practicable to do so.

The Interagency Code of Practice sets out at an operational level how agencies and organisations work together to investigate and respond to suspected harm to children and young people. The content does not constitute legal advice, is not intended to be a substitute for legal advice and must not be relied on as such. If in doubt, agencies and organisations must seek their own legal advice in relation to any particular matters they may have.

Note: Where a child or young person is under the guardianship of the Chief Executive pursuant to the CYPS Act, the Chief Executive or their delegate can provide consent as the child or young person's guardian. This does not apply where the child or young person is under the custody of the Chief Executive.

### Interviews and assessments relating to children and young people

Child/young person being interviewed/assessed	When	By who	Authority/who may consent	In what circumstances (note: these are common examples of when authority or consent may be exercised. It is not a definitive list. Please seek legal advice if unclear.)
Initial interview/discussion of child or young person (non-forensic/prescribed)				
Children and young people between 0 – 18 years of age	As part of an initial assessment to gather information that supports an assessment of safety and to assist in determining whether a forensic/prescribed interview is required	DCP	Young person	Where the young person is able to understand the purpose of the interview and freely consents.
			Parent/guardian is informed prior to interview (CYPS Act)	Where there is a non-offending parent/guardian, there is no information to suggest that they are not protective, and no concerns exist that they may influence the child or young person, or that the child or young person will be at increased risk of harm if the parent is informed.
			Interview proceeds without parent/guardian being informed (CYPS Act)	Where there are concerns that one or both of the parents/guardians may influence the child or young person or that risk to the child or young person may be elevated by informing the parent/guardian.

Child/young person being interviewed/assessed	When	By who	Authority/who may consent	When (note: this is not a definitive list. Please seek legal advice if unclear.)
Prescribed interview of child or young person (which may form part of a psychosocial assessment of child or young person)				
<p>Children between 7 – 14 years of age</p> <p>Children under 18 years of age who are a victim of a child sexual offence</p> <p>Young people 15 years and over who have complex communication needs</p>	<p>Allegations of possible criminal offending against the child or young person</p>	SAPOL	<p>Parent/guardian provides consent</p>	<p>Where there is a non-offending parent/guardian, there is no information to suggest that they are not protective, and no concerns exist that they may influence the child or young person, or that the child or young person will be at increased risk of harm if the parent/guardian is informed.</p>
			<p>SAPOL - interview/ statement proceeds without parent/guardian informed</p>	<p>Where there are concerns that one or both of the parents/guardians may influence the child or young person, that risk to the child or young person may be elevated by informing the parent/guardian or it is not otherwise possible or practicable to seek the consent of a parent or guardian.</p>
<p>Children between 0 – 7 years of age</p> <p>Older children with complex communication needs</p> <p>Aboriginal and Torres Strait Islander children in remote and rural communities up to 12 years (WCHN CPS)</p> <p>Where a child dies and there are suspicious circumstances, other children who may have information</p>	<p>Allegations of possible criminal offending against the child or young person</p>	CPS	<p>Parent/guardian provides consent</p>	<p>Where there is a non-offending parent/guardian, there is no information to suggest that they are not protective, and no concerns exist that they may influence the child or young person, or that the child or young person will be at increased risk of harm if the parent/guardian is informed.</p>
			<p>At the request of SAPOL - interview proceeds without parent/guardian informed</p>	<p>Where there are concerns that one or both of the parents/guardians may influence the child or young person, that risk to the child or young person may be elevated by informing the parent/guardian or it is not otherwise possible or practicable to seek the consent of a parent or guardian.</p>

Child/young person being interviewed/assessed	When	By who	Authority/who may consent	When (note: this is not a definitive list. Please seek legal advice if unclear.)
Forensic medical examination or assessment of an infant, child or young person and/or toxicology screening				
Children and young people under 16 years of age	Allegations of sexual harm	CPS or PFMS	Closest available next of kin of the child or young person provides consent (s8, <i>Criminal Law (Forensic Procedures) Act 2007</i> )	Closest available next of kin (who is not the alleged perpetrator) voluntarily consents to assessment and screening. Closest available next of kin is (in order of priority where the person is not a protected person under the <i>Criminal Law (Forensic Procedures) Act 2007</i> ): <ul style="list-style-type: none"> <li>&gt; parent of the child</li> <li>&gt; adult brother or sister of the child</li> <li>&gt; a guardian of the child.</li> </ul>
			Senior Police Officer by instrument in writing (s9, <i>Criminal Law (Forensic Procedures) Act 2007</i> )	Where the Senior Police Officer is satisfied that: <ul style="list-style-type: none"> <li>&gt; it is impracticable or inappropriate to obtain consent to the procedure from the closest available next of kin: <ul style="list-style-type: none"> <li>- because of the difficulty of locating or contacting that person, or</li> <li>- because that person, or a person related to or associated with him or her, is under suspicion in relation to a criminal offence, and</li> </ul> </li> <li>&gt; the carrying out of the procedure is justified in the circumstances of the case.</li> </ul>
			Chief Executive, DCP directs examination or assessment (s35 CYPS Act)	Where at least one of the circumstances listed in section 35(1)(a) to (d) of the CYPS Act apply and the parents/carers are absent, refuse consent or it is not safe or appropriate to seek their consent.*

Children and young people under 18 years of age	Suspicious and/or unexplained injury and/or presentations of severe neglect	CPS or PFMS	Young person (16 – 18 years of age) provides consent (s8, <i>Criminal Law (Forensic Procedures) Act 2007</i> )	Where the young person is able to provide informed consent. Consent can be in writing, verbal, or by some other unequivocal indication of consent.  (If the young person is not physically or mentally capable of understanding the nature and consequences of a forensic procedure, their closest available next of kin may provide consent).
			Closest available next of kin of the child or young person (who is less than 16 years of age) (s8, <i>Criminal Law (Forensic Procedures) Act 2007</i> )	Closest available next of kin (who is not the alleged perpetrator) voluntarily consents to assessment and screening. Closest available next of kin is (in order of priority where the person is not a protected person under the <i>Criminal Law (Forensic Procedures) Act 2007</i> ): <ul style="list-style-type: none"> <li>&gt; parent of the child</li> <li>&gt; adult sibling of the child</li> <li>&gt; a guardian of the child.</li> </ul>
			Senior Police Officer by instrument in writing (s9, <i>Criminal Law (Forensic Procedures) Act 2007</i> )	Where a child or young person is under 16 years of age (or 16 – 18 years of age but not physically or mentally capable of understanding the nature and consequences of a forensic procedure) and the Senior Police Officer is satisfied that: <ul style="list-style-type: none"> <li>&gt; it is impracticable or inappropriate to obtain consent to the procedure from the relevant person (closest available next of kin) <ul style="list-style-type: none"> <li>- because of the difficulty of locating or contacting that person, or</li> <li>- because that person, or a person related to or associated with him or her, is under suspicion in relation to a criminal offence, and</li> </ul> </li> <li>&gt; the carrying out of the procedure is justified in the circumstances of the case.</li> </ul>

			Chief Executive, DCP directs examination or assessment (s35 CYPS Act)	Where at least one of the circumstances listed in section 35(1)(a) to (d) of the CYPS Act apply and the parents/carers are absent, refuse consent or it is not safe or appropriate to seek their consent.*
Children and young people between 16– 18 years of age	Allegations of sexual harm	Yarrow Place rape and Sexual Assault Service	Young person (16 – 18 years of age) provides consent (s8, <i>Criminal Law (Forensic Procedures) Act 2007</i> )	Where the young person is able to provide informed consent. Consent can be in writing, verbal, or by some other unequivocal indication of consent.  (If the young person is not physically or mentally capable of understanding the nature and consequences of a forensic procedure, their closest available next of kin may provide consent).
			Closest available next of kin (s8, <i>Criminal Law (Forensic Procedures) Act 2007</i> )	Where the young person is not physically or mentally capable of understanding the nature and consequences of a forensic procedure.
			Senior Police Officer by instrument in writing, (s9, <i>Criminal Law (Forensic Procedures) Act 2007</i> )	A Senior Police Officer may authorise the carrying out of a forensic procedure on a 'Protected Person' if the police officer is satisfied that: <ul style="list-style-type: none"> <li>&gt; it is impracticable or inappropriate to obtain consent to the procedure from the closest available next of kin <ul style="list-style-type: none"> <li>- because of the difficulty of locating or contacting that person, or</li> <li>- because that person, or a person related to or associated with him or her, is under suspicion in relation to a criminal offence, and</li> </ul> </li> <li>&gt; the carrying out of the procedure is justified in the circumstances of the case.</li> </ul> <p>A protected person includes a person physically or mentally incapable of understanding the nature and consequences of a forensic procedure.</p>

\*note: while section 35 can be used to direct examination and assessment, it cannot be used to provide consent to a medical assessment under the Criminal Law (Forensic Procedures) Act 2007. Where the child or young person is under the guardianship of the Chief Executive, DCP, the Chief Executive may consent. Where the child or young person is not under guardianship, it is a matter for PFMS or CPS to determine the manner in which they are willing to accept consent (in line with any relevant legislation) to undertake the procedure.

Child/young person being interviewed/assessed	When	By who	Authority/who may consent	When (note: this is not a definitive list. Please seek legal advice if unclear.)
Health examination, assessment or treatment (non-forensic) (including paediatric health assessment)				
Children and young people between 0 – 18 years of age	DCP Chief Executive or SAPOL is of the opinion that it is necessary or desirable that a child or young person to whom this section applies be professionally examined or assessed	An appropriate health service /provider	Young person 16 – 18 years of age	Where the young person is able to provide informed consent.
			Parent/guardian	Where parent or guardian provides informed consent and is willing and able to cooperate with DCP.
			CE, DCP directs examination or assessment (s35, CYPS Act)	Where at least one of the circumstances listed in section 35(1)(a) to (d) of the CYPS Act apply and the parents, guardians or carers are absent, refuse consent or it is not safe or appropriate to seek their consent.
			Court order (s53, CYPS Act)	The child or young person is not under the guardianship of the Chief Executive and the Youth Court makes an order requiring examination or assessment.
			CE/DCP makes arrangements for the professional examination, assessment or treatment of a child or young person (s84(g))	Where the child or young person is under the guardianship or custody of the Chief Executive.

### Assessments relating to parents, guardians and others

Person being interviewed/assessed	When	By who	Authority/who may consent	When (note: this is not a definitive list. Please seek legal advice if unclear.)
Parenting capacity assessments				
Parents and carers of infants, children and adolescents between 0 – 18 years of age	Assess the viability of reunification and/or wellbeing of children and young people in the care of their parents, guardians or other person where DCP is concerned a child or young person is at risk	CPS DCP	Parent, guardian or other person	Parent, guardian or other person voluntarily consents to parenting capacity assessment.
			CE, DCP directs parenting capacity assessment (s36, CYPS Act)	Parent, guardian or other person does not provide consent to an assessment and CE, DCP issues a direction requiring them to submit to an approved parenting capacity assessment.
			Court order (s53, CYPS Act)	The Youth Court makes order requiring a parent, guardian or other person to undergo a parenting capacity assessment.
Alcohol and other drug assessments				
Parents and carers of infants, children and adolescents between 0 – 18 years of age	Reasonable suspicion that a child or young person is at risk as a result of the abuse of a drug or alcohol (or both) by a parent, guardian or other person	SA Health – DASSA  Other approved provider	Parent, guardian or carer/other person	Parent, guardian or other person voluntarily consents to alcohol and other drug assessment.
			CE, DCP directs alcohol and other drug assessment (s36, CYPS Act)	Parent, guardian or other person does not provide consent to alcohol and other drug assessment and CE, DCP issues a direction requiring them to submit to an approved alcohol and other drug assessment.
			Court order (s53, CYPS Act)	The Youth Court makes order requiring the parent, guardian or other person to undergo an alcohol and other drug assessment.

Alcohol and other drug testing				
Parents and carers of infants, children and adolescents between 0 – 18 years of age	When a parent, guardian or other person’s alcohol or other drug use may be impacting on the safety and wellbeing of their child	Approved provider	Parent, guardian or carer/other person	Parent, guardian or other person voluntarily consents to alcohol and other drug testing.
			CE, DCP directs random alcohol and other drug testing (s37, CYPS Act)	Parent, guardian or other person does not provide consent to alcohol and other drug testing and CE, DCP issues a direction requiring them to submit to testing.

## Appendix 5: Other agency or organisation roles

Agency	Investigation and/or prosecution role	Strategy discussion (SD) involvement	Prescribed interviews of children/young people	Forensic medical assessment of children	Counselling/therapy or other support to children/young people and/or protective parent
CAMHS	No	May participate  Will provide relevant background information if engaged with child/family and based on providing a service in a remote community	No	No	Yes  Priority mental health assessments and therapy to infants, children and young people up to 18 who have experienced harm and as a result have been placed under the guardianship or in the custody of the Chief Executive as a priority.  Mental health assessments and therapy to children and young people involved in youth justice services including the Adelaide Youth Training Centre.  Counselling/therapy for children and young people exhibiting problem sexual behaviours CAMHS works with the child/young person, their family, carers and/or guardians in partnership with all other agencies around the child or young person.
Yarrow Place	No	May participate  Will provide relevant background information if engaged with child/family	No	Yes Refer to <a href="#">Appendix 4</a>	Yes  Counselling and court preparation services to people 16 years and older who have experienced a sexual assault.  Significant other counselling for family or friends who are affected by the sexual assault.

Agency	Investigation and/or prosecution role	Strategy discussion (SD) involvement	Prescribed interviews of children/young people	Forensic medical assessment of children	Counselling/therapy or other support to children/young people and/or protective parent
CaFHS	No	May participate Will provide relevant background information if providing a service to infant/child/family	No	No	No
NPY Women's Council	No	May participate As an Aboriginal Community Controlled Organisation NPYWC will often hold holistic background information if engaged currently or historically with a child/young person/family through service delivery.	No	No	Yes Case management, education and support may be provided by a variety of services including the Child and Family Wellbeing Service (Child Nutrition, Walytjapiti - Intensive Family Support Service or Child Advocacy), Youth Services, Domestic and Family Violence Services or the Tjungu team (Aged Care and Disability).
SA Housing Authority	No	May participate Will provide relevant background information if child/young person/family are SAHA clients including extreme squalor is a feature of the circumstance.	No	No	No

Agency	Investigation and/or prosecution role	Strategy discussion (SD) involvement	Prescribed interviews of children/young people	Forensic medical assessment of children	Counselling/therapy or other support to children/young people and/or protective parent
Nganampa Health Service	No	May participate Will provide relevant background information if engaged with the child/family currently or historically.	No	No	Yes Will facilitate specialist assessment and interventions for mothers and other carers with infants and young children requiring nutritional and developmental support.
Child and Family Support Services	No	May participate Will provide relevant background information if engaged with the child/family currently or historically.	No	No	Yes Intensive Family Support.

## Appendix 6:

# Issues specific to the Education Sectors

### Informing the education sectors

SAPOL must alert the relevant education sector of concerns received in a report/notification to DCP (refer to [Section 2](#)) where the alleged perpetrator is a person who works or volunteers at a school (government or private), early education service or out-of-school hours care. This applies to extra-familial matters, and intra-familial matters where the information indicates a criminal offence may have been committed.

When a person who works or volunteers at a school (government or private), early education service or out-of-school hours care is under suspicion of sexual offending and is being investigated by police and/or has been reported or arrested, the relevant education sector must be notified as soon as practicable. The Public Protection Branch (PPB) is responsible for notifying the relevant education service. The investigating officer must provide the following information direct to PPB before completing duty. The information should be emailed to SAPOL: SCIB SCHOOL SEXUAL OFFENCE NOTIFICATION.

When informing the relevant sector, SAPOL advice must provide (where available):

- > the name, date of birth and address of the person who has been apprehended for offences by way of arrest or report
- > details of the offences for which the person has been apprehended as set out in the charge sequencing report
- > the conditions upon which the accused person has been bailed by police or the courts after being arrested, or upon appearing in court after being summoned on the basis of a police report
- > the court bailed to and the date of the first court appearance
- > the school or schools involved

- > whether there is a reasonable suspicion that there might be other victims
- > whether there are any complicating factors that would affect disclosure to parents
- > the contact details of the investigating officer
- > whether the offence is a major indictable offence, a minor indictable or a summary offence.
- > if apprehended for a class 1 or 2 offence prescribed under the *Child Sex Offenders Registration Act 2006* (the 'Act'), confirmation that the accused person has been served a notice under section 65(A) of the Act
- > if served with an intervention order, any conditions in relation to any communication or facilities the accused person is not to approach or attend.

In addition to informing the relevant education sector, SAPOL will inform the Education Standards Board where an allegation relates to a person who provides early childhood services or out of school hours care.

SAPOL and the DPP are also responsible for informing the Teacher's Registration Board of allegations that raise serious concerns about a person's fitness to be, or continue to be, registered as a teacher via separate protocols established pursuant to section 51 of the [Teachers Registration and Standards Act 2004](#).

### Interviewing children and young people at an education facility

For guidance relating to interviewing children and young people in educational settings and ensuring they are appropriately supported, refer to [Section 4](#).

## Actions following SAPOL advice

Having paramount regard for the safety of all children and young people who have had, or may have contact, with the employee, the relevant education sector will:

- > conduct an immediate risk assessment to determine whether the employee may pose a risk to children and young people if they remain in a student site while the investigation is being conducted
- > negotiate with SAPOL to determine when it is appropriate to inform an employee that an allegation has been made against them to avoid the risk of contaminating evidence as per the [Managing allegations of sexual misconduct in SA education and care settings guideline](#).

In accordance with the principle of causing minimal disruption to a school community, it is preferable that, whenever possible, SAPOL interview and/or arrest employees out of the work environment.

If the investigation is a large-scale operation, the management of the investigation will be planned through discussion between the SAPOL supervisor and the relevant education sector.

## Education and early childhood sector contacts

### Department for Education

Intake and assessment officer Ph: 8226 1604

Case Manager Ph: 8226 1840

Email: [Education.IMDIntake@sa.gov.au](mailto:Education.IMDIntake@sa.gov.au)

### Catholic Education SA

Assistant director, People, Leadership and Culture

Ph: 8301 6600

Email: [reports.ia@cesa.catholic.edu.au](mailto:reports.ia@cesa.catholic.edu.au)

### Association of Independent Schools of SA (AISSA)

The principal of the independent school concerned or the chief executive/deputy chief executive AISSA

Ph: 8179 1400 or Fax 8373 1116

### Education Standards Board of SA

Ph: 8226 0077

Email: [educationstandardsboard@sa.gov.au](mailto:educationstandardsboard@sa.gov.au)

### Teachers Registration Board (TRB) of South Australia Legal Unit

Ph: 8226 5984

Email: [info@trb.sa.edu.au](mailto:info@trb.sa.edu.au)

## Appendix 7:

# List of acronyms

AISSA	Association of Independent Schools of South Australia
CAMHS	Child and Adolescent Mental Health Service
CAFHS	Child and Family Health Service
CCMU	Care Concerns Management Unit (DCP)
CESA	Catholic Education South Australia
CFIS	Child and Family Investigation Section (SAPOL)
CPS	Child Protection Services (NAHLN, SAHLN and WCHN)
CSO	Crown Solicitor's Office
DCP	Department for Child Protection
DCS	Department for Correctional Services
DE	Department for Education
DHS	Department of Human Services
DPP	Office of the Director of Public Prosecutions
ESB	Education Standards Board
FCFCOA	Federal Circuit and Family Court of Australia
ICP	Interagency Code of Practice
ICAC	Independent Commission Against Corruption
ISG	Information Sharing Guidelines
LGBTIQ+	Lesbian, Gay, Bisexual, Transgender, Intersex, Queer, Asexual
MAPS	Multi Agency Protection Services
NALHN	Northern Adelaide Local Health Network
NDIS	National Disability Insurance Scheme
NPYWC	Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council
OPI	Office for Public Integrity
OSHC	Out of school hours care
PFMS	Paediatric Forensic Medical Service
PPB	Public Protection Branch (SAPOL)
SALHN	Southern Adelaide Local Health Network
SAPOL	South Australia Police
VMT	Victim Management Team (SAPOL)
WAS	Witness Assistance Service (DPP)
WCHN	Women's and Children's Health Network

## Revision Record

Date	Version	Revision description
2001	1.0	First publication
June 2009	2.0	Inserted operating principles and philosophies of the related agencies into a single document Inclusion of the Information Sharing Guidelines Inclusion of <i>Criminal Law (Forensic Procedures) Act 2007</i>
August 2013	3.0	Amendments to agency names and re organisation through Machinery of Government Inclusion of recommendations from key inquiries Amendments to protocols between SAPOL and Education
July 2016	4.0	Branding, style Incorporation of APY Lands Protocols Strategy discussion and outcomes record Inclusion of additional appendices
November 2021	5.0	Inclusion of amendments to legislation and related changes to practice Amendments to remove duplicated content and provide clarity Amendments to agency names
June 2022	5.1	Inclusion of updates to relevant legislation (including <i>Statutes Amendment (Child Sexual Abuse) Act 2021</i> ) Minor updates to Appendix 2 and 6
January 2023	5.2	Minor amendment to legislative reference for criminal neglect under the <i>Criminal Law Consolidation Act 1935</i>
May 2024	5.3	Minor amendment to include references to PFMS
May 2025	6.0	Full review of ICP in accordance with policy review cycle

July 2025	6.1	Minor amendment to correct references in Appendix 4.
September 2025	6.2	Minor amendments to content regarding Fabricated and Induced Illness (FII).