

October 2007

## **FACT SHEET: CHILDREN - CARE & PROTECTION OF CHILDREN & YOUNG PEOPLE**

### **Protection of Children in NSW**

The Department of Community Services (DoCS) is the government department responsible for responding to children at *risk of harm* and/or *in need of protection*.

#### ***At risk of Harm***

A child is considered to be *at risk of harm* if there are concerns for their safety, welfare or well-being for any of the following reasons:

- the child's basic physical & psychological needs are not being met or are at risk of not being met;
- necessary medical treatment is not being arranged for them;
- they have been or are at risk of physical or sexual abuse or ill-treatment;
- they are living in a situation of domestic violence and are at risk of serious physical or psychological harm; or
- parent or caregiver has behaved in such a way towards the child that they have suffered or are at risk of suffering serious psychological harm.

#### ***In need of Protection***

A child is considered to be in need of protection if some form of intervention in the family is necessary due to a risk of harm to the child.

### **Seeking Assistance from DoCS**

#### ***Who can seek assistance?***

- a child may seek assistance for any reason;
- a parent may seek assistance for services that will enable a child to remain in or return to the care of their family;
- a parent, child or any other person may seek assistance from DOCS where:
  - there is serious & persistent conflict between the parent & child to such an extent that the child's safety, welfare & wellbeing are in jeopardy; or
  - if the parent are unable to provide adequate supervision for the child to such an extent that their safety, welfare & wellbeing are in jeopardy.

#### ***What can DoCS do?***

DoCS must provide whatever advice or material assistance (e.g referrals) necessary to safeguard or promoted the safety, welfare & wellbeing of the child.

DoCS may provide advice or assistance that may be necessary to resolve any conflict, ensure children are adequately supervised or enable the family to have access to appropriate services.

## **Reporting a Child at Risk of Harm**

Anyone who has reasonable grounds for suspecting that a child is at risk of harm may make a report to DoCS. Mandatory reporting requirements extend to all paid workers who are responsible for delivering to children:

- healthcare & welfare services;
- education & children's services;
- residential services;
- law enforcement.

## **What happens after a child is reported to DoCS?**

DoCS must determine whether it is necessary to investigate the report or not. If DoCS investigates & decides the child is in need of care & protection the Director-General may take any action deemed necessary to safeguard or protect the safety, welfare or well being of the child. Action taken may include:

- arranging for provision of support services for the child and/or family;
- develop a care plan that may or may not be registered with the Children's Court;
- develop a parental responsibility contract;
- exercise emergency protection powers to remove child;
- make care application to Children's Court.

### ***Principles to be Applied***

In determining an appropriate response to a report, DoCS is required to have regard to the following principles:

- the immediate safety, welfare & well-being of the child or young person and any other child or young person in that persons usual residential setting must be given paramount consideration;
- any action must be appropriate to the age of the child, any disability of the child or family member;
- circumstances, language, religion & cultural background of the family;
- removal of child may only occur where it is necessary to protect child from risk of serious harm.

### ***Consideration of Alternative Dispute Resolution (ADR)***

When responding to a report, DoCS should consider the appropriateness of using ADR (e.g. mediation) to seek early resolution of the problem, reduce the likelihood of having to make a care application, to reduce the incidence of breakdown in adolescent/parent relationships and, if an application for a care order is made, to work towards consent orders. While attendance at a preliminary court conference is mandatory, participation in all other forms of ADR is voluntary.

## **What type of arrangements may be made?**

If DoCS believes a child is in need of care and protection they may order any of the following:

- ***Temporary Care Arrangement***: removing children for no longer than 3 months. This can only be made with consent of parents.
- ***Care Plan***: setting out steps to be taken by family to resolve concerns about child's safety and welfare.
- ***Parental Responsibility Contract***: an agreement between DoCS and primary caregivers of child. It contains provisions for improving caregiver's parenting skills. The parental responsibility contract must be registered with the Children's Court. There may be serious consequences if the contract is breached.
- ***remove child***: either by obtaining a warrant (if child in immediate risk a warrant may not be necessary) or by making care application at Children's Court.

## **Contacts**

**Department of Community Services: 132 111**

*Disclaimer: This fact sheet provides general information and does not provide legal advice. If you have a legal issue, you should contact a lawyer before making a decision about what to do or applying to a court.*