

Attachment 18

- b. **With which agencies or authorities does your agency exchange information about these reports?**

Youth Care Policies & Procedures Manual Section 4.5: Page 370-374 [Attachment 18]

If the complaint is made against an Authorised Carer by a child or young person, and the complaint after investigation is found to be unfounded:

- Mediation is to be offered if required, to the child or young person and Authorised Carer to discuss the effects of the investigation processes.
- The Case Worker is required to support the ongoing relationship between the child or young person and Authorised Carer.

The relationship is to be closely monitored by:

- Informal interviews
- Feedback requests

The relationship is to be maintained whenever possible to ensure a continuity of care in the child or young person's life.

All following discussions should be held in a comfortable setting and be non-judgemental or accusatory.

Tier 3: External review

Notify the Helpline - Community Services

- Notification of the NSW Ombudsman, which will occur immediately an allegation, is received.

Commission for Children and Young People

- In line with the provisions of the Children's and Young Persons Act the PROGRAM MANAGER of UPA NSW is responsible for notifying the Commission for Children and Young People of the relevant employment proceeding.

Relevant Employment Proceeding:

- Relevant Employee Proceedings include the application of inappropriate and/or unapproved behaviour management techniques/strategies. Examples:
- Grappling a child or young person to the ground and holding them there pinned under your body;
- Any strictly restricted practice i.e. locking in room;
- Pinning a child or young person's arm behind their back;

and

- Depriving the child or young person of food.

The following conduct is reportable:

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- Any sexual offence, or sexual misconduct, committed against, with, or in the presence of, a child;
- Any child pornography offence or misconduct involving child pornography;
- Any child related personal violence offence;
- An offence of filming for indecent purposes committed against, with or in the presence of, a child under section 21G or 21H of the Summary Offences Act 1988;
- Any assault, ill-treatment or neglect of a child;
- Any behaviour that causes psychological harm to a child, whether or not the child consents;
- An act of violence committed by an employee in the course of employment and in the presence of a child has occurred;
- There is some evidence that reportable conduct or an act of violence occurred, however the finding is inconclusive or there is insufficient evidence.

The following is not reportable conduct:

- When investigations have found that the alleged reportable conduct or act of violence did not occur; or
- The allegations were proved to be false, vexatious or misconceived.
- Completion of an employment proceeding

Notification needs to be made on completion of the proceeding. An employment proceeding is considered completed when:

- the investigation has been undertaken;
- the investigation has ended, either because you have enough information or are unable to get enough information;
- a finding is made on the basis of the investigation; and
- a decision is made as to the disciplinary action, if any, that should be taken.

What Reportable Conduct does not include:

- Conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant professional standards;
- Conduct that is exempted for notification by a class or kind agreement under the guidelines of the Commission for Children and Young People;
- The use of physical force that, in all circumstances, is trivial or negligible, but only if the employer is an agency to which Part 3A of the Ombudsman Act 1974 applies and the matter is to be investigated and the result of the investigation recorded under workplace employment procedures. Youth Care UPA is a non-government agency – as defined in Part 3A of the Ombudsman Act 1974.

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Examples of behaviours that are not reportable conduct which are relevant to our industry include:

- Touching a non-intimate part of child's body to attract a child's attention, to guide or to comfort a child;
- Raising your voice to attract the attention of the child or to regain control of the environment;
- Accidental conduct or touch;
- Providing medical care to a child who is hurt;
- The use of reasonable force to disarm a child seeking to harm themselves or another;
- Not acting in response to a situation, such as a physical fight between children, where an employee's own safety may be put at risk;
- Not providing supervision where this was for a good reason and in a low risk situation; and

Trivial or Negligible use of Physical Force

Trivial or negligible use of physical force which is not significant enough to cause concern for or harm to, a child. It may be ordinary, although intentional, use of force, such as forcing a child to move when they refuse. Force that may be trivial for a fifteen year old may not be trivial for a twelve year old. Matters, which relate to the use of trivial or negligible use of force will need to be considered on an individual basis.

Any allegation made which concerns the use of trivial or negligible use of physical force must be investigated by the relevant Service Coordinator and or Program Manager. If this occurs the investigation must be recorded on the staff members personnel file and must be completed in line with investigation procedures associated with reportable conduct processes.

Notification

There are two types of classification when making notifications:

Category 1:

Trigger an estimate of risk if the person has a Working with Children Background.

Investigation has found reportable conduct, an act of violence or some evidence that reportable conduct or an act of violence occurred, however the finding is inconclusive and you think the conduct should be considered in an estimate of risk when a person next seeks child related employment.

Category 2:

Are considered in an estimate of risk if there are other relevant records for the person and if you feel the matter should be considered in an estimate of risk when the person next seeks child-related employment.

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The process for notification is as follows:

- Complete the 'Relevant Employment Proceedings Notification' form = Attachment 6.8
- Submit to the Commission within one month of completing the relevant employment proceeding.
- Complete the 'Relevant Employment Proceedings Summary' form = Attachment 6.9 (keep this the investigation file).
- Inform the employee that notification has been made by completing the 'Relevant Employment Proceedings Employee Advisory Letter' = Attachment 6.10

Freedom of Information

If an employee/carer requests access to the documentation on the investigation and relevant employment proceedings the relevant Case Worker must inform the Program Manager.

Unsubstantiated Allegations

If an allegation is not able to be substantiated the child or young person's Youth Care UPA Case Worker must immediately:

- Organise a meeting with the child or child or young person– in a quiet, private, comfortable venue;
- Inform them why the allegation was unable to be substantiated;
- Spend as much time as they need discussing the process and how they feel about the outcome – not necessarily all in one sitting;
- Offer additional supports (i.e. more time, external counselling etc);
- Remind them of their right to appeal or seek assistance from alternate organisations;
- Document the interaction;
- Complaints influencing Policy and Procedure development

The staff member handling the complaint must record the complaint on the 'Complaints Summary' and provide a summarised non-identifying record for evaluation and review purposes.

Responsibility:

Program Manager / Service Coordinator

Case Workers

Children and young persons

The young person's family members

Carer/s

Community Services

Relevant Professionals

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Policy Relating to the Procedure: Yes

Related Documents: Rights, Confidentiality And Complaints:

Policy 4.0 Rights of children, children and young persons and families

Policy 4.1 Confidentiality and privacy

Policy 4.2 Placement Disclosure Information