

REPORTING OBLIGATIONS IN THE NORTHERN TERRITORY

Care and Protection of Children Act (NT), ss. 15, 16, 26

Taking Calls Concerning Abuse Matters

1. Names of the elders calling and from what congregation?
 2. Names of the alleged victim/s?
 - Age now?
 - Age at time of alleged offence?
 - Spiritual status – (baptised/unbaptised/unbaptised pub/nonJW)?
 3. Name of the alleged perpetrator?
 - Age now?
 - Age at time of alleged offence?
 - Spiritual status – (baptised/unbaptised/unbaptised pub/nonJW)?
 - Date of offence – (recent or if historical approx. year/s)?
 - Does alleged perpetrator presently have access to children?
 - Relationship to the alleged victim?
 4. In what State or Territory did the alleged abuse occur?
 5. Who reported the matter to the elders?
 6. Has this matter been, or will be, reported to the police or other authorities?
 7. If the victim is still a child (under 18), is he/she still in danger? If so, the Service Department will provide necessary direction to ensure the child's protection.
 8. If the victim is still under 18, the mandatory reporting obligations must be carefully considered. In ***virtually every instance***, ask the elders to take no further action until the office calls them back with needed direction.
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9. Obtain legal advice from solicitor concerning this matter.
 10. Irrespective of the legal advice, advise the elders to pass on the following information to the victim, if he/she is an adult, or the child's parent/s if the victim is still a minor:

“Even though you have reported this matter to the elders, you have the absolute right to report this matter to the authorities if you want to and the elders will support you in whatever decision you make.”
 11. Transfer the elders to the Service Department.
 12. If matter has been or will be reported to the authorities, the elders need to ensure that their actions do not interfere with any police investigation.

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General position:

- A child is someone under the age of 18 years.¹ The age of consent is 16 years.²
- An adult who has a *special care relationship* commits an offence if he/she has intercourse or commits and act of gross indecency with a child over 16.³
- The previous requirement to report “has been or is likely to be a victim of a sexual offence” has been replaced for children over 14 with “a child has suffered or is likely to suffer harm or exploitation”. For a child under 14, the phrase “has been or is likely to be a victim of a sexual offence” has been retained.
- With health practitioners, “If assessment of the young person [over 14] clearly identifies that the sexual activity is between developmentally normal peers aged within two years of each other, and is consensual, a report is not required.”⁴
- However, such practitioners have a responsibility to report if they believe that a child aged 14 or 15 has been or is likely to be a victim of a sexual offence and the age difference between the child and the offender is more than 2 years.⁵

Reporting obligation:

The obligation to report abuse applies to everyone in the NT and falls under 3 separate categories for non-health practitioners.⁶ If person *believes on reasonable grounds* that:

1. A *child* over 14 but under 18 has suffered or is likely to suffer harm or exploitation.⁷
2. A *child* under 14 years has been or is likely to be a victim of a sexual offence.⁸
3. A *child* 16-17 years old has been in a sexual relationship with someone who has a special care relationship with the child.⁹

Analysing calls about abuse:

- Person *believes on reasonable grounds* a *child* between 14-18 years has suffered or is likely to suffer *harm or sexual exploitation* — Matter must be reported.
- Person *does not believe* that a *child* between 14-18 years is at risk of *harm or sexual exploitation* — No need to report matter.
- Person *believes on reasonable grounds* that a *child* is under 14 years has been or is likely to be a victim of a *sexual offence* — Matter must be reported.
- Person *believes on reasonable grounds* that a *child* 16-18 has been or is likely to be a victim of a sexual offence with someone who has a *special care relationship* over the child — Matter must be reported.

How to Report:

- Notification can be made to the police,¹⁰ or by calling the Child Abuse Hotline 1800700250 (operated by Territories Families, Central Intake Team) or Crime Stoppers 1800333000.

¹ *Care and Protection of Children Act, s.13.*

² *Criminal Code Act NT, s.127.*

³ *Criminal Code Act NT, s.128.*

⁴ *Under Age Sexual Activity*, NT Dept of Health and Families, paragraph 4.2.3.

⁵ *Care and Protection of Children Act, s.26(2); RAHC, p.2. See attached flowchart.*

⁶ *Care and Protection of Children Act, s.26(1)(a)(i), (ii) and (iii). See attached flowchart.*

⁷ *Care and Protection of Children Act, ss.15, 16. Harm to child* is any significant detrimental effect caused by an act, omission or circumstance on the physical, psychological or emotional wellbeing or emotional development of the child. *Exploitation of child* includes sexual and any other forms of exploitation of a child. Sexual exploitation of a child includes sexual abuse and includes involving the child as a participant or spectator in an act of a sexual nature, prostitution, a pornographic performance.

⁸ *Sexual offence*. See *Care and Protection of Children Act, s.13; RAHC, p. 2. See also Criminal Code Act NT s.127*. Anyone who has sexual inter-course with or commits and act of gross indecency upon a child under 16 commits a sexual offence.

⁹ *Care and Protection of Children Act s.26(a)(iii)*. A victim under s.128 of the *Criminal Code* is a child between 16-18 who is and under *the offender's special care*. This includes step-parents, guardians, foster carers, school teachers, person providing religious, sporting, work or musical tuition, correctional services and health professionals.

¹⁰ *Care and Protection of Children Act, s.26(1)(b).*