Abuse in care allegations – Out of Home Care Provider case managed

Direction to staff

This document provides instructional information for Child and Youth Protection Services (CYPS) to conduct its business. All staff must comply with it.

Note: Unless otherwise indicated, the term 'child' or 'children' also refers to 'young person' or 'young people'. The term 'children in care' refers to 'children in out of home care'.

Summary of main points

This document outlines how to:

- respond to an allegation of abuse in care
- conduct an appraisal of an allegation of abuse in care
- share information in the context of abuse in care
- respond to an allegation of abuse in care that is also reportable conduct

Purpose of this document

This procedure outlines the process for responding to an 'abuse in care' allegation involving a child or young person case managed by an Out of Home Care (OOHC) Provider (i.e. ACT Together). This includes children and young people in:

- long term kinship care
- foster care
- residential care

This procedure is applicable when allegations relate to an approved out of home carer or staff employed by residential care providers.

This procedure defines the collaboration which will occur between CYPS and an OOHC Provider when assessing allegations of abuse in care.

Scope

This procedure applies to all staff within CYPS who are responsible for receiving information about the suspected abuse and/or neglect (including reportable conduct) of children and young people.

This procedure also applies to OOHC Provider staff who provide case management to children and young people in care.

This procedure does **not** relate to children or young people who are subject to Enduring Parental Responsibility (EPR) provisions or adoption orders, as the Director-General does not hold parental responsibility. In these circumstances, standard Intake procedures will be followed.

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Relevant policy

This procedure upholds the principles of the *Children and Young People Act 2008*, as well as the intake and appraisal policies and associated procedures. It is to be read in conjunction with the documents listed in the below section 'Related materials'.

When to perform this procedure

This procedure will be enacted when CYPS receives an allegation of the abuse and/or neglect involving a child in care case managed by an OOHC Provider. It reflects current CYPS intake and appraisal procedures and associated delegations.

Staff must be mindful that allegations of abuse in care may also be in scope of section 507 of the *Children and Young People Act 2008* (the Act) criteria and the ACT Reportable Conduct Scheme (see the 'Reportable conduct allegations' procedure).

Procedures

There are 12 key steps in responding to abuse in care allegations:

1. Record the allegations of abuse in care
2. Conduct a Child Concern Report Risk Assessment
3. Develop a Child Concern Report Action Plan
4. Conduct a Child Protection Risk Assessment
5. Develop a Child Protection Report Action Plan
6. Determine if section 507 criteria are met
7. Determine if reportable conduct criteria are met
8. Determine if adverse event criteria is met
9. Conduct the appraisal
10. Finalise the appraisal
11. Review carer approval following the appraisal
12. Referral for independent legal advice

Step 1 – Record the allegation of abuse in care

Any allegation of suspected abuse and/or neglect, or significant risk of abuse and/or neglect, involving a child in an approved out of home care placement is an 'abuse in care' allegation. A subset of these will also meet section 507 and/or reportable conduct criteria.

When information regarding allegations of abuse in care is received, CYPS **staff** will:

1. Record the information as a Child Concern Report (CCR) using the Intake form, in line with the 'Child Concern Report' procedure and the Risk Assessment Framework
    - **CYPS case managers** will record the CCR when they have received the information directly.
    - **CYPS Intake** will record the CCR when information is received via phone, the Intake inbox or the online Child Concern Report portal.
2. Advise a team leader as soon as practicable that a CCR relating to suspected abuse and/or neglect in care has been received.

- The **team leader** will inform the relevant operations manager.

When a report is received about a child in care, CYPS **may** be required to complete an ACT Insurance Authority (ACTIA) form to protect the Territory against a future insurance claim. **CYPS Operational Compliance** are responsible for reporting matters regarding children in out of home care to ACTIA. See the 'Making a report to the ACT Insurance Authority' practice guide.

Note: For CCRs relating to children in approved interstate placements see the 'Abuse in care allegations – Child and Youth Protection Services case managed' procedure.

Step 2 – Conduct a Child Concern Report Risk Assessment

CYPS is required to conduct a risk assessment on all CCRs, in line with the 'Child Concern Report' procedure and Risk Assessment Framework. Where reports relate to abuse in care, this assessment must consider the increased vulnerability of a child who has already experienced trauma, as well as their attachment and placement history.

When responding to a CCR about an allegation of abuse in care, the primary responsibility of CYPS is to ensure the safety of the child.

Responsibility for conducting the CCR Risk Assessment lies with:

- If currently case managed by **CYPS**, the child's *existing* CYPS case manager will complete the assessment.
- If currently case managed by an **OOHC Provider**, CYPS Intake and the CYPS ACT Together Case Management Team will determine which CYPS case manager will complete the assessment.

The **CYPS case manager** allocated to conduct the CCR Risk Assessment is to:

1. Consider the safety of the placement including:
    a. What is the child's attachment to their carer/s and their placement history?
        i. If the child is in a residential care placement, the safety of the child and the risk to other children in the establishment will be the paramount consideration. The **operations manager** will contact the OOHC Provider to discuss the need for the residential worker to be suspended or moved during the course of CYPS assessment. Suspending or moving residential workers will be considered before disruption to the placement, though this decision will ultimately be the responsibility of the OOHC Provider as the employer.
    b. Does the significance of the allegation mean the child needs to be moved from the placement while an appraisal process takes place?

    The **Executive Branch Manager** is responsible for deciding if a child should be moved to an alternative care placement if the child has resided in their placement for more than six months, or it is a matter of urgency (see the Director's Instruction – Changes of placement). If a placement move is recommended, the **CYPS case manager** is to:

        i. Where possible, consult the OOHC Provider and the child's Care Team regarding a possible placement move. This may include convening a case conference.
        ii. Consult a senior manager if a placement move is recommended and discuss the feedback provided by the child's Care Team.
        iii. If the senior manager endorses the proposed placement change, submit a brief to the Executive Branch Manager to request a decision regarding a potential move for the child.

1. Contact the OOHC Provider to:
    a. Advise that a CCR has been received and discuss the allegations with the child's case manager from the OOHC Provider. The OOHC Provider case manager will have recent and relevant information about the child's care that needs to inform the risk assessment process.
    b. Discuss the needs of the child and the carer/s with the OOHC Provider case manager, in the context of a response to the CCR
    c. Confirm that the carer or residential worker will **not** be informed of the CCR if it is alleged the carer or worker is responsible for an act of abuse or neglect. Doing so may undermine the integrity of a future appraisal process or referral to the Sexual Assault and Child Abuse Team (SACAT).
    d. Advise the OOHC Provider not to speak to the child about the allegations during the CCR phase.
    e. Record all information provided by the OOHC Provider case manager (such as current knowledge about care placement, information about the child's progress in care and the carer or residential worker's caring capacity) on the Intake form as part of the CCR Risk Assessment.
    f. Confirm that CYPS will keep the OOHC Provider informed throughout the CCR process.
2. Conduct the CCR Risk Assessment:
    a. Review the child's history of previous involvement with CYPS and interstate child protection agencies to ensure an understanding of statutory involvement (not just current issues).
    b. Consider any other children alleged to be exposed to the same risk (or person).
    c. Review existing placement information available (i.e. CYPS client management system records, carer approval status, carer assessment information).
    d. Seek information from involved professionals (such as the child's school and support services) and the child's carer (only when the carer is **not** the alleged person believed responsible).
3. Determine if the allegations meet the legal threshold to proceed to a Child Protection Report (see the 'Child Concern Report' procedure)
    a. If the threshold is **not met**, appropriately record the risk assessment outcome and proceed to 'Step 3 – Develop a Child Concern Report Action Plan'.
    b. If the threshold **is met**, appropriately record the assessment outcome, upgrade to a Child Protection Report and proceed to 'Step 4 – Conduct a Child Protection Assessment'.
4. Ensure the information is recorded on the client management system.

Step 3 – Develop a Child Concern Report Action Plan

A CCR Action Plan will only be developed when a risk assessment has determined the legal threshold to record a Child Protection Report is **not** met.

Planning an appropriate response to the child or young person is a matter of professional judgement by the staff member who has conducted the Child Concern Report Risk Assessment. An Action Plan

may articulate one or several strategies for addressing a child or young person and their family's risks or needs.

The **CYPS case manager** may recommend one or more of the following actions on a CCR:

Action	Rationale/Description
Give advice to the intake source	Give advice to the intake source about the most appropriate response to the reported information. This might mean providing information about normal child development, suggesting strategies for managing a child's behaviour, a referral to other services, or advice that relates to addressing child and family needs (rather than risks).
Refer to ACT Policing, including to the Sexual Assault and Child Abuse Team (SACAT)	Allegations of a criminal offence against a child or young person should be referred to SACAT as soon as possible. The SACAT criteria includes: • sexual or non-accidental physical abuse, either recent or historical • physical neglect (excluding emotional neglect) • non-consensual sexual activity or other suspicion of abuse, coercion, exploitation, or there are questions about the capacity of one party to consent, either recent or historical • sexual activity where there is more than a two-year age gap between parties and at least one party is under 16 years • any of the above mentioned offences occurred in the ACT. Staff must complete the CCR Risk Assessment prior to referring the matter to SACAT (unless an urgent response is required) (see the 'Making a referral to Police including SACAT' procedure).
Referral to government or community-based services for advice and provision of support services to the child's family	Mainstream services may provide an appropriate response for a child or family – only where the CCR does not meet the CPR threshold. This referral will facilitate only a voluntary engagement of the child/parent/caregiver with a service. Staff should make an 'active' referral. Active referrals mean *actively* connecting the carer and child with recommended support services and not *passively* giving service names to follow-up themselves. This referral may include a request for the OOHC Provider to address any unmet needs in the child's care placement. These might include: • Low level parenting concerns • Non-serious and/or non-persistent conflict between the subject child and the carer of a verbal nature • A carer's need or request for increased support or respite • Behaviour management concerns in respect of the child. Please note: Referral to a government or community based service may only take place where the CCR does not indicate *risk* to a child, only *need* within the care environment. Only CYPS has the necessary legal authority to appraise an allegation of abuse or neglect.

Support Response	A Support Response is a voluntary process, where there is no perceived risk to the child or young person in the family home **other than that they pose to themselves**. CYPS may engage a child or young person and their family in a brief, solution-focussed, Support Response only in the following circumstances: Where a CCR indicates: • the allegations relate to self-harm by a child or young person and there is a carer willing (but not able) to protect them; OR • the allegations relate to risk-taking behaviour by a child or young person and there is a carer willing (but not able) to protect them; OR • the allegations relate to sexual abuse from one child to another child (i.e. under the age of 12 years), where there is a carer willing and able to protect BOTH children. A Support Response commences with the identification of goals for addressing need and support, including therapeutic intervention, developed in partnership with the family. A timeframe for achieving these goals should be agreed up-front and clearly recorded. A Support Response may include arrangement of a case conference (see below) to coordinate support for the family from all interested and/or relevant parties. A Support Response should be no more than three months in duration and may be superseded by a new CCR and appraisal action. Please note: a Support Response may only take place where the CCR does not indicate risk to a child, only need within the care environment.
Case conference	At this early phase of CYPS involvement a case conference can be about case planning or meeting to discuss a particular issue and develop an agreed way forward. It is important to include the most appropriate people at the most appropriate time to ensure the goals for the conference are met. A case conference may be held by staff in order to: • discuss a multi-agency response to a CCR or information; and/or • connect the child and family with appropriate early intervention community support services such as: maternal and child health (MACH) nurses, child care, respite care, parent education programs, family support workers, parent support workers, mediation or advocacy services, or drug and alcohol services. Case conferences may be arranged by staff or if special circumstances, with the support of the CYPS Case Conferencing team. **Record the case conference as a component of a Support Response if the CCR does not meet the CPR threshold.**

No further action following risk assessment	Staff may decide that no further action needs to be taken by CYPS following a risk assessment. This may be because: • there is no indication that a child may be at risk of abuse and/or neglect • the CCR Risk Assessment has determined that there is a carer or person with daily care responsibility (other than the Director-General) who is **willing** and **able** to provide for the child's care and protection • information from the intake source relates to a situation that does not pose any **current** risk to the child (such as information about a child being abused in the past by a person with whom they no longer have contact) • the intake source provides information about a child who may be at risk but cannot provide any identifying details about the child or family (neither a name nor an address is available) and therefore a CYPS response is not possible. **Staff must clearly record why there are no current risks to the child/ren and/or young person/s.**

◈ **Record of Decision**: *Clear recording of the decision about action on a Child Concern Report including rationale must be recorded on the Intake form*

Following the development of a CCR Action Plan, staff are to:

1. Record the recommended actions and rationale on the Intake form.
2. Submit the Action Plan to a team leader for endorsement or amendment.
3. Implement the endorsed actions in collaboration with the OOHC Provider case manager (if appropriate).
4. Close the CCR on the client management system once all relevant information has been recorded.

Step 4 – Conduct a Child Protection Report Risk Assessment

Where the outcome of a CCR indicates the legal threshold has been met – that is, CYPS 'suspects on reasonable grounds the child **may** be in need of care and protection' – the Act requires that the Director-General "decide that the child concern report is a child protection report" and record it as such.

All allegations of abuse in care proceed to a Child Protection Report (CPR) will be conducted in line with the 'Child Protection Report' procedure and the Risk Assessment Framework.

The **CYPS case manager** is to:

1. Request any further information required that was not requested at the CCR Risk Assessment stage
2. Consider if time or circumstances have changed the level of risk to the child since the CCR was received. It may be necessary to contact the reporter or the carer to clarify the present situation.
3. Consult with the OOHC Provider case manager to:

a. Request additional information (if necessary)

b. Confirm the OOHC Provider will **not** inform the carer or residential worker about the CPR if it is alleged that the carer or residential worker is responsible for the abuse or neglect as this may impact a future appraisal process

c. Advise them not to speak to the child unless it is an agreed action with CYPS staff.

4. Conduct the CPR Risk Assessment

    a. Where there is reasonable cause to believe that allegations of abuse or neglect have taken place, the importance of placement stability and the avoidance of trauma associated with placement disruption will be taken in to consideration

    b. Where the reported risk of abuse or neglect to the child is historic (such as when the information relates to abuse and/or neglect which took place before the child came into care), there *may* be no value to the child in formally appraising the report.

5. Provide a professional analysis of the consequences and the probability of future abuse and/or neglect. The analysis will inform the CPR Action Plan (see Step 5: Developing a Child Protection Report Action Plan).

6. Ensure the information is recorded on the client management system.

Step 5 – Develop a Child Protection Report Action Plan

An action plan will be developed for all CPRs. The action plan will outline the response necessary to **actively** address the child's unmet needs and findings of the CPR Risk Assessment. It will be developed in line with the 'Child Protection Report' procedure and the Risk Assessment Framework.

In developing the CPR Action Plan, the **CYPS case manager** is to:

1. Consider the safety of the placement. Maintain a clear focus on risk, but endeavour to maintain placement stability if possible to minimise the impact on the child of multiple placements and unplanned moves.

    a. If **maintaining** the placement is appropriate, develop a safety plan to mitigate the identified risk factors.

    b. If there are **significant concerns** for the child's safety and it is proposed the child is moved while further investigation takes place see the Director's Instruction - Changes of placement.

2. Determine the appropriate response to address the issues outlined in the CPR Risk Assessment. This may include one or more of the following actions:

Action	Rationale/Description
Give advice to the intake source	Give advice to the intake source about what CYPS is likely to do in response to the reported information. This might include seeking further information about the child's circumstances, suggesting strategies for managing the child's behaviour during the course of an intervention, and/or indicating the potential for appraisal response (where applicable).
Referral to government or community-based services for advice	This allows CYPS to refer a CPR to the Child at Risk Health Unit (CARHU) where appropriate to do so. A referral to CARHU for a medical examination must always be considered in relation to alleged non-accidental physical injury or sexual abuse. CYPS

Action	Rationale/Description
and provision of support services to the child's family	staff must consult with SACAT as to which organisation will arrange referral and follow up with CARHU (see the 'Referrals to the Child at Risk Health Unit (CARHU)' procedure for referral information).
Seek information from anyone to decide the most appropriate response to the report	CYPS staff must contact the child's OOHC Provider, and seek the advice of their case manager at this agency in deciding the most appropriate response. The OOHC Provider case manager will be asked for current and relevant advice about the child, their care environment and the allegations at hand. The OOHC Provider must NOT contact the child, carer or any family members directly at this stage.
Undertake an appraisal	An appraisal is a formal investigation of a child's risk environment through analysis of the family situation. It is broader in its scope than just consideration of the allegations of abuse and neglect contained within a CPR. All decisions to procced to appraisal regarding allegations of abuse in care must be approved by an operations manager. The decision to proceed to appraisal must be accompanied by an urgency rating (see the Risk Assessment Framework). Staff should refer to the 'Appraisal' procedure for detail regarding the scope and goals of an appraisal response.
Refer a matter to the police, including to the Sexual Assault and Child Abuse Team (SACAT	Discuss the referral to SACAT with a team leader. If necessary, staff may contact the SACAT Liaison Officer for advice on whether a police investigation will be appropriate. If SACAT has not determined their interest in accepting the matter, CYPS staff will finalise the CPR risk assessment, develop an action plan (including appraisal where appropriate) and finalising the Intake Form. If SACAT has accepted a referral for a matter that will proceed to appraisal, staff can speak to the SACAT Liaison Officer about the possibility of a joint investigation.
Provide or arrange support services for the child and if appropriate, the child's family members	Usually referrals of this nature take place either during an appraisal, or at the end of an appraisal process, when risk issues have already been addressed. Referrals to support services should be part of the scope of an appraisal, when the safety of a child has been assessed and they are considered to be protected from abuse.

Action	Rationale/Description
Support Response	A Support Response may be used to address a CPR when there is no perceived risk to the child or young person in the family home **other than that they pose to themselves**. A Support Response may occur in parallel with case management – such as when a child is being case managed by an OOHC Provider and a CPR is completed that does not meet the threshold for appraisal. Consider the value and purpose of an appraisal response, as opposed to a Support Response. In particular, if it the 'person believed responsible' is likely to be the child or young person themselves (such as self-harm or risk taking) then it is usually more appropriate to provide a Support Response. (Note: A child or young person should never be named as a person believed responsible against themselves). Where the allegations pertain to: • self-harm by a child or young person and there is a carer or person with parental responsibility (other than the Director-General) willing (but not able) to protect them; OR • risk-taking behaviour by a child or young person and there is a carer or person with parental responsibility (other than the Director-General) willing (but not able) to protect them; OR • sexual abuse from one child to another child (i.e. under the age of 12 years), where there is a carer or person with parental responsibility (other than the Director-General) willing and able to protect BOTH children. A Support Response commences with the identification of goals for addressing need and support, including therapeutic intervention, developed in partnership with the family. A time frame for achieving these goals should be agreed up-front and clearly recorded. A Support Response may include arrangement of a case conference (see below) to coordinate support to the family from all interested and/or relevant parties. A Support Response should be no more than 3 months in duration and may be superseded by a new CCR and appraisal action.
Case conference	Usually referrals for a case conference take place either during an appraisal, or at the end of an appraisal process, when risk issues have already been addressed and the child has been placed in a safe home. A case conference may be held by staff in order to: • discuss a multi-agency response to information gathered during an Appraisal process; and/or

Action	Rationale/Description
	• connect the child and family with appropriate community support services such as: maternal and child health (MACH) nurses, child care, respite care, parent education programs, family support workers, parent support workers, mediation or advocacy services. Case conferences may be arranged by staff or if special circumstances, with the support of the CYPS Case Conferencing team.
Arrange a Family Group Conference	Refer to the 'Family Group Conference (FGC)' practice guide to determine the suitability of this course of action.
No further action following risk assessment	Staff may decide that no further action needs to be taken by CYPS following a risk assessment. This may be because: • there is no indication that a child may be at risk of abuse and/or neglect • the CPR Risk Assessment has determined that there is a carer or person with parental responsibility (other than the Director-General) who is **willing** and **able** to provide for the child's care and protection • information from the intake source relates to a situation that does not pose any **current** risk to the child (such as information about a child being abused in the past by a person with whom they no longer have contact) • the intake source provides information about a child who may be at risk but cannot provide any identifying details about the child or family (neither a name nor an address is available) and therefore a CYPS response is not possible **Staff must clearly record why there are no current risks to the child/ren and/or young person/s.**

Following the development of a CPR Action Plan, staff are to:

1. Record the recommended actions and rationale on the Intake form.
2. Submit the CPR to a team leader for endorsement or amendment.
    a. The team leader will forward the CPR to an operations manager for approval if an appraisal is recommended.
3. Contact the OOHC Provider to advise them of the planned response once the CPR has been endorsed
    a. The OOHC Provider will be advised of the decision to proceed to appraisal within 24 hours (subject to police liaison)
    b. If case management is provided by ACT Together the Provider can be contacted via email on [Redacted]
4. Implement the CPR Action Plan:

a. If the action plan **includes** proceeding to an appraisal, proceed to 'Step 6 – Determine if section 507 criteria are met'.

b. If the action plan **does not include** proceeding to appraisal:

   i. Contact the carer to inform them of the action plan and how the actions will be implemented in partnership with the child's Care Team

   ii. Ensure information has been appropriately recorded and close the CPR on the client management system.

Step 6 – Determine if the section 507 criteria is met

Section 507 of the Act requires CYPS to notify the ACT Public Advocate when a CPR recommends an appraisal and certain circumstances apply.

When conducting an appraisal, the **CYPS case manager** is to consider:

- Does section 507 apply to the appraisal?
  - Section 507 **applies** when:
    i. the incident that gave rise to the allegation occurred at a time when the Director-General held daily care responsibility for the child (including under an appraisal order with a temporary parental responsibility provision, a Care and Protection Order, a Voluntary Care Agreement or Emergency Action); and
    ii. the child was placed in the care of an authorised out of home carer (foster, kinship or residential); and
    iii. the incident involved the out of home carer or
    iv. the incident occurred while the child was taking part in contact approved by the Director-General.
  - Section 507 does **not apply** when:
    i. the CPR does not involve an allegation of abuse or neglect by an approved carer (foster, kinship or residential); or
    ii. the CPR relates to an allegation of abuse or neglect that occurred prior to the child entering care; or
    iii. the Director-General has shared or full parental responsibility (by virtue of a Care and Protection Order) but the child remains in their parent's care; or
    iv. the Director-General has shared or full parental responsibility and the child is placed in care but the CPR is not recommended for appraisal.

Where section 507 applies, the **CYPS case manager** is to:

1. Ensure the s507 box on the Child Concern Report is checked. This will ensure the case appears on the CYRIS dashboard for the CYPS reportable conduct and compliance team.
2. Notify the CYPS reportable conduct and compliance team of the appraisal by sending a link to the report to [Redacted].
3. Provide relevant documentation to the CYPS reportable conduct and compliance team if requested.

The **CYPS reportable conduct and compliance team** is responsible for notifying the ACT Public Advocate of the appraisal outcomes. Case managers and team leaders are not authorised to do this.

When section 507 applies, the **CYPS reportable conduct and compliance team** is to:

1. Notify the ACT Public Advocate when the appraisal has been recommended.
2. Inform the ACT Public Advocate of the appraisal outcomes.
3. Inform the case manager if the ACT Public Advocate requests appraisal documentation under section 879 of the Act. This may include copies of the CCR, interview records, the appraisal report and any associated section 862 requests.

Step 7 – Determine if reportable conduct criteria is met

The **OOHC Provider** is responsible for reporting matters relating to foster carers, long term kinship carers, residential care workers and their own staff to the ACT Ombudsman.

In conducting an appraisal, the **appraising officer** is to contact the ACT Together Safeguarding team at [Redacted] to notify them of the appraisal and to:

- ensure aspects of a reportable conduct investigation are addressed in the appraisal plan
- negotiate roles and responsibilities
- determine how the investigation will be conducted alongside the appraisal where appropriate.

During and following the appraisal, the **OOHC Provider** may:

1. Submit a request to CYPS reportable conduct and compliance team for information about the appraisal and the associated documentation (see Information Sheet: Requesting and Receiving Reportable Conduct Information).
2. Use the advice provided by CYPS to inform the OOHC Provider's report to the ACT Ombudsman.

Step 8 – Determine if adverse event criteria is met

An adverse event includes:

- the **death or serious injury** of a child, who within three years of their death or serious injury had been the subject of a CYPS intake and/or open case
- situations where a child who received a service from CYPS or a CYPS-contracted service, and based on prima facia evidence[1], was placed **at risk** of serious harm as a consequence of CYPS or a CYPS-contracted service's actions or omissions.

If staff believe an adverse event has occurred they are to inform their operations manager, who will escalate matter to the Executive Branch Manager.

Where the death of a child has occurred staff will refer to the 'Child Concern Report' procedure.

Step 9 – Conduct the appraisal

Where the outcome of the CPR indicates the child is **likely** to have been or is being abused and/or neglected, or is at risk of abuse and/or neglect, an appraisal is to be conducted to determine if the child is **'in need of care and protection'**.

Given the additional complexities of investigating abuse in care allegations, the appraisal is to be conducted by either:

[1] Prima facie evidence: On the face of it; enough evidence to indicate legal action is likely to be successful (Legal Services Commission of South Australia)

- a **senior case manager** (CYPP4 or above), unless otherwise approved by an operations manager, senior manager or CYPS executive. The CYPS case manager will provide secondary support to the appraisal.
- a **senior practitioner** or **principal practitioner** when the allegation has been referred to SACAT. The appraisal is to be conducted in partnership with the allocated CYPS case manager and SACAT (at their discretion).

Once the appraisal has been allocated, the **appraising officer** is to:

1. Develop an appraisal plan in consultation with the OOHC Provider case manager (when appropriate), which will include details of the investigation such as:
    a. The role of the OOHC Provider throughout the appraisal.
    b. Interviews to be conducted.
    c. When the carer will be advised of the allegations (either prior to or following interview - dependent on potential safety and risk issues to the child).
    d. Information to be requested.
2. Record the appraisal plan on the client management system using the Appraisal form.
3. Submit the appraisal plan to a team leader for endorsement.
    - The **appraising officer** will notify the OOHC Provider within 72 hours of the appraisal plan's endorsement (or prior to undertaking the interviews with the child if an appraisal response of 72 hours or less has been allocated)
    - If changes to the appraisal plan are required, the **appraising officer** is to consult the OOHC Provider case manager before seeking endorsement from a team leader.
4. Determine if appraisal agreement or notification is appropriate:

WHEN the Director-General holds or shares parental responsibility for the child or young person….	**AND the person alleged to have caused the abuse or neglect is….**	**THEN….**
	• the parent or a person with daily care responsibility; or • the partner of a parent or person with daily care responsibility	There is no requirement to seek **agreement** or provide **notification** prior to commencing appraisal.
	NOT either of the parent/s or partners of parent/person with daily care responsibility	Provide **notification** of the appraisal to the parent/s or person/s with daily care responsibility **BEFORE** commencing appraisal.

5. Conduct the appraisal as per the 'Appraisal' procedure and the Risk Assessment Framework, taking note of the following considerations:

    a. Role of the OOHC Provider in an appraisal

    - The OOHC Provider case manager will be encouraged to work jointly with CYPS through the appraisal by taking part in joint visits and information sharing.

- The OOHC Provider case manager will have an established relationship with the child and/or carer and will (within clear guidelines) work with CYPS to gather information. This may not be appropriate in all situations. Generally, the OOHC Provider case manager will be available to support the child or carer/s through the appraisal process.

b. Placement stability for children in residential care

The paramount considerations of appraisals when a residential worker is subject to the allegations include:

- The safety of the child
- The child's placement stability
- The risk to other children in the residential care placement.

- Upon commencing the appraisal, the **appraising officer** is to contact the OOHC Provider to discuss:
  iii. If the residential worker needs to be suspended or moved during the appraisal.
    - As the best interest of the child will take precedence over the status of a staff member, the preservation of placement stability and the avoidance of secondary abuse by moving the child will be taken in to consideration.
    - The views and wishes of the child will be taken into account (commensurate with age, understanding and best interests) in deciding the future of the placement.
  iv. The safety of the child and other children in the establishment.
  v. That the residential worker should have no direct contact with the child until the appraisal of the allegations is completed.
- If it is decided that the residential worker will be suspended or moved during the appraisal, the **appraising officer** will provide advice to the CYPS Relationship Management Team.
- When agreement cannot be reached between CYPS and the OOHC Provider about the suspension or movement of a staff member, this decision will be escalated to the Executive Branch Manager and the OOHC Provider Responsible Person for a determination.

c. Interviewing children in residential care placements

Allegations of abuse in care of children residing in a residential care placement must be treated sensitively to ensure that the residential worker's right to privacy and confidentiality is respected.

- The **appraising officer** is to:
  i. Inform the CYPS Senior Director (North or South) of the appraisal.
  ii. Make contact with the OOHC Provider Responsible Person to advise them of the stated concerns and proposed actions (subject to any police liaison). This will take place within 24 hours of proceeding to appraisal.
  iii. Work with the OOHC Provider to ensure residential workers do not initiate discussions about the appraisal with the child.
    - Residential workers will offer supportive listening and answer questions posed by the child as far as possible.
  iv. Interview the child away from the placement:

- Without the present of residential workers (unless the child requests a residential worker as a support person).
- In a neutral location chosen by the child.
- With the attendance of a trusted adult to provide support during the interview and throughout the appraisal process (at the discretion of the child).

d. Interviewing children in approved OOHC placements

If the carer is alleged to be the person believed responsible for the abuse or neglect:

- The child should be interviewed **prior** to advising the carer
- The interview should take place **without** the carer present.

If the carer is **not** the alleged person believed responsible for the abuse or neglect:

- The child should not be interviewed without the carer's prior knowledge. This enables the interview to be informed by the carer's unique experience of the child's emotional needs (see 'Providing information to the carer during an appraisal' below).
- The OOHC Provider case manager will be consulted about the support role the carer may play to the child during the appraisal process.

If the carer refuses CYPS entry to the home or access to the child, explain the Director-General can provide agreement to the appraisal as the entity who holds parental responsibility. This includes agreement to the actions deemed necessary to gather information, such as interviewing the child.

To interview a child in an approved OOHC placement, the **appraising officer** is to:

- Ask the child if they would like to have a support person present during the interview, such as a teacher
- Assess whether it is safe for the child to remain in the placement for the interim
- Encourage the carer to participate fully in the appraisal process as required.

e. Providing information to the carer during an appraisal

If the child has been interviewed without prior knowledge of the carer, the carer is to be informed about the appraisal as soon as practicable after the child's interview has occurred. Inform the carer that:

i. A CCR has been received and provide a brief summary of the issues raised
ii. The CPR meets the legal appraisal threshold and has proceeded to appraisal
iii. The child has been interviewed as part of the appraisal
iv. The planned timeframes for finalising the appraisal process
v. The matter has been referred to the police (where applicable)
vi. Their participation in the appraisal process is requested
vii. The content of interviews conducted with the carer will be recorded and will inform the appraisal. Offer to provide the carer with a copy of the recorded discussions.

All CYPS interviews of carers should take place by prior arrangement with the carer. The carer should be offered an opportunity to engage a support person who may be present during the interview. Ongoing communication between CYPS and the OOHC Provider should take place to ensure the carer's support needs are being met.

1. Record the appraisal on the client management system using the Appraisal form.

Step 10 - Finalise the appraisal

To finalise the appraisal, the **appraising officer** is to:

1. Develop the appraisal outcomes in line with the 'Appraisal' procedure.
2. Provide the appraisal to the operations manager for endorsement.
3. Inform the OOHC Provider of the outcome of the appraisal.
    - Request the OOHC Provider does not share the appraisal outcome prior to CYPS meeting with the carer.

CYPS may find a carer responsible for the abuse and/or neglect of a child independently of the findings of any criminal investigation by the police. Where the appraisal process indicates a carer is responsible, the following actions may occur:

- If the child is no longer at risk of abuse and/or neglect, CYPS may develop protective strategies and organise appropriate support to allow the child to remain in the placement. This action must be clearly in the child's best interests, consider the impact of the appraisal process on the child and be endorsed by a senior manager. The rationale for this decision is to be recorded on the client management system.
- The child may be moved from the care placement at the discretion of the Executive Branch Manager. If this occurs, the potential risk to any other children in the placement must be considered.
- There may be implications for the carer's Working with Vulnerable People (WWVP) registration.

The carer's approval status may be revoked at the discretion of the Executive Branch Manager.

4. Contact the carer and communicate the outcome of the appraisal (including recommendations, outcomes and decisions) in the following ways:
    - In person: the **appraising officer** and the child's **case manager** are to meet with the carer within in two weeks of the conclusion of the appraisal to discuss the outcomes. The carer may have a support person present during the meeting. If necessary, this meeting may be conducted as a case conference with the team leader and operations manager in attendance.
        i. The minutes of the meeting will be documented on the client management system.
    - In writing: Provide the carer with the Appraisal outcome advice letter (available on the client management system) **after** they have been informed of the outcome in person.
5. Confirm with the OOHC Provider who will notify the child's parent/s of the appraisal and its outcome.

If a residential worker is believed responsible of abuse and/or neglect:

- CYPS may ask the OOHC Provider to remove the worker from the care environment, in order to preserve placement stability for the child
- The OOHC Provider Responsible Person will decide if the finding has implications on the worker's employment

- There may be implications for the residential worker's WWVP registration.

Step 11 – Review carer approval following the appraisal

Once the appraisal has been completed and endorsed by the operations manager:

1. The **CYPS reportable conduct and compliance team** will inform the Relationship Management Team of the appraisal (whether substantiated or not).
2. The **Relationship Management Team** will provide advice to the Executive Branch Manager regarding the carer's suitability to be an approved carer (ongoing suitability is not always dependent upon substantiation of concerns).
3. The **Relationship Management Team** will notify the OOHC Provider if they are required to revoke carer approval
    a. If carer approval is revoked, CYPS and the OOHC Provider will work in collaboration to arrange an alternative placement for the child.
4. The **Relationship Management Team** will inform the Business Support Senior Manager if the carer's approval has been revoked (this may have implications for the carer's WWVP registration)
    a. If necessary, **Business Support** will seek further information from the CYPS case manager or the Relationship Management Team
    b. Business Support may decide to share this information with Access Canberra (who issue the WWVP registration) under section 63B of the *Working with Vulnerable People (Background Checking) Act 2011*. Access Canberra will decide if any changes will be made to the carer's WWVP registration.

Step 12 – Referral for independent legal advice

A child in care who is the subject of substantiated claims of abuse and/or neglect may access independent legal advice in regards to potential litigation. In this circumstance, the **CYPS case manager** is to:

1. Provide details of the appraisal to CYPS Legal Services for their consideration (see the 'Independent legal advice for substantiated abuse in care' practice guide).

Roles and responsibilities

The following table outlines the roles and responsibilities under this procedure.

Role	Responsibility
CYPS case manager	• Record Child Concern Reports • Inform a team leader when an allegation of abuse in care has been received (this will be escalated as appropriate) • Include the OOHC Provider in abuse in care investigations • Undertake Child Concern Reports and Child Protection Reports • Conduct or assist with appraisals • Facilitate information sharing (requesting and providing) • Submit appropriate referrals • Note legislative requirements such as providing information to the ACT Public Advocate (section 507 criteria) and the ACT Reportable Conduct Scheme • Submit completed ACTIA reports to CYPS Operational Compliance.
CYPS Legal Services	• Facilitate access to independent legal advice for children in care.
CYPS reportable conduct and compliance team	• Providing reportable conduct information requested by designated entities • Providing information to government agencies, including Access Canberra, which may have implications for a carer's Working with Vulnerable People registration. • Comply with legislative requirements such as providing information to the ACT Public Advocate (section 507 criteria) and the ACT Reportable Conduct Scheme • Oversee reportable conduct investigations regarding CYPS managed carers • Inform the Relationship Management Team when an abuse in care appraisal has been completed.
Executive Branch Manager	• Decide if a child will be moved to an alternative placement when the child has resided in the placement for longer than six months • Decide if carer approval will be revoked.
Intake worker	• Record Child Concern Reports • Inform a team leader when an allegation of abuse in care has been received (this will be escalated as appropriate) • Complete Child Concern Report Risks Assessments when the case in unallocated.

Role	Responsibility
OOHC Provider	• Report allegations of abuse in care to CYPS • Share information with CYPS • Assist with information gathering including attending interviews with the child or carer • Collaborate with CYPS to develop and implement strategies to address risks and needs • Provide advice and support services to kinship and foster carers • Submit reportable conduct reports regarding carers and employees managed by the OOHC Provider.
Operations manager	• Endorse Child Protection Reports which proceed to appraisal • Endorse appraisals.
Relationship Management	• Provide advice to the Executive Branch Manager and OOHC Providers regarding carer approvals
Senior Director	• Assist the Executive Branch Manager, CYPS to determine if a child should be moved to an alternative placement.
Team leader	• Inform the relevant operations manager of an allegation of abuse in care • Endorse Child Concern Report Action Plans when **not** proceeding to a Child Protection Report • Endorse Child Protection Report Action Plans when **not** proceeding to appraisal.

Record keeping

All Child Concern Reports, Child Protection Reports, appraisals and documents related to the investigation of allegations of abuse in care **must** be recorded on the CYPS client management system. Information gathered as part of such investigations will be recorded as progress notes, minutes, service events and other scanned documents.

Related materials

The following materials directly relate to this procedure.

Legislation

- *Children and Young People Act 2008*
- *Ombudsman Act 1989*
- *Working with Vulnerable People (Background Checking) Act 2011*

Policies, procedures and practice guides

- Policy: Appraisal

- Policy: Intake
- Procedure: Abuse in care allegations CYPS case managed
- Procedure: Appraisal
- Procedure: Child Concern Report
- Procedure: Child Protection Report
- Procedure: Making a referral to Police including SACAT
- Procedure: Reportable conduct allegations
- Procedure: Referrals to the Child at Risk Health Unit (CARHU)
- Practice guide: Family Group Conference (FGC)
- Practice guide: Independent legal advice for substantiated abuse in care
- Practice guide: Making a report to the ACT Insurance Authority
- Practice guide: Public Advocate reports (507)

Other documentation

- Appraisal Outcome Advice Letter
- Director's Instruction – Changes of placement
- Interstate Child Protection Protocol
- Risk Assessment Framework

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The following table details the published date and amendment details for this document.

Date	Amendment details
04/06/2019	First publication of this procedure.
08/12/2022	Updates to better reflect practice around s507 reports

Definitions

For definitions of terms used in this document, access the CYPS glossary.