

# 1 Background

Child protection is the responsibility of the community services department in each State and Territory. Children who come into contact with the community services departments for protective reasons include those:

- who have been or are being abused, neglected or otherwise harmed; or
- whose parents cannot provide adequate care or protection.

The community services departments provide assistance to these children and their families through the provision of, or referral to, a wide range of services. Some of these services are targeted specifically at children in need of protection (and their families); others are available to a wider section of the population and attempt to deal with a broad range of issues or problems.

This report provides national data on children who come into contact with the community services departments for protective reasons. The three areas of the child protection system for which national data are collected are:

- child protection notifications, investigations and substantiations;
- children on care and protection orders; and
- children in out-of-home care.

There are no data at the national level on children who are referred to or who access other services for protective reasons.

## Child protection systems

### Reporting of child protection matters

Currently, all States and Territories except Western Australia have legislation requiring the compulsory reporting of child maltreatment, child abuse or neglect to community service departments. In most States and Territories, only the members of a few designated professions involved with children are mandated to report, although in the Northern Territory anyone who has reason to believe that a child may be abused or neglected must report this to the appropriate authority. While Western Australia does not have mandatory reporting, it does have protocols or guidelines in place that require certain types of professionals to report maltreatment of children.

The types of child protection matters that should be reported, and the professionals mandated to report, vary across jurisdictions (details regarding the mandatory reporting requirements in each State or Territory are set out in Appendix 4). In addition to requirements under State and Territory legislation, Family Court staff are also required under the *Family Law Act 1975* to report all suspected cases of child abuse.

Police also have some responsibility for child protection in each State and Territory, although the extent of their responsibility varies in each jurisdiction. Generally, they are involved in child maltreatment, child abuse or neglect of a criminal nature, that is,

significant sexual or physical abuse, or any abuse that results in the death of a child. In some States or Territories there have been protocols or informal arrangements established whereby the police are involved in joint investigations with the relevant community services department (Broadbent & Bentley 1997:6).

Other areas of government also play a role in child protection. Health services support the assessment of child protection matters and deliver therapeutic, counselling and other services. The education sector in many jurisdictions undertakes preventative work with children and families and also plays an important role in the identification of suspected harm. In some jurisdictions, child care services are specifically provided for children in the child protection system.

## **The child protection process**

Although each jurisdiction has its own legislation, policies and practices in relation to child protection, the processes used to protect children are broadly similar. Figure 1.1 illustrates a simplified version of the main processes in the child protection system. These are outlined in more detail below.

### **Reports to the department**

Children who are seen to be in need of protection can come into contact with the community services departments through a number of avenues. These include reports of concerns about a child made by someone in the community, by a professional mandated to report suspected abuse and neglect, or by an organisation that has contact with the family or child. The child, his or her parent(s) or another relative may also contact the department seeking assistance. These reports may relate to abuse and neglect or to broader family concerns such as economic problems or social isolation. There are no national data on the total number of reports made to community services departments relating to concerns about children.

Reports to the department are assessed to determine if the matter they relate to should be dealt with by the community services department or referred to another agency. Those reports that are appropriate for the community services departments are further assessed to determine if any further action is required.

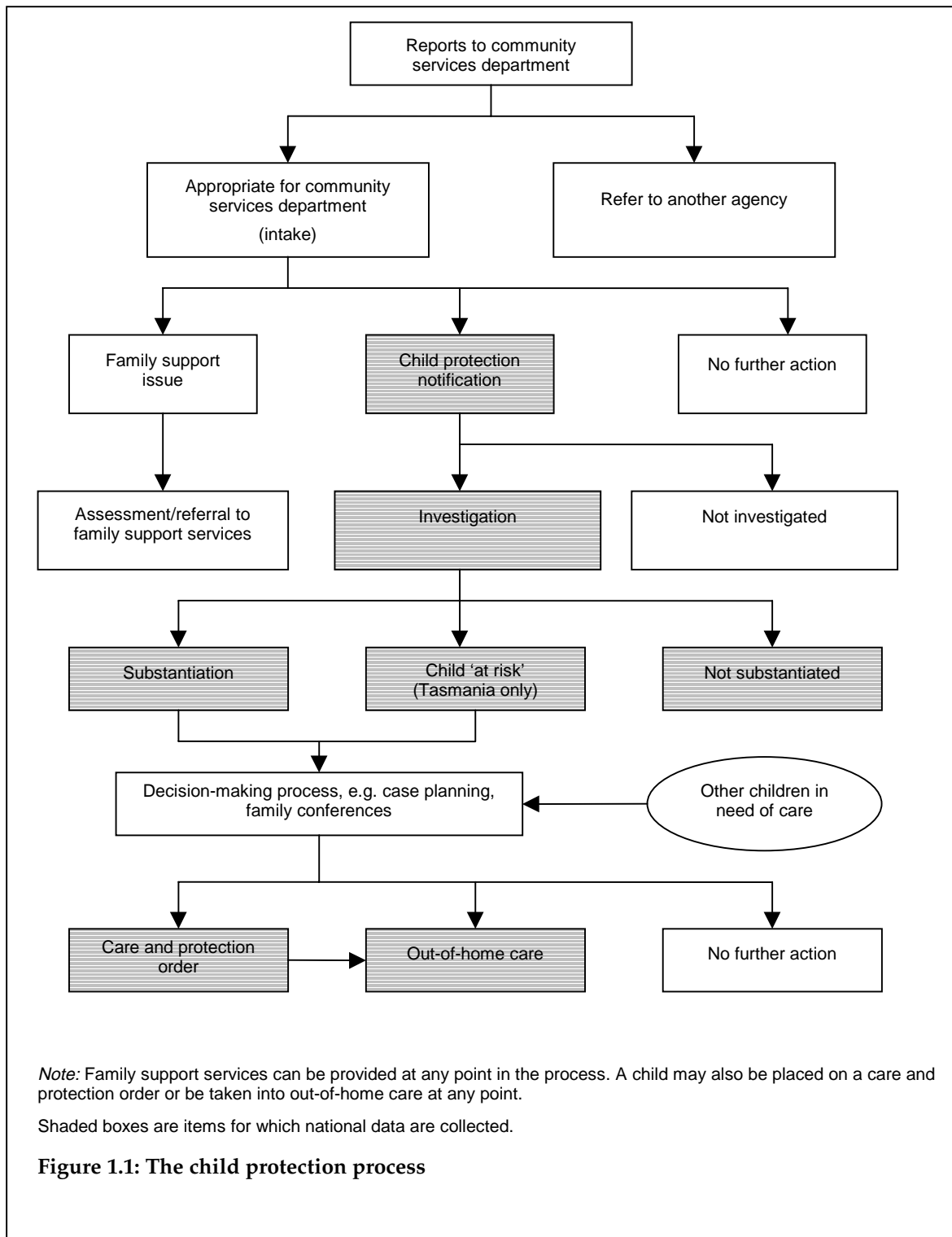
Reports requiring further action will generally be classified as either a family support issue or a child protection notification, although how reports are classified varies somewhat across jurisdictions. A range of factors is taken into account by departmental officers in deciding whether a report will be classified as a child protection notification. Those reports classified as a family support issue will be further assessed and may be referred to family support services. Child protection notifications are dealt with through a separate process.

### **Notifications, investigations and substantiations**

A child protection notification is assessed by the department to determine whether it requires an investigation; whether it should be dealt with by other means, such as referral to other organisations or to family support services; or whether no further protective action is necessary or possible. An investigation is the process whereby the community services department obtains more detailed information about a child who is the subject of a notification, and makes an assessment of the degree of harm or risk of harm for the child.

After an investigation has been finalised, a notification is classified as a 'substantiation' or as 'not substantiated'. A notification will be substantiated where it is concluded after

investigation that the child has been, is being or is likely to be abused, neglected or otherwise harmed. States and Territories differ somewhat in what they actually substantiate. Some jurisdictions substantiate situations where child abuse and neglect has occurred or is likely to occur, while others substantiate situations where the child has been harmed or is at risk of harm and the parents have failed to act to protect the child.



In Tasmania the category 'child at risk' is also used. This refers to situations where the notification is not substantiated, but where there are reasonable grounds for suspecting the

possibility of previous or future abuse or neglect and it is considered that continued departmental involvement is warranted.

Before 1998–99, **child protection** notifications, investigations and substantiations were referred to as notifications, investigations and substantiations of **child abuse and neglect**. The new terms were adopted to recognise that the focus of child protection in most jurisdictions has shifted away from the identification and investigation of narrowly defined incidents referred to as child abuse and neglect towards the identification and investigation of actual harm to the child, and on the child's protective needs. Thus the shift has been away from the actions of the parents or guardians to the outcomes for the child.

### **Care and protection orders and out-of-home care**

At any point in this process the community services department has the authority to apply to the relevant Court to place the child on a care and protection order. Recourse to the Court is usually a last resort and is used in situations where supervision and counselling are resisted by the family, where other avenues for the resolution of the situation have been exhausted, or where removal of a child from home into out-of-home care requires legal authorisation. In some jurisdictions, for example, all children who are placed in out-of-home care must be on an order of some kind.

Children can also be placed on a care and protection order and/or in out-of-home care for reasons other than child abuse and neglect, for example in situations where family conflict is such that 'time out' is needed, or a child is a danger to himself or herself, or where the parents are ill and unable to care for the child.

### **Major differences among States and Territories**

There are some major differences among jurisdictions in policies and practices in relation to child protection, and these differences affect the data that are provided. The data from different jurisdictions are therefore not strictly comparable and should not be used to measure the performance of one jurisdiction relative to another.

One of the main differences between jurisdictions relates to the way in which notifications are counted. There are differing policy frameworks used by States and Territories in relation to notifications. For example, in Western Australia and Tasmania, reports that express concerns about children are screened by senior staff. In Tasmania, when the initial information gives no indication of maltreatment, this type of report is classified as a child and family concern report and may be referred to family support services. In Western Australia, however, reports of concerns about children receive an interim classification as child concern reports while further assessment is undertaken to determine whether the case will receive a child protection response, a family support response or no further action. Thus a significant proportion of reports in these two States receive a differential response and are not counted as child protection notifications. The rates of children in notifications and substantiations in these jurisdictions are therefore considerably lower than the rates in other jurisdictions.

In Victoria and South Australia, on the other hand, the definition of a notification is very broad and includes some reports that may not be classified as a notification in other jurisdictions. Other States and Territories have policies between these two extremes. For example, the Australian Capital Territory and New South Wales screen reports and may refer some to other agencies or provide family support services rather than a child protection

response. The screening process used in these two jurisdictions, however, does not appear to be as stringent as that used in Western Australia and Tasmania.

There are other differences between jurisdictions that are also worth noting.

- In some jurisdictions, such as New South Wales, reports to the department relating to abuse by a stranger may be classified as a notification, while in other jurisdictions they would not.
- What is substantiated varies: some jurisdictions substantiate the harm or risk of harm to the child, while others substantiate actions by parents or incidents that cause harm. As noted earlier, the focus in many jurisdictions is shifting away from the actions of parents towards the outcomes for the child.

Although there are also differences between States and Territories that affect the comparability of the data on children on care and protection orders, and children in out-of-home care, the differences between jurisdictions are greatest in relation to child protection notifications, investigations and substantiations. In most cases, therefore, no national totals are presented for these data.

## **Changes to policies and practices over time**

Trends in child protection must also be interpreted carefully because changes in legislation or policies can have a direct and immediate effect on the numbers of notifications, investigations or substantiations reported. Large increases or decreases in the numbers of children in the child protection system are generally due to such changes, rather than to changes in the number of children in the community who are in need of child protection.

In particular, in most jurisdictions, policies have been introduced over the last decade that allow for non-investigative responses to reports of concerns about children that are made to community services departments. These policies have been introduced at different times in different jurisdictions, but in all cases they have led to substantial decreases in the number of investigations and substantiations. The following are examples of some of the changes in child protection policies that have had a major impact on the data.

- The introduction of a single-track reporting system in Victoria, along with the introduction of mandatory reporting in that State in the early 1990s, led to a large increase in the number of notifications.
- The introduction of the 'New Directions' child protection policy in Western Australia in May 1996, which separated out reports of concerns about children from notifications of maltreatment, resulted in a considerable fall in the number of reports that were classified as notifications. Policies in relation to substantiations were also changed so that the current focus is on substantiating harm or risk of harm to the child, rather than on an action causing harm (WA FACS 1996).
- There was a very large decrease in the number of substantiations in New South Wales following the introduction of new procedures in July 1996. Reports to the community services department relating to concerns about children were separated out from child protection notifications. There were also changes in policies in relation to substantiations. Before July 1996, substantiation of a notification did not necessarily mean that child abuse, neglect or other harm had occurred, but rather that the information about the notification was confirmed. Following the changes, a notification would only be substantiated if there is evidence of child abuse or neglect, or other harm to the child.

The following is an outline of the recent changes in policies or practices that may have impacted on the data in this report.

### **New South Wales**

From 18 December 2000, the new *Children and Young Persons (Care and Protection) Act 1998* is being progressively proclaimed. The Act creates new responsibilities for the Department of Community Services and other government agencies in the prevention of child abuse and providing appropriate care and support for children, young people and their families. All agencies are expected to seek ways of empowering children, young people and their families through their participation in decisions that affect their lives. The new Act also provides for greater involvement by Aboriginal families and communities in decision making in relation to the care of Aboriginal children and young people.

### **Victoria**

The Department of Human Services has commenced a major project to review and improve child protection decision making, planning, and case management. Another service quality improvement initiative, the Working Together Strategy, has been consolidated and expanded. It now includes Disability Services and Housing as well as Mental Health, Child Protection and Care, Juvenile Justice, and Drug Treatment Services, and aims to find new, creative and collaborative approaches to address the varied needs of multi service clients. The High Risk Infants Project continues to integrate its goals of more cautious practice and decision making in relation to infants and their families into general child protection practice.

The *Children and Young Persons (Appointment of President) Act 2000* came into effect in June 2000. This Act amends the *Children and Young Persons Act 1989* to provide for the Children's Court of Victoria to be presided over by a president who is a judge of the County Court. The *Children and Young Persons (Reciprocal Arrangements) Bill 2000* amends *the Children and Young Persons Act 1989* so as to provide for the transfer of child protection orders and proceedings between Victoria and another State or Territory of Australia, or between Victoria and New Zealand. The Bill was proclaimed in February 2001.

### **Queensland**

Reform of the child protection service delivery has continued with the proclamation of the *Child Protection Act 1999* in March 2000 and the implementation of the recommendations of the *Forde Report of Commission of Inquiry into Abuse of Children in Queensland Institutions*. This includes additional funding for new programs and additional front line and support staff. There is an emphasis on greater access to community services with expanded prevention, early intervention, family support and placement services, including enhanced Aboriginal and Torres Strait Islander child and family welfare services.

### **Western Australia**

Family and Children's Services and the Western Australian Police Service have continued to implement a joint response initiative to the investigation of child abuse through the development of joint protocols, and joint training. Discussions have commenced with the Health Department to extend the initiative and to further increase the coordination of services.

## **South Australia**

South Australia Police, Family and Youth Services and the hospital-based Child Protection Services have developed an 'Interagency Code of Practice for the Interviewing of Children and their Caregivers'. It provides a best practice model for investigating allegations of child abuse and neglect, with particular focus on interviewing children when sexual abuse has been alleged. A joint training program commenced in March 2001.

The difficulties in finding out-of-home care placements for adolescents is being addressed through the development of new care options. A joint venture project involving the Department of Human Services, existing alternate care agencies, and other non-government providers is designing a model of care options for adolescents unsuited to family-based placements.

## **Tasmania**

The new *Children, Young Persons and Their Families Act 1997* was proclaimed on 1 July 2000. The central principles of the legislation are based on the best interests of the child being paramount, that families are responsible for the care and protection of their children, and that the government will work in partnership with the community to support families. The Act involves the wider family and community in making decisions about children and introduces family group conferencing.

Out-of-home care services in Tasmania are currently being reviewed and this may result in some changes in this area.

## **Australian Capital Territory**

The *Children and Young People Act 1999* commenced on 10 May 2000. The Act reflects an increased emphasis on family support and prevention services to assist children, young people and their families. Family group conferencing has been introduced and a dedicated Indigenous Unit has been formed. An Indigenous Service Plan has also been developed which will form the basis of consultation with the Indigenous community in 2000–01.

The new Act recognises the importance of foster carers and reform of the foster care system is currently being undertaken. The non-government sector is now responsible for the delivery of all foster care places. The Looking After Children program has been adopted and will be implemented in 2000–01.

## **Northern Territory**

The 1999–00 financial year was the first full year of reporting using the new client information system. The system will provide for the future development for reporting on child protection matters.

# **The child protection data**

The data in this report were extracted from the administrative systems of the State and Territory community services departments according to definitions and counting rules agreed to by the departments and the AIHW. The State and Territory community services departments provide funding to the AIHW to collate, analyse and publish these data.

There are significant links and overlaps between the three data collections in this report. For example, children who are the subjects of substantiations may be placed on care and protection orders, and many children on care and protection orders are also in out-of-home

care. There are, however, only very limited data at the national level on the movement of children through the child protection system and the overlap between the three separate data collections.

There are also significant gaps in the national data on child protection. This year some preliminary national data on family preservation services were collected for the first time. The aim of these services is to prevent the removal of a child from the family into out-of-home care or to seek to re-unify families where a child has already been removed. There are no other data at the national level on the support services used by children in need of protection and their families.

Some initial work was conducted in the area of family support services in 2000 with funding from the Community Services Minister's Advisory Council (CSMAC) and the Commonwealth Department of Family and Community Services (FaCS). The report *Family support services in Australia 2000* (AIHW 2001) assesses the scope of family support services in Australia and provides an overview of current data collections in relation to these services.

The practices used to identify and record the Indigenous status of children in the child protection system vary across States and Territories and the data on Indigenous children should be interpreted with care. In 1999–00 CSMAC sponsored a project that investigated the identification of Indigenous people in child protection and the Supported Accommodation Assistance Program (SAAP) data collections. A report, prepared on the development of principles and standards for the collection of information on Indigenous status in community service data collections, was endorsed by CSMAC in March 2001. This is likely to lead to greater consistency in the recording of Indigenous status in the child protection data.

Work is also being undertaken by the National Child Protection and Support Services (NCPASS) Data Group to improve the comparability of the child protection data. A new national framework with different counting points from those currently used has been developed to try and improve the comparability of the data that is collected. The feasibility of this framework is currently being assessed by States and Territories.