Explaining harm and criminal offences

The types of harm or abuse experienced by children that may indicate a criminal offence has been committed, are discussed below. These examples are not an exhaustive list, but provide a guide to identifying possible offences against children that are to be reported to the QPS immediately. The examples focus primarily on abuse that constitutes physical harm, neglect and sexual abuse. Offences relating to psychological or emotional harm, for example, torture, are contained in the related practice resource titled ‘Schedule of criminal offences’.

Physical abuse

Physical abuse consists of any form of injury or harm inflicted on a child by any person. It includes harm or injuries that are caused by excessive discipline, beating or shaking, burns and assault with a weapon.

The following acts of physical abuse may constitute a criminal offence:
- an assault (refer to the 'Schedule of offences')
- a wounding or poisoning
- female genital mutilation
- kidnapping
- a deprivation of liberty, such as locking a child in a cupboard or otherwise confining a child
- torture – refer to the related practice resource, 'Schedule of criminal offences
- an unlawful killing
- an attempt to do any of the above.

Note: this is not an exhaustive list.

The following are examples of signs that might be observed, indicating physical abuse has taken place:
- bruising
- intentional burns
- fractures, serious cuts, internal injuries
- cultural practices constituting physical abuse, for example, female circumcision or female genital mutilation, which is recognised as a harmful tradition practice and is illegal in Australia
- symptoms of ‘infant abuse head trauma’ (sometimes known as 'shaken baby syndrome') such as decreased muscle tone, extreme irritability and vomiting, seizures and unconsciousness, difficulty in breathing, lethargy and dilated or pin-point pupils
- the sudden and unexplained death of a child
- symptoms of attempted strangulation or suffocation
- an indirect or direct disclosure of physical abuse.

The following are examples of matters where the QPS must be notified of a possible criminal offence:
- example 1: an allegation that a 2 year old child has been struck across the face
- example 2: an allegation that a child has been subjected to cigarette burns.
Neglect

Neglect is the failure to provide a child with an adequate standard of nutrition, medical care, clothing, shelter or supervision, to the extent where the health and development of the child is significantly impaired or placed at risk. While neglect normally occurs over a period of time, neglect that occurs over a relatively short period of time can still amount to a criminal offence, depending on the child's age and physical condition.

The following acts of neglect may constitute a criminal offence:

- abandoning a child in circumstances where the child's life is endangered or the child's health is permanently injured (or is likely to be endangered or permanently injured)
- a failure to provide a child with adequate food, clothing, medical treatment, accommodation or care, which causes suffering to the child or where the child's life is endangered or where the child's health is permanently injured (or is likely to be endangered or permanently injured)
- deserting a child which causes suffering to the child
- an attempt to do any of the above
- leaving a child under 12 unattended (whether the time is unreasonable depends on relevant circumstances).

Note: this is not an exhaustive list.

The following are examples of signs that might be observed, indicating that neglect has taken place:

- serious nappy rash burns
- malnutrition and/or dehydration
- unhygienic living conditions
- faeces found in child's eyes, mouth, ears or nose
- injuries that have not been attended to (for example, festering sores)
- an indirect or direct disclosure of acts/events that amount to neglect.

The following are examples of matters where the QPS must be notified of a possible criminal offence:

- example 1: an allegation that a six month old baby has been left in a locked car while the child's parents go off to the casino for a couple of hours
- example 2: an allegation that some parents have gone away for a weekend holiday leaving an eight year old child in charge of three younger siblings
- example 3: an allegation that a small child has been found in his or her cot with an extremely soiled nappy and very serious nappy rash burns and that the child does not appear to have been washed for many days, appears lifeless, very underweight and dehydrated.

Sexual abuse or exploitation

A child is sexually abused when any person uses their authority or power over the child to engage in sexual activity, regardless of whether the child has given consent, including by way of force or coercion. It is important to note that a child under the age of 12 years is unable to give consent. Child sexual abuse involves a wide range of sexual activity and may include fondling genitals, masturbation, oral sex, vaginal or anal penetration by finger, penis or any other object, voyeurism, exhibitionism or exposure to
sexual acts or pornographic publications including magazines and photographs. It can also include exploitation through pornography or prostitution. Coercion that may be physical or psychological is intrinsic to child sexual abuse and differentiates child sexual abuse from consensual peer sexual activity.

The following acts of sexual abuse or exploitation may constitute a criminal offence:

- a rape (this includes carnal knowledge, penetration of the vulva, vagina, anus or mouth)
- sodomy
- an assault of a sexual nature
- indecent treatment of a child (such as fondling a child’s genitals, requesting a child to engage in oral sex or simulating a sexual act with a child)
- procuring a child to commit an indecent act (including procuring a child to engage in an indecent act using electronic communication)
- unlawful carnal knowledge
- procuring a child to engage in prostitution
- exposing a child to a pornographic film, publication or computer-generated image (this includes exposure to pornographic magazines and photographs)
- exposing a child to an indecent act such as a sexual act (including exposing a child to an indecent act using electronic communication)
- involving a child in making child exploitation material
- making, distributing or possessing child exploitation material
- incest
- an attempt to do any of the above.

Note: this is not an exhaustive list.

The following are examples of signs that might be observed, indicating sexual abuse or exploitation:

- an indirect or direct disclosure by the child of sexual abuse
- disclosure of sexual abuse by an independent witness
- presentation of physical indicators consistent with sexual abuse such as: a sexually transmitted infection, pregnancy, trauma or bleeding to the vagina, external genitalia or anus
- the child describing sexual behaviours or activities
- the child acting out age inappropriate and/or persistent sexual behaviour
- films, photographs or computer-generated images depicting a child engaged in an indecent act.

The following are examples of where the QPS must be notified of a possible criminal offence:

- example 1: an allegation that an eight year old girl has made a disclosure that her father has been coming into her room during the night and touching her vagina
- example 2: an allegation that a 13 year old boy has been seen by a family member touching the genitals of his four year old brother
- example 3: a 15 year old child is engaged in a sexual relationship with an adult person, regardless of whether the sexual intercourse is allegedly consensual
- example 4: a child discloses that they have been exposed to pornographic films, magazines or photographs by an adult person.
Psychological or emotional abuse
In most cases, a child who is psychologically or emotionally abused will usually also have been physically or sexually abused or neglected. There are only a small number of offences that are relevant to psychological or emotional abuse, for example, torture.