

Information Sheet 11

Significant neglect under the Reportable Conduct Scheme

What is significant neglect?

The *Child Wellbeing and Safety Act 2005* (the Act) states that a form of reportable conduct is significant neglect. This information sheet provides guidance to assist organisations in deciding whether conduct or behaviour is significant neglect under the Reportable Conduct Scheme. As this guidance is general in nature, it may not cover all situations. If further guidance is required, please contact the Commission to discuss the individual situation.

Neglect is a failure to meet the basic needs of a child. To be able to make a substantiated finding of significant neglect, it must be possible to demonstrate, on the balance of probabilities, that there was:

- a significant and deliberate or reckless failure to meet the basic needs of a child, and
- the employee or worker understood the needs of the child, or could have understood the needs if they had thought about it, and
- the worker or volunteer could have met the needs but failed to do so.

To assess whether particular behaviours meet the definition of significant neglect, two elements need to be met. These elements are:

- the behaviour is one of the below types of neglect
- the neglect qualifies as “significant”.

The Act states that “significant”, in relation to neglect, means the neglect is more than trivial or insignificant but doesn’t need to be as high as serious or have a lasting effect.

The types of neglect

There are a number of different types of neglect. The examples of each type of neglect set out below are provided for guidance and to help organisations identify significant neglect. The types of neglect can be summarised as follows:

Supervisory neglect: a person responsible for the care of a child is unable or unwilling to exercise adequate supervision or control of a child or young person. Examples of this type of neglect might include:

- leaving a child alone or unsupervised for an extended period of time
- exposing a child to inappropriate material or environments such as drug use or pornography
- leaving a child in the care of an inappropriate person such as a young child or someone who has a history of child abuse
- exposure to hazards such as allowing a young child to walk the streets at night alone
- a failure to acknowledge the seriousness of a medical condition or illness and therefore not seeking or complying with appropriate treatment.

Physical neglect: a failure to meet a child’s physical needs including the provision of adequate and appropriate food, clothing, shelter or physical hygiene needs. This could include examples such as:

- inadequate food or food that is not of appropriate nutritional value such that the child is hungry, malnourished or fails to thrive



- clothing that is in a poor state of repair, such as shoes with holes in the soles, or clothing that is inappropriate to the season
- a child being extremely dirty or suffering from a skin condition due to poor hygiene
- not being provided with a toothbrush and toothpaste resulting in dental decay.

Educational neglect: failing to ensure that a child's formal educational needs are being met. This could include:

- failing to register a child in school
- condoning truancy.

Emotional neglect: failing to provide adequate nurturing, affection, encouragement and support to a child. This could include situations where a worker or volunteer:

- rejects a child, abandons, belittles, or calls a child names
- shames a child, isolates them or demeans them
- permits or encourages a child to engage in criminal behaviour, inappropriate consensual sexual behaviour or other maladaptive behaviours.

It is possible that there might be some overlap between significant neglect and another type of reportable conduct, that is, behaviour that causes significant psychological or emotional harm. Neglect can often arise from a series or range of behaviours. This can sometimes make it difficult to prove a link between one or more of those behaviours and the significant psychological or emotional harm the child has suffered to be able to substantiate this type of reportable conduct. It is important to remember that significant neglect does not require that the neglect caused any particular kind of harm to the child.

Cumulative neglect

Significant neglect can arise as a result of a single recurring adverse circumstance or event, such as a child never being given enough food.

Cumulative neglect can also occur through a combination of different adverse circumstances or events such as a child who is not regularly attending school, who is not consistently supervised appropriately and is not given sufficient care or attention by parents or carers.

Cumulative neglect recognises the compounding or combined impact that numerous less significant failures can have on a child.

When is neglect 'significant'?

Significant is an ordinary word that is used according to its common meaning. Its meaning includes 'important', 'notable', and 'of consequence'. The Act defines 'significant' neglect to be something that is more than trivial or insignificant, but need not be as high as serious, and need not have a lasting or permanent effect.

The use of the word 'significant' refers to the quality of the failure to act, not to the duration, severity or gravity of the outcome of the neglect. It is not necessary to establish whether any harm was actually suffered or whether any harm that did result could be treated and/or resolved or cured. It is the failure itself which must be significant in order to qualify as reportable conduct. The Commission defines 'significant' as a deliberate failure or failures that separately or together have had, or could have, considerable detrimental force or effect on the safety or wellbeing of the child who is the victim of the neglect.

While actual harm is not required, there will be times where it will be helpful to give some thought to the possible harm or damage a child might suffer because of the neglect in order to assess how significant the neglect is. The possible harm in question will be a consequence that a reasonable person could

imagine being a likely result of the neglect. For example, if a young child is locked in a hot car in summer, a reasonable person could imagine that this neglect could lead to the child suffering serious harm or possibly even death. Neglect that could lead to such serious harm is likely to be significant neglect.

Intentional or reckless

In order to meet the definition of significant neglect for the purposes of the Reportable Conduct Scheme, there must be either an intentional (deliberate) or reckless failure to meet a child's basic needs in circumstances where the worker or volunteer could have chosen to meet the needs of the child but didn't.

A reckless failure to meet a child's needs could occur when a worker or volunteer:

- engaged in their behaviour even though he or she was aware that the behaviour could result in a failure to meet the needs of the child, or
- without caring whether the child's needs would not be met as a consequence.

Recklessness also applies when the worker or volunteer did not consider the question of the child's needs in circumstances where those needs would have been obvious if the worker or volunteer had thought about it.

To be able to substantiate significant neglect on the balance of probabilities, it must be possible to establish that there was:

- a significant and deliberate or reckless failure to meet the basic needs of a child, and
- the worker or volunteer understood the needs of the child, or could have understood those needs if they had thought about it, and
- the worker or volunteer could have met those needs but failed to do so.

Where to get help

The Commission encourages organisations covered by the Reportable Conduct Scheme to seek clarification, talk through issues of concern, or seek guidance by contacting the Commission:

- Telephone: (03) 8601 5281
- Email: contact@ccyp.vic.gov.au

You can also find more information on the Commission's website: www.ccyp.vic.gov.au

If you need an interpreter, please call the Translating and Interpreting Service on 13 14 50 and ask them to contact the Commission for Children and Young People on 03 8601 5281.