



# Emotional Abuse – Family and Domestic Violence Policy

## 1 Purpose

The purpose of this policy is to promote consistent, safe, and effective responses to cases of emotional abuse due to family and domestic violence where a child has suffered significant harm or is likely to suffer significant harm. It includes an outline of the effects on a child when they are victims through their exposure to family and domestic violence.

## 2 Background

Family and domestic violence is widespread in all communities across Australia. It is a complex and persistent social problem that has no easy solution. It is a significant driver of demand for child protection services, contributing to, or directly causing, child safety concerns in a high number of cases where a concern for a child has been identified by the Department of Communities (Communities).

### ***Aboriginal and Torres Strait Islander families***

Aboriginal<sup>1</sup> women and their children experience disproportionately high rates of family and domestic violence. It contributes to social and structural disadvantage in the Aboriginal community as well as inter-generational trauma and is a significant factor contributing to the over-representation of Aboriginal people involved with child protection services.

Family violence, and its prevalence in Aboriginal communities, is deeply rooted in colonisation, dispossession, cultural dislocation, and the forced removal of children. Exacerbating factors include alcohol and drug misuse, poverty, racism, structural disadvantage, overcrowding and homelessness. Family violence is not supported or condoned by Aboriginal law or culture.

### ***A gendered crime***

Family and domestic violence is predominantly a gendered crime, perpetrated by men against women and children. A gendered lens is important for understanding the dynamic

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<sup>1</sup> Aboriginal refers to people who are of Aboriginal or Torres Strait Islander descent.

of power and control, assessing the primary aggressor, considering the risk to children, and intervening safely and effectively with perpetrators.

It is also important for recognising and overcoming the historical biases in child protection that have held mothers solely responsible for the care and protection of their children. In family and domestic violence cases this has led to plans and interventions that have had limited capacity to keep children safe, as they have not addressed or responded to the risk posed by the perpetrator.

### ***Children exposed to family and domestic violence***

Children exposed to family and domestic violence can be affected in a range of ways by the behaviours and actions of the person using violence. Some examples of the perpetrator behaviours that have a direct impact on children are outlined below.

Recognition of these behaviours and their effect on children is important to understand the cumulative harm arising from children's exposure to family and domestic violence.

Perpetrators of family and domestic violence abuse children by:

- using violence and abuse to control their partner and children including physical assaults, sexual assaults, yelling, threatening, standing over, destroying property and harming pets;
- creating an environment that is unpredictable, characterised by fear and uncertainty;
- demanding that their needs are prioritised over the children and partner;
- undermining, sabotaging and/or blocking the care, protection and parenting of the children. This can include deliberately sabotaging safety plans and/or other case plans that have been developed with the children's mother;
- using the children to coerce or control, for example, making the mother leave at least one child with the perpetrator at all times to stop her from trying to escape;
- causing the family to become homeless through eviction or refusal to be a safer parent, resulting in the mother and children being forced to leave the house for their own safety;
- blaming or scapegoating children for their use of violence;
- using all the money and/or accumulating significant debt in their partner's name; and
- isolating the family from social supports and networks, which may include not allowing the child to be enrolled in school and/or attend school as a means of socially isolating the child and adult victim or the adult victim may attempt to keep the child with her as a means of increasing safety for herself and/or the child.

Family and domestic violence also intersects with alcohol and other drug (AOD) misuse. The perpetrator can play a role in causing or exacerbating the partner's AOD use or interfere with their attempts to seek help and support with their AOD use. Adult and child victims of family and domestic violence can also be placed at significantly greater risk when the perpetrator uses AOD.

**High-risk infants**

A high-risk infant refers to an unborn infant or a child between 0-2 years of age considered to be at increased likelihood of significant harm or death due to the presence of risk factors, which includes family and domestic violence.

Research has clearly demonstrated that an infant will be at higher risk when their mother is a victim of domestic violence<sup>2</sup>. It has also shown that family and domestic violence affects unborn children. The family violence often commences or intensifies during pregnancy and is associated with increased rates of miscarriage, low birth weight, premature birth, foetal injury, and foetal death.

Infants are at risk of serious harm during family and domestic violence incidents due to being physically harmed by the perpetrator and/or being exposed to the violence, causing emotional harm.

**3 Terms and definitions**

Family and domestic violence is an intentional pattern of behaviour intended to coerce, control and/or create fear. It includes but is not limited to emotional and/or psychological abuse, physical and/or sexual violence, financial abuse, technology facilitated abuse, religious/spiritual violence, using or harming children to coerce or control their mother and social isolation.

Family and domestic violence can occur in many kinds of intimate or family relationships including from one partner towards another, from a parent to a child, and by an adult to an elderly relative. However, most frequently family and domestic violence is perpetrated by men against their female intimate partners (current or former) and children.

**Table 1 – Terms and definitions**

Term	Definition
<b>Family and domestic violence</b>	Means violent, threatening or other behaviour by a person that coerces or seeks to control a partner (current or former) or member of the person's family or causes the partner or family member <sup>3</sup> to be fearful.

<sup>2</sup> Connell-Carrick & Scannapieco 2006:307; Jackson et al 1999:9.

<sup>3</sup> 'Family member' has the meaning given in s.6 of the *Family Court Act 1997* (WA).

Term	Definition
<b>Act</b> of family and domestic violence	<p>Means behaviours that a person commits against another person with whom he or she is in a family or domestic relationship or against a former partner. Examples of behaviours that may constitute an act of family and domestic violence include (but are not limited to):</p> <ul style="list-style-type: none"> <li>• an assault against the person;</li> <li>• a sexual assault or other sexually abusive behaviour against the person;</li> <li>• stalking or cyber stalking the person;</li> <li>• damaging or destroying property of the person;</li> <li>• causing death or injury to an animal that is the property of the person;</li> <li>• unreasonably withholding financial support needed to meet the reasonable living expenses of the person, or a child of the person, at a time when the person is entirely or predominantly dependent on the other person for financial support;</li> <li>• preventing the person from making or keeping connections with the person’s family, friends or culture;</li> <li>• kidnapping, or depriving the liberty of, the person, or any other person with whom the person has a family relationship;</li> <li>• distributing an intimate image of the person without the person’s consent or threatening to distribute the image.</li> </ul>
<b>Emotional abuse</b>	<p>The term ‘emotional abuse’ includes psychological abuse and exposure to family and domestic violence, which causes serious emotional, psychological and physical harm to a child, as well as placing them at increased likelihood of abuse and neglect.</p>
<b>Exposed</b> in relation to an act of family and domestic violence	<p>Means the child sees or hears the violence or otherwise experiences the effects of the violence such as being a witness to physical injuries or property damage resulting from the act of family and domestic violence<sup>4</sup>.</p>

<sup>4</sup> *Restraining Orders Act 1997* – s.6A.

Term	Definition
<b>Harm</b> in relation to a child	<p>Harm is defined in s.3 of the <i>Children and Community Services Act 2004</i> and includes harm to the child's physical, emotional, or psychological development.</p> <p>While 'abuse' means an action or inaction against a child, 'harm' refers to the detrimental effect of that action or inaction on the child. The harm can be caused by a single act, omission or circumstance; or a series or combination of acts, omissions or circumstances<sup>5</sup>.</p>
<b>Cumulative harm</b>	<p>Refers to the effects of multiple adverse or harmful circumstances and events in a child's life. The unremitting daily impact of these experiences on the child can be profound and exponential, and diminish a child's sense of safety, stability and wellbeing.</p> <p>It is possible to have cumulative abuse (multiple events over time) that results in harm that is cumulative in nature (the impact of the events has been cumulative).</p>
<b>Significant</b>	Sufficiently great or important to be worthy of attention.

## 4 Policy statement

Exposing a child to an act of family and domestic violence is a form of emotional abuse. A child is considered a victim of the family and domestic violence through their exposure. The person responsible for the abuse is the perpetrator of the violence.

In addition to the harm caused by the emotional and psychological abuse, exposing a child to family and domestic violence can cause:

- physical harm where a child has been hurt during a family and domestic violence assault; and
- neglect where the family and domestic violence contributes to a child's basic needs not being met.

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<sup>5</sup> *Children and Community Services Act 2004* – s.28(1) When child in need of protection.

## 5 Responsibilities

Communities is responsible for identifying and responding to cases where a child has suffered significant harm or is likely to suffer significant harm because of exposure to family and domestic violence. Significant harm or likelihood of significant harm may be caused by a single act of family and domestic violence or the cumulative effect of exposure over time.

Where Communities receives a report, our role is to assess whether there are child safety concerns, which must include screening for family and domestic violence. If the report is about one child in the family, Communities must also consider the safety of other children in the household.

When responding to cases of emotional abuse - family and domestic violence, Communities' role is to increase safety for the child/ren and adult victim by reducing or managing the risks posed by the perpetrator.

Communities' responses to emotional abuse – family and domestic violence include:

- To assess whether a child exposed to family and domestic violence has suffered significant harm or is likely to suffer significant harm. Assessments must be informed by evidence-based risk factors and a close working relationship with the adult victim.
- Engage with the perpetrator to enhance assessments of the harm and danger, convey Communities' concerns, and determine the person's readiness to participate in safety planning.
- Work with the adult victim, child/ren, family and other professionals to create safety plans and safety networks that reduce or manage the risk posed by the person using violence.
- Share risk-relevant information, and work collaboratively with other agencies when assessing and managing the risks posed by the perpetrator. When a victim has been identified as being at high risk of serious harm, Communities will participate in or lead Multi-agency Case Management (MACM) meetings.
- Seek a violence restraining order on behalf of a child exposed to family and domestic violence, when it is likely to assist in protecting the child from the person using violence.
- Take intervention action when it has been assessed that a child needs protection because of emotional abuse – family and domestic violence (as a last resort).
- Work in partnership with the WA Police Force and non-government family and domestic violence services in the Family and Domestic Violence Response Teams.
- Provide information, counselling, support and referral for both the victim and perpetrator of the violence through the Women's and Men's Domestic Violence Helplines.
- Provide overnight accommodation for an adult victim and child/ren escaping family and domestic violence when suitable alternative accommodation cannot be found.
- Provide financial assistance to support the adult and child victim to escape family and domestic violence.

- Fund the community services sector to provide family and domestic violence services for adult and child victims and perpetrators.

## 6 Legislative mandate

The *Children and Community Services Act 2004* (the Act) is the legislative basis that underpins Communities' mandate to promote the wellbeing of children, individuals and communities, and to provide for the protection and care of children in circumstances where their parents have not provided, or are unlikely or unable to provide, that protection and care.

The Act also includes provisions about sharing of information:

- section 23, CEO etc. may disclose or request relevant information; and
- Part 3 Division 6 – Information sharing, which enables sharing of relevant information between certain agencies to protect the wellbeing of children and the safety of an adult victim of family and domestic violence<sup>6</sup>.

The Act allows relevant information to be shared despite any other Western Australian law that prohibits or restricts its disclosure, provided the information is shared in good faith and in line with the legislation. Section 129 of the Act outlines the protection from liability a person has when information is given in good faith.

The benefits of sharing information are supported by Inquiries and investigations, which have consistently identified the need for timely information sharing across agencies and sectors to prevent harm to children and in cases of family and domestic violence<sup>7</sup>.

In performing a function under the Act in relation to a child, the paramount consideration is the best interests of the child.

Other relevant legislation:

- *Family Law Act 1975 (Cwth)*
- *Family Court Act 1997 (WA)*
- *Restraining Orders Act 1997*
- *Residential Tenancies Legislation Amendment (Family Violence) Act 2019* – Tenancy reforms for renters affected by family and domestic violence commenced in April 2019. These laws allow a tenant to end their lease with as little as seven days' notice, without any legal or financial penalty, if they or their dependant are in circumstances of family and domestic violence.

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<sup>6</sup> *Children and Community Services Act 2004* – sections 28A, 28B and 28C.

<sup>7</sup> Government of Western Australia, Department for Child Protection and Family Support, *Working together for a better future for at risk children and families – A guide on information sharing for government and non-government agencies* (October 2015 – revised version), p. 7.

## 7 Operational procedures and resources

Refer to the Casework Practice Manual for the operational procedures and family and domestic violence resources including an assessment toolkit. Relevant Casework Practice Manual entries include:

- Assessing emotional abuse – family and domestic violence
- Safety planning for emotional abuse – family and domestic violence
- Responding to perpetrators of emotional abuse – family and domestic violence
- Family violence restraining orders
- Family and domestic violence response team
- Conducting a Child Safety Investigation
- High-risk infants.

## 8 Document control

<b>Publication date</b>	September 2021
<b>Review date</b>	September 2023
<b>Owner</b>	Director, Service and Operational Improvement
<b>Custodian</b>	Director, Child Protection Policy

## 9 Amendments

Version	Date	Author	Description
1	June 2021	Senior Policy Officer, Service Design and Support (Child Protection Policy)	Review undertaken in line with recommendations of the Ombudsman Western Australia
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