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**Duty of Care Procedure for Preventure,
Australia**

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“DUTY OF CARE” PROCEDURE FOR PREVENTURE, AUSTRALIA

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BACKGROUND

- The Preventure program involves children aged 12-14 years of age.
- The researchers on the Preventure project, and particularly the registered psychologists on the project, have a duty of care to protect the children involved in the program.
- The psychologists employed on Preventure are mandatory reporters as defined in NSW legislation, meaning they have a legal duty to make a report to Community Services (formerly known as DoCS; a Government Department that works to promote the safety and wellbeing of children and young people), if they suspect (using their professional judgement and training), on reasonable grounds, that a child is at risk of significant harm [Children and Young Person (Care and Prevention) Act 1998; Children Legislation Amendment (Wood Inquiry Recommendations), Act 2009 No. 13]. The legislation also mandates any person managing an employee who is a psychologist to report risk of harm.
- Note: mandatory reporters are not obliged to report risk of significant harm to unborn children or young people (those aged 16-17 years). However, they are encouraged to make a report if it is appropriate. While this is unlikely to occur within the Preventure workshops due to the age range of the participants (13-14 years), the students may provide second-hand information about this (e.g. an older sibling who is at risk).
- While those who are not classified as mandatory reporters do not have a legal duty to make a risk of harm report, all staff have an ethical duty to make a voluntary report if they have reasonable grounds to suspect a child (under the age of 16 years), young person, or unborn child to be at significant risk of harm.
- Risk of significant harm involves serious threats to the safety, welfare and wellbeing of a child for any of the following reasons:
 - The basic physical or psychological needs of the child or young person are not being met (neglect);
 - The parents or caregivers have not arranged necessary medical care (unwilling or unable to do so) ;
 - Risk of physical or sexual abuse or ill-treatment (physical or sexual abuse);
 - Parent or caregiver's behaviour towards the child causes or risks psychological harm (emotional abuse);
 - Incidents of domestic violence and as a consequence a child is at risk of serious physical or psychological harm (domestic or family violence).

- It is important to note that alcohol and/or other drug use by a child's parent/guardian does not necessarily place a child at immediate risk of harm. Rather, one needs to consider whether that use places the child at risk of any of the above. That is, substance use only becomes a concern when it affects the parents'/carers' capacity to provide care for their children. Some risky parenting practices that may be associated with parental substance misuse include leaving young children unsupervised for long periods or with inappropriate carers, exposure to domestic violence, sleeping with infants whilst intoxicated, and the danger of children ingesting substances or handling injecting equipment.
- Students in the Preventure groups may also be at risk of harming themselves or others, such as reported suicidal thoughts/plans/behaviours, or thoughts/plans/behaviours in regards to hurting someone else. Psychologists also have a duty of care in regards to this type of harm, and should follow the procedure outlined below.

PROCEDURE

- All study participants should be made aware that Preventure staff may need to make a report to CS and/or the School Counsellor or School Principal if they become aware of, or form a reasonable suspicion, that a child may be a significant risk, during their interactions with them. This is disclosed in the study's Participant Information Sheet, and is discussed by the facilitators at the beginning of the Preventure workshops.
- There will always be two facilitators in the group, so it is advisable for the facilitators to discuss any concerns about risk after the group. However, even if the facilitators do not agree about risk, it is still advisable to speak to the supervisor if there is some suspicion.
- If a Preventure staff member suspects a child is at risk of abuse, neglect or harm from themselves or someone else, the first step is to speak to their supervisor about their concerns.
- The staff member and supervisor decide together whether a report should be made to the School Principal/School Counsellor/CS. They should discuss whether there are *reasonable grounds* to suspect that the student is at significant risk of harm, meaning that the staff member needs to have an objective basis to deduce risk of harm, such as:
 - First-hand observations of the student (e.g. cuts/bruises, signs of neglect, affect, behaviour);
 - What they have been told by the student;
 - What they can reasonably infer based on professional training and/or experience.

- It is not necessary to confirm suspicions or have incontrovertible proof before making a report to CS. Developing a reasonable suspicion that a child or young person is at significant risk of harm from abuse or neglect is not always clear-cut. Sometimes the decision will be obvious (e.g., where there is direct disclosure of abuse). At other times, a professional judgement will be required about whether and when to make a report of harm. It is also important not to impose your own values regarding what is ‘good parenting’. For example, just because a parent uses illicit drugs, it does not mean that the child is definitely at significant risk of harm.
- If it is unclear as to whether or not a report should be made, there is a Structured Decision Making Guide on the “Keep Them Safe” website:
<http://sdm.community.nsw.gov.au/mrg/app/summary.page;jsessionid=4C088C551CC4EE62A8B21ABF8A52A5EA>
- Further, in deciding whether to make a report, the supervisor may wish to consult with a relevant member of the UNSW Human Research Ethics Committee for advice.
- In some instances, the staff member may have concerns about a child’s safety, but not have enough information to meet the requirements for ‘reasonable grounds’. In this case, the staff member should talk to the supervisor about whether it is advisable to arrange a time to meet with the student to gather more information. If they decide that there may be risk of harm to a child, but they need more information to determine this, they could contact the school correspondent for Preventure (i.e. the teacher or school counsellor) to set up a follow-up meeting with the student. When setting up this meeting, the staff member should maintain the confidentiality of the student, and simply request that they arrange a brief meeting with the student to clarify some points raised in the workshop.
- The meetings should be conducted by a registered psychologist. When meeting with the student, the psychologist can inform the student that they were concerned about the information raised by the student (or information they noted, such as signs of physical abuse or suicidality), remind the student that it is their job to ensure their safety, and ask them if they can discuss the issue further. If the psychologist elicits information that substantiates the risk of safety, they should then inform the student that they will need to speak to the CS and/or the School Counsellor or School Principal, to get them some help, and refer back to their discussion of this requirement at the beginning of the workshop.

- If the psychologist is still unsure as to whether the child is at significant risk, they can suggest that the student speak to the school counsellor or other services, or contact them or someone else on the Preventure team (provide them with contact details). The psychologist should then consult with their supervisor again, to determine whether any further action is required.
- In regards to public schools, the NSW Department of Education & Communities State Education Research Approvals Process (DEC SERAP) requests that if Preventure staff identify a child or young person at risk of abuse, neglect or harm from themselves or someone else, they make a report to the school principal to enable further action to be taken as may be appropriate. In the case of private schools, the decision as to whether or not to report to the school principal (or other school staff) will be discussed with each individual school prior to the commencement of the Preventure workshops, as well as a discussion about procedures around the provision of referrals to free support services and/or trained professionals within or outside the school.
- If the staff member and supervisor decide to make a report to CS, and one or both are mandatory reporters, they can call the **Child Protection Helpline on 133 627**.
The Child Protection Helpline is a 24 hours a day, 7 days a week, state-wide call centre staffed by professionally qualified caseworkers to receive and screen all reports. If waiting times exceed five minutes, or if there is no access to a phone, you can use the 'Risk of significant harm report fax' form instead, located on the CS website:
http://www.community.nsw.gov.au/preventing_child_abuse_and_neglect/resources_for_mandatory_reporters.html
- Researchers on the project who are not mandatory reporters should use the helpline for the general public: 132 111.
- Of course, where there are **urgent concerns for the child's health or life, contact the police using the emergency line '000'**.
- When you call the Child Protection Helpline, the Helpline caseworker will make an initial assessment. The Helpline caseworker combines the reporter's concerns about the child with the child protection history information, as available from the CS client electronic database. Reports can be closed at the Helpline (i.e., no further action taken), or based on the perceived level of risk and weight of evidence, the Helpline worker may decide that further action is warranted. The caseworker will recommend whether a response is required within 24 hours, 72 hours or 10 days. The report is then referred to either the local Community Services Centre or Joint Investigation Response Team for further

investigation. They may conduct a secondary assessment which involves obtaining a professional opinion about safety, risk and harm, and informs a decision about a child's or young person's need for care and protection. Removing a child or young person from their parents or caregivers, or assuming care responsibility for them is only considered in extreme circumstances. See the CS website for more information on the process of the CS response to a risk of harm report:

http://www.community.nsw.gov.au/preventing_child_abuse_and_neglect/what_if_a_report_is_made_about_me.html

- Each step in this procedure should be clearly documented by the staff member (may use the decision tree below).
- Ideally, students should be informed if you decide to make a report. There may be circumstances however, when because of the urgency of the situation for the child, or the perceived risk to the safety of the child or to yourself, you may need to report the matter prior to telling the participant. It may be inappropriate to disclose reporting to the participant if you believe that this would place you, or the child, at risk of harm.
- Any person who makes a report is afforded the following protection by law if they make a report in good faith:
 - The report shall not be held to be a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct;
 - No liability for defamation can be incurred because of the making of the report;
 - The report, or its contents, is not admissible in any proceedings as evidence against the person who made the report;
 - A person cannot be compelled by a court to provide the report or give any evidence as to its contents; and
 - A report is an exempt document under the *Freedom of Information Act 1989*.
- These protections may be overridden on rare occasions where information about the report is crucial to court proceedings. Here, disclosure of the reporter's identity can be made under certain conditions. In these circumstances, it would be advisable to obtain legal advice.

DECISION TREE

- Example for reported parental substance use;
- Template for documentation

Description of incident (i.e. details related to suspicion of harm):

Student reported that their mother is often drunk when they get home from school

Consult with supervisor. Together, decide; are there reasonable grounds to suspect that a child is at risk of harm?

[i.e.: Is there significant evidence of: neglect; parents/carers unwilling or unable to provide medical care; physical/sexual/ emotional abuse; domestic or family violence; risk of significant harm to themselves or others. Evidence can include first-hand observations of the student; what you have been told by the student; what you can reasonably infer based on professional training and/or experience]

Notes: *During a group discussion about using alcohol or drugs to cope, the student stated that their mother is often drunk when they get home from school. They seemed quite sad when they said this, speaking in a low voice and avoiding eye contact. They were otherwise fairly quite through the group. There were no overt signs of abuse or neglect and the child did not offer any further information about possible impacts of their mother's behavior.*

Yes

Report to School Counsellor/Principal and/or CS. Inform student beforehand if possible and document. Debrief with supervisor and in team meeting.

Notes:

Unsure

Psychologist to ask Katrina or Emma to call/email school contact to arrange a follow-up meeting with the student, to obtain further information about risk of harm. Ensure that you maintain student's confidentiality at this stage.

Notes: *Contacted PE teacher to arrange a meeting with the student to clarify some points raised in the group. Spoke with student 7/5/12. Student stated that their mother is getting help for her drinking, and her father or older brother are always home to take care of her. She denied any abuse or threats to her safety.*

No

No further action required. Make sure to document the reasons for this decision. Debrief with supervisor and in team meeting.

Notes:

Did the discussion with the student provide stronger evidence of risk of harm?

Notes: *There was no evidence to suggest that the child's needs were not being met or that they were unsafe due to the mother's drinking. It was reported that the mother was getting help for her drinking, and that other family members were taking care of the child*

No

Unsure

Yes

Suggest student speaks to school counsellor/teacher or other services if things worsen or if they would like someone to speak to. Provide contact details for relevant services. Document. Debrief with supervisor and in team meeting.

Notes: *Provided student with contact details of the school counsellor and Kids Helpline, in case she ever wanted to speak to someone about her mother's drinking, or any other issue.*

Suggest student speaks to school counsellor/teacher or other services if things worsen or if they would like someone to speak to. Provide contact details for relevant services. Consult with supervisor. Together, decide; are there reasonable grounds to suspect that a child is at risk of harm?

Notes:

Report to School Counsellor/Principal and/or CS. Inform student beforehand if possible and document. Debrief with supervisor and in team meeting.

Notes:

No

Yes

No further action required. Make sure to document the reasons for this decision. Debrief with supervisor and in team meeting.

Notes:

Report to School Counsellor/Principal and/or CS. Inform student beforehand if possible and document. Debrief with supervisor and in team meeting.

Notes:

Description of incident (i.e. details related to suspicion of harm):

Consult with supervisor. Together, decide; are there reasonable grounds to suspect that a child is at risk of harm?

[i.e.: Is there significant evidence of: neglect; parents/carers unwilling or unable to provide medical care; physical/sexual/ emotional abuse; domestic or family violence; risk of significant harm to themselves or others. Evidence can include first-hand observations of the student; what you have been told by the student; what you can reasonably infer based on professional training and/or experience]

Notes:

Yes

Report to School Counsellor/Principal and/or CS. Inform student beforehand if possible and document. Debrief with supervisor and in team meeting.

Notes:

Unsure

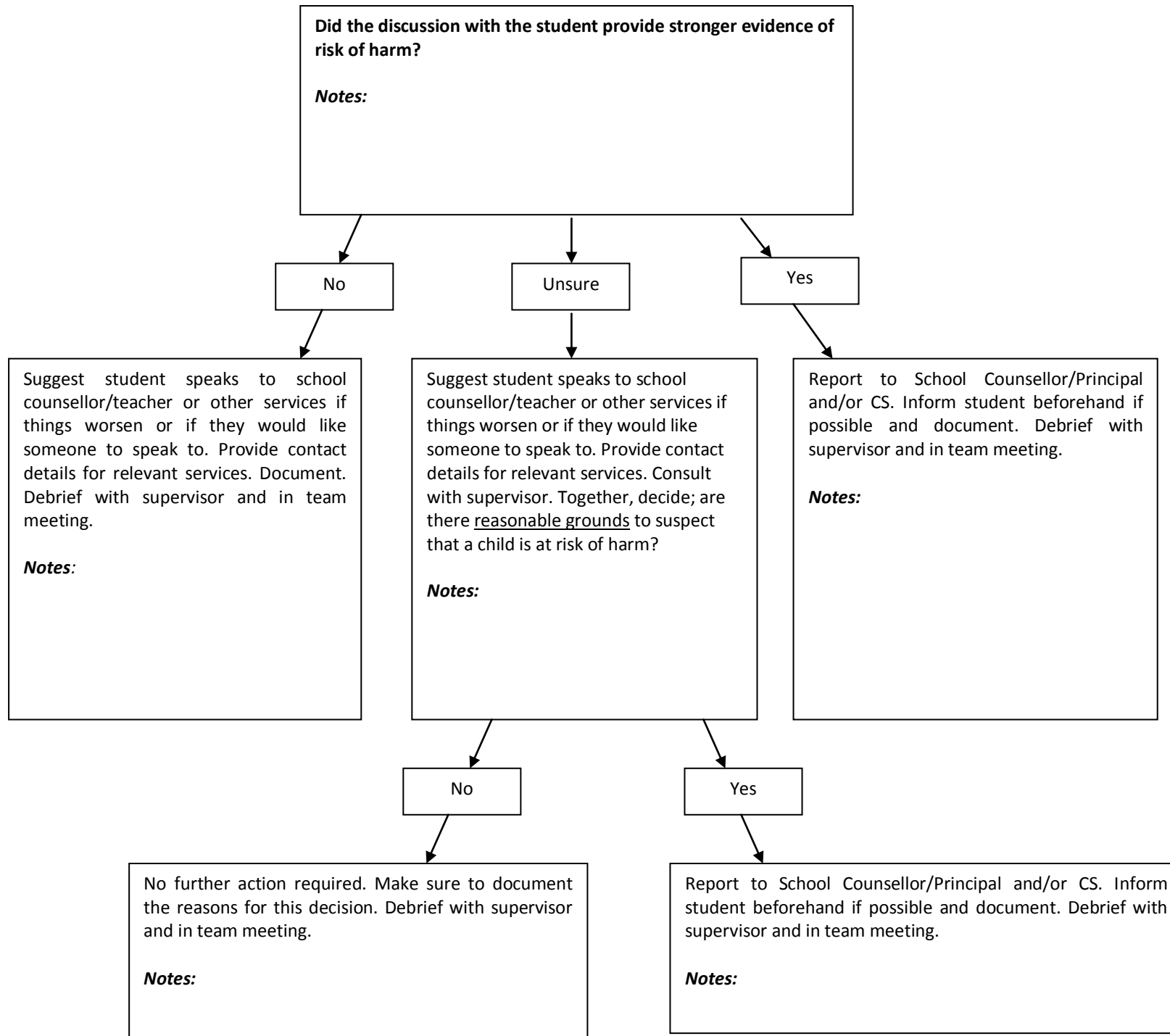
Psychologist to ask Katrina or Emma to call/email school contact to arrange a follow-up meeting with the student, to obtain further information about risk of harm. Ensure that you maintain student's confidentiality at this stage.

Notes:

No

No further action required. Make sure to document the reasons for this decision. Debrief with supervisor and in team meeting.

Notes:



REFERENCES

This document was based on the NDARC Child Protection Guidelines 2011 (available internally), and also made use of the following websites:

Community Services website:

<http://www.community.nsw.gov.au>

Keep Them Safe website:

<http://www.keepthemsafe.nsw.gov.au/>