

Service provider responsibilities in the management of care concerns

1. Purpose

This document defines what constitutes a care concern and specifies the responsibilities of service providers in managing care concerns. It aims to keep children and young people in care safe from harm, whilst ensuring responses to care concerns are consistent, fair, transparent, timely and culturally safe, appropriate and inclusive of Aboriginal and Torres Strait Islander people.

Children and young people in care are highly vulnerable due to their experiences of developmental trauma. Aboriginal and Torres Strait Islander children and young people continue to be over-represented across the child protection and out-of-home systems due to past policies and the impact of non-Aboriginal settlement, past assimilation policies, intergenerational trauma, discrimination and forced removal.

The Department for Child Protection (DCP) and service providers are jointly responsible for ensuring children and young people in care are safety and receive quality care.

2. Scope

This document relates to care concerns raised against all service provider employees, contractors, sub-contractors, volunteers and carers who provide direct care to children and young people under the guardianship or custody of the Chief Executive on behalf of DCP.

This document applies to service providers involved in the management of care concerns, including the initial response to notifications that are reported and assessed by DCP and are later recorded as care concerns.

2.1 Care concerns

A care concern is a notification to the Child Abuse Report Line (CARL) where the following criteria have been met:

- a. the child or young person was, or is in care, pursuant to the *Children and Young People (Safety) Act 2017* at the time of the allegation AND
- b. the concerns relate to the care provided by:
 - i. an approved carer and/or
 - ii. registered or approved household member; or
 - iii. temporary carer (pursuant to section 77 of the *Children and Young People (Safety) Act 2017*); or
 - iv. Department of Human Services, custodial staff; or
 - v. Department for Child Protection (DCP) employee and/or DCP volunteer, providing direct care and/or contracted carer; AND
- c. there is a reasonable suspicion that:
 - i. a child or young person has been harmed; or

- ii. there is a risk that the child or young person will suffer harm; or
- iii. the carer, DCP employee or DCP volunteer, has failed to meet the DCP Standards of Care, to a degree that the child or young person has been harmed or there is a risk that they will suffer harm.

In assessing whether there is a likelihood that a child or young person will suffer harm, regard must be had to not only the current circumstances of their care but also the history of their care and the likely cumulative effect on the child or young person of that history (Pursuant to section 18 of the *Children and Young People (Safety) Act 2017 Act*).

3. Authority

3.1 Legislative context

Service providers have responsibilities and functions under a range of legislation when responding to care concerns relating to children and young people in care.

Key legislative responsibilities include:

Children and Young People (Safety) Act 2017 and Children and Young People (Safety) Regulations 2017

The purpose of the *Children and Young People (Safety) Act* and Regulations is to protect children and young people from harm. It includes a framework for reporting suspicions that a child or young person is at risk of harm, responding to concerns when a child or young person has been harmed (or is at risk of harm and providing safe and appropriate care for children and young people under custody or guardianship of the Chief Executive.

Section 152 of the *Children and Young People (Safety) Act 2017* establishes the mechanism by which information relating to the health, safety, welfare or wellbeing of a particular child or young person or class of children or young people can be shared, with or without consent, between service providers and DCP as well as other government departments.

Independent Commissioner Against Corruption Act 2012

Establishes the Independent Commission Against Corruption with responsibility for receiving complaints and reports of suspected or alleged corruption, misconduct or maladministration in public administration.

Child Safety (Prohibited Persons) Act 2016

Section 19 of the *Child Safety (Prohibited Persons) Act 2016* details the requirement for employers to advise the central assessment unit of certain information and Section 8 specifies all assessable information that service providers are required to provide.

3.2 Whole of Government requirements

- [The National Standards for Out of Home Care 2008 – 2020](#)

- [Charter of Rights for Children and Young People in Care](#)
- [Information sharing guidelines for promoting safety and wellbeing.](#)

3.3 Principles

The management of care concerns will be underpinned by the following principles:

- The safety and wellbeing of children and young people is the paramount consideration
- Decision-making is child and young person focused
- Children and young people have a voice in decisions made about them
- Responses to care concerns will be culturally safe, respectful and responsive and to meet the needs of Aboriginal and Torres Strait Islander children, young people, families and communities and is in line with the Aboriginal Child Placement Principle and the core elements; Prevention, Partnership, Placement, Participation and Connection, and the precursor, Identification
- Management of care concerns are responsive to meet the needs of children and young people from culturally and linguistically diverse communities
- Management of care concerns will be responsive to the developmental and disability needs of children and young people
- Responses to care concerns are considerate of the needs of children and young people who identify as LGBTQIA
- Timely decision-making and safeguarding
- Procedural fairness by ensuring timely advice for those subject to a care concern and to ensure that they will be afforded the opportunity to hear and respond to allegations raised about the care they have provided
- Interagency collaboration leads to better outcomes
- Responses to care concerns must consider the:
 - the Charter of Rights for Children and Young People in Care
 - Statement of Commitment – South Australian Foster and Kinship Carers
 - Standards of out of home care

4. Requirements

4.1 Service provider responsibilities

Service providers must demonstrate a commitment to the prevention and management of care concerns through systematic approaches in service culture, training, reporting, and review processes.

Prevention and management of care concerns requires:

- ensuring that all staff (contracted and sub-contracted) are aware of their obligations in relation to care concerns
- timely reporting of care concerns (refer to section 4.3)
- safeguarding children and young people in care to ensure their safety is the paramount consideration (refer to section 4.2.4)
- timely provision of incident reports, log book entries and other information requested by DCP to support the care concern response (refer to section 4.4)
- provision of supports to the carer throughout the care concern process (refer to section 4.5.3)
- provision of cultural support for carers throughout the care concern process
- participation in the planning discussion convened by DCP (refer to section 4.5.2)
- timely follow up to response plans following a care concern (refer to section 4.5.2).

4.2 Safety

4.2.1 Immediate safety

The safety of children, young people and any other people affected by the care concern is the paramount consideration. Once aware of concerns relating to a child or young person's safety or wellbeing, service providers must respond immediately to ensure the safety and wellbeing of the child or young person and others involved.

This may involve:

- calling for an ambulance
- calling for South Australia Police (SAPOL)
- administering first aid

It is the responsibility of the service provider to consider requesting SAPOL attendance when deemed necessary to ensure the safety of those involved, restore order or preserve evidence. Service provider staff should always call 000 in an emergency. For non-urgent matters, a report to SAPOL can be made by phone on 131 444 or in person at a police station.

If it is safe, practical and appropriate to do so, consultation with a Service provider manager/supervisor should occur simultaneously or immediately after assessing and responding to immediate safety needs.

Issues regarding the immediate safety and wellbeing of children and young people in the care of the service provider remain the responsibility of the service provider. Reporting an incident or concern does not absolve a service provider's responsibility in this regard, refer to 4.3.6 for additional information.

4.2.2 Protection of self and others

Non-physical intervention strategies should always be used wherever possible to help a child or young person to regulate their emotions and de-escalate. From time to time reasonable force may be required by carers or staff to protect themselves or others from harm (for example, grabbing a child that is about to run onto a road). This means that any action taken must be as least restrictive as possible and only maintained for the least amount of time necessary to reduce the risk of harm.

Service providers must consider whether the use of force to protect self or others also constitutes a care concern as per section 2.1.

4.2.3 Risk assessment

In the event of a care concern, the service provider will conduct a risk assessment to determine whether immediate action is required to address risk to the safety and wellbeing of the child or young person, or whether there are other factors that necessitate an urgent response. If the child or young person is Aboriginal, the service provider must undertake appropriate consultation with an Aboriginal Consultant.

The service provider is responsible for undertaking regular risk assessments in collaboration with DCP and other relevant stakeholders whilst responding to the care concern.

4.2.4 Safeguarding

Following a care concern, service providers are to put in place appropriate safeguards to manage risks to the safety and wellbeing of the child or young person. This may include safeguards relating to a staff member's contact with a child or young person whilst a care concern process is being undertaken. Service providers do not need to await for a determination or outcome of a care concern to take steps to safeguard children and young people.

Upon determination of a care concern, the DCP Care Concern Management Unit (CCMU) will forward email advice to the service provider with a PDF version of the care concern and the determination (assessment decision). It is important that this information be considered in light of any immediate safeguarding action required for both the child and/or young person and carer. This is the joint responsibility of both the service provider and DCP case management and any action to be taken should be made collaboratively.

The service provider should not discuss the contents of the care concern with the person subject of concern (PSOC) until a planning discussion has been convened and roles, responsibilities and a coordinated response to address the concern has been planned (refer to sections 4.5.2 and 4.5.3).

DCP places an automatic 'no new placements' on carer approvals when a serious care concern is raised. The DCP Carer Approval and Review Unit (CARU) may also apply 'no new placements' where a carer is subject to more than one moderate care concern within a short space of time. The service provider is informed by DCP when 'no new placements' has been applied to a carer's approval.

The DCP Chief Executive may on behalf of the Minister for Child Protection give the service provider written notice requiring the service provider to cease to engage a person/s in the direct service provision of care services on behalf of DCP to children and young people if in the Chief Executive's reasonable opinion the person/s is unsuitable. The service provider must immediately comply with the notice.

4.3 Reporting

4.3.1 Child Abuse Report Line (CARL)

Under sections 30 and 31 of the *Children and Young People (Safety) Act 2017*, certain people are obliged by law to notify DCP if they suspect on reasonable grounds that a child or young person has been harmed or is at risk of harm and the suspicion is formed in the course of the person's work (whether paid or voluntary) or when carrying out official duties. A notification can be made via CARL by phoning 13 14 78.

Service providers are responsible for ensuring all mandatory reporting requirements are met.

CARL will review the information provided by the notifier and determine if the matter constitutes a care concern. All matters screened in as care concerns are then forwarded to the DCP CCMU for assessment.

4.3.2 South Australia Police

Any care concern that includes allegations that are potentially criminal in nature will be reported to SAPOL by the DCP CCMU.

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Notwithstanding, it is the responsibility of the service provider to consider requesting SAPOL attendance when deemed necessary as per section 4.2.1.

4.3.3 Office for Public Integrity and Ombudsman SA

Under Schedule 1 of the *Independent Commission Against Corruption Act 2012*, public officers include public sector employees, local government, elected members, members of parliament, judges, and persons performing contract work for a public authority or the Crown. This includes service providers and their staff.

Public officers are required to report corruption to the Office for Public Integrity (OPI) and are encouraged to report misconduct or maladministration to either the OPI or Ombudsman SA. Further information on what to and how to report is available at <https://www.publicintegrity.sa.gov.au/documents/Directions-guidelines-OPI.pdf> and at <https://www.ombudsman.sa.gov.au/publication-documents/Directions-guidelines-OSA.pdf>.

4.3.4 Department of Human Services (DHS) – Screening Unit

Service providers are required under section 19 of the *Child Safety (Prohibited Persons) Act 2016* to inform the Screening Unit at DHS if they become aware of any assessable information. Section 8 of the *Child Safety (Prohibited Persons) Act 2016* specifies all assessable information that service providers are required to provide.

4.3.5 NDIS Quality and Safeguards Commission

Service providers must report the matter to the NDIS Quality and Safeguards Commission if the care concern relates to a child or young person who is an NDIS participant and is receipt of services funded by the child or young person's NDIS plan.

4.3.6 Significant incidents

In addition to the obligations set out in this document, service providers have additional responsibilities when responding to events including (but not limited to):

- child death or serious injury (including expected death)
- a missing child (extreme risk)
- abuse and/or neglect in out of home care
- allegations of serious criminal offences
- serious threats to the safety of a site or person
- staff death or serious injury.

These responsibilities are documented within the [incident management service provision requirement](#).

4.4 Information sharing

4.4.1 Consent

Sharing information with consent underpins the development and maintenance of positive working relationships with children, young people, their carers and the services that support them and is the preferred approach for sharing information.

Unless the sharing of information is required by law, consideration should always be given to obtaining consent if it is safe, appropriate and reasonable to do so.

When sharing information, the service provider must confirm the recipient of any documents being shared and ensure that the recipient understands confidentiality requirements. Information sharing must occur in a secure and timely manner and care must be taken to ensure the information is accurate and relevant.

4.4.2 *Children and Young People (Safety) Act 2017* information sharing provisions

Information relating to the health, safety, welfare or wellbeing of a particular child or class of children or young people can be shared, with or without consent, between service providers and DCP as well as other government departments, including SAPOL as per section 152 of the *Children and Young People (Safety) Act 2017*. The purpose of the information sharing must be to allow the recipient to perform functions relating to children or young people or to manage any risk to a child or young person, or class of children or young people that might arise in the recipient's capacity as an employer or provider of services. This includes reporting and responding to care concerns.

4.5 Response to care concerns

4.5.1 Response pathway

Child protection notifications that satisfy the criteria of a care concern (as per 2.1) are referred to the DCP CCMU for assessment. The DCP CCMU will advise the service provider in writing of the assessment determination.

The four response pathways are:

- serious (conducted by DCP Investigations Unit) - A response pathway for the management of a care concern involving an investigation to gather information relevant to the care concern in order to identify the contribution of an individual's actions (or inactions) to any deficiencies in care, or any abuse or neglect experienced by the child or young person, and secondly, to identify whether any systemic issues contributed to the child or young persons' adverse experience.

The evidence gathered is recorded in an investigation report. An outcome is recorded as to whether or not abuse or a deficit in care is substantiated, undetermined or unsubstantiated.

- moderate (conducted by DCP local office) - A response pathway for the management of a care concern involving a formal care concern review meeting to discuss the allegations, other issues and care expectations. Outcomes and strategies to prevent future concerns are implemented through an action plan. An outcome is recorded as to whether or not abuse or a deficit in the quality of care is substantiated, undetermined or unsubstantiated.
- minor (conducted by DCP local office) - A response pathway for the management of a care concern involving a discussion as part of normal case management. Responses are expected to be collaborative and supportive. The carer will still be provided an opportunity to hear and respond to the allegations. Case management actions may also include a review of the child's case plan, additional training or support provided to the carer and/or referral for other support or therapeutic services. No outcome decision is recorded as to whether or not abuse or a deficit in the quality of care has occurred.
- no action - No action is taken as a result of any of the following:
 - The matter has been previously reported and responded to and as a result requires no additional investigation or response.
 - The matter does not meet the definition of a care concern.

DCP categorise care concerns into four different abuse categories (physical, sexual, emotional abuse and neglect). These abuse types are utilised by DCP for reporting purposes.

Care concern processes may consider systems issues that may have contributed to the care concern, the behaviours of individuals and the corrective action required to mitigate current and future risk.

At the conclusion of a moderate or serious care concern process, DCP will make a decision as to whether or not, on the balance of probabilities, abuse or a deficit in care is substantiated, undetermined or unsubstantiated.

4.5.2 Participation in planning discussions

When invited by DCP service providers will attend planning discussions for minor, moderate or serious care concerns and ensure that the staff member attending has the appropriate decision making authority. The purpose of these meetings is to coordinate a holistic response to the care concern (for example ensure safety, plan the investigation and identify longer term actions required to address risk to the child or young person).

It is also expected that any information which may add value to the meetings and in coordinating a response to addressing the concerns is shared within this meeting (refer to section 4.3).

A response plan may be developed by DCP in collaboration with all stakeholders and may include actions allocated to the service provider. Service providers must complete the actions within the agreed timeframes and report the outcome of these actions back to DCP.

A decision will be made at the planning discussion as to who is the appropriate person to inform the PSOC of the concerns. At times service providers may be identified as the most appropriate option to conduct the discussion. Advice on considerations when holding this meeting can be found in section 4.5.4.

4.5.3 Supporting the Person Subject of Concern

Service providers will support their staff and carers in the management and resolution of care concerns by:

- ensuring carers and staff are sufficiently trained to undertake the contracted service and meet the needs of the child or young person within their care
- maintaining contact with the PSOC at a frequency required to provide sufficient support
- for family based carers, providing respite care as required
- developing strategies to support and address the challenging aspects of the placement
- providing clear and easily accessible information regarding the care concern processes
- providing support during and after care concern processes, for example, during meetings, interviews and the provision of care concern outcomes
- assisting the PSOC to identify an alternative support person, where the provision of support by the service provider may pose a conflict of interest
- ensuring the PSOC is being culturally supported and is referred to culturally appropriate services/supports.

4.5.4 Partnership and Cooperation

Service providers will cooperate with DCP in the management and resolution of care concerns by:

- reporting all safety and wellbeing concerns about children and young people to CARL as soon as reasonably practicable after the service provider becomes aware of the concern/s
- sharing relevant information with DCP (pursuant to section 152 of the *Children and Young People (Safety) Act 2017*) that will assist DCP to manage the care concern and any risk to the child or young person including:
 - the particulars of staff members involved in care concerns
 - documents such as log entries, incident reports, client records, rosters, policies, and procedures

- any other information reasonably requested in the circumstances
- participating in care concern processes such as strategy discussion and planning discussions
- working with DCP in the formulation of response plans to manage specific care concerns and completing tasks allocated to the service provider in the requested timeframes, as per the 'performance measurement specification'
- ensuring service provider staff are available to participate in care concern processes.

Where it is agreed at the planning discussion (see section 4.5.2) that the service provider is the most appropriate person to discuss the care concern with the PSOC, service providers during this discussion must:

- provide an explanation of the purpose of the discussion to the PSOC
- advise the PSOC that a care concern has been raised
- present the specifics of the concerns and related issues
- give the PSOC an opportunity to respond to the concerns
- invite the PSOC to provide their views on what needs to be done to address the concerns
- inform the PSOC they will receive a written copy of the agreed actions (for minor, moderate and serious care concerns) and an outcome letter (for moderate and serious care concerns).

If requested to do so by DCP, the service provider will provide a written summary of the discussion with the PSOC.

4.5.5 Debriefing and/or supervision

Service providers are to have in place a mechanism for debriefing after a care concern has occurred to ensure carers, staff and others involved have received appropriate supports and opportunities for debriefing and/or supervision (as relevant), and corrective action is identified and actioned. Service providers should consider cultural safety protocols and supports where carers or staff identify as Aboriginal.

4.5.6 Care concern outcome

The care concern outcome (whether or not abuse and/or a deficit in care is substantiated, undetermined or unsubstantiated) is recorded for moderate and serious care concerns and will remain on record with DCP. In some circumstances, the information may be shared with others to inform decisions in relation to clearances to work with children and carer approval. DCP is required to retain all documentation regarding care concerns in accordance with the *State Records Act 1997*, including details of the care concerns received, the assessment decision, any actions taken and the outcome decision.

For moderate and serious care concerns, the PSOC will be informed by DCP in writing as to whether abuse and/or deficit in care is substantiated, undetermined or unsubstantiated. The service provider may be asked to provide the outcome letter to the PSOC to allow for support to be provided to the PSOC on receipt of the written outcome.

Following a care concern outcome, DCP may request that service providers undertake further actions to increase the child or young person's safety or wellbeing, increase carer skills or address systemic or broader issues that may have contributed to a care concern. Service providers are responsible for ensuring that these actions are completed as per the 'performance measurement specification'. Service providers will provide details of any actions taken or intended to be taken in response to a care concern, if requested to do so by DCP. Service providers should consider cultural needs and safety with providing outcome decisions to Aboriginal carers or staff.

Carer approvals will continue to be flagged as unable to provide new placements as a result of a care concern until the service provider provides the DCP CARU with evidence of the actions undertaken in response to the care concern.

4.5.7 Finalisation, review and screening

The care concern management model promotes active participation and procedural fairness. It is expected that a carer or staff member who is subject to a care concern will be provided with an opportunity to hear and respond to the allegations. For all moderate and/or serious care concerns, a final outcome of either substantiated, undetermined or unsubstantiated will be made. It remains the responsibility of DCP to make these findings on the balance of probabilities in considering information from a range of sources.

For serious care concerns the outcome findings are made by the Care Concern Outcome Panel and endorsed by the delegate.

Once a finding is made there is no right to review the outcome by legislation.

For family based carers, the DCP CARU will consider an individual's care concern history and findings when reviewing approval decisions on a case by case basis.

It should be noted that an adverse care concern outcome will not necessarily impact on a DHS Working With Children Check. Service providers, carers and employees should consider the information provided on the [DHS website](#) regarding the assessment matrix.

The PSOC has the right to raise a grievance or complaint or provide feedback about the care concern process via the following avenues:

- online using the online complaints form
- in writing to GPO Box 1072 ADELAIDE SA 5001; or
- by email to DCPComplaintsandFeedback@sa.gov.au
- by telephoning 1800 003 305.

Alternatively, the PSOC can contact the State Ombudsman or seek their own legal advice.

4.6 Policies and procedures

The service provider will ensure that services are provided in accordance with all current DCP policies and procedures relating to the provision of services as advised by the Chief Executive DCP. Please note that such policies and procedures will change from time to time and service providers will be advised accordingly.

Service providers are to design, implement and review appropriate internal policies and procedures for ensuring the safety and welfare of children and young people, including policies and procedures for:

- complaints and feedback
- mandated notifications
- professional boundaries
- care concerns
- incidents
- significant incidents.

Service providers must make certain that all contracted and sub-contracted staff are inducted in these policies and procedures prior to working with children and young people in care.

Service providers must make sure that their own internal policies and procedures (such as misconduct investigations) do not impede on the management of a care concern. Collaboration between the service provider, DCP and other stakeholders (such as SAPOL) is imperative to develop clear response plans that meet the needs of all stakeholders.

5. Compliance, monitoring and evaluation

The document is to be reviewed every two years.

6. Glossary

Term	Meaning
Aboriginal Cultural Safety	Aboriginal Cultural safety is ensuring the environment is safe for the needs of Aboriginal people, where there is no judgment or denial of their identity. It encompasses shared respect, shared meaning, knowledge and experience of learning, living and working together with dignity and true listening.
CARL	Child Abuse Report Line
CARU	Carer Approval and Review Unit
CCMU	Care Concern Management Unit
Deficit in Care	The carer, DCP employee, DCP volunteer, has failed to meet the Standards of Care.
ICAC	Independent Commission Against Corruption
Incident	Any harm or impact on the health, safety or wellbeing of a child or young person under custody or guardianship of the Chief Executive.
Harm	A reference to physical harm or psychological harm (whether caused by an act or omission) and includes such harm caused by sexual, physical, mental or emotional abuse or neglect. (Pursuant to section 17 of the <i>Children and Young People (Safety) Act 2017</i> .)
OPI	Office of Public Integrity
Person Subject of Concern (PSOC)	The approved carer and/or registered or approved household member or temporary carer (pursuant to section 77 for the <i>Children and Young People (Safety) Act 2017</i>); or Department for Human Services, custodial staff; or Department for Child Protection (DCP) employee and/or DCP volunteer and/or contracted carer about whom a reasonable suspicion has been raised that: a) a child or young person has been harmed; or

Term	Meaning
	b) there is a likelihood that the child or young person will suffer harm; or c) the carer, DCP employee or DCP volunteer, who has failed to meet the DCP Standards of Care to a degree that the child or young person has been harmed or there is a likelihood that they will suffer harm.
Planning Discussions	A documented discussion with relevant stakeholders that is convened by the DCP case worker for the child or young person. It involves planning the response to care concerns, establishes the roles and responsibilities of all parties and reaches agreement on what actions will be taken, by whom and in what order.
Risk	A child or young person has suffered harm or there is a likelihood that they will suffer harm against which they would ordinarily be protected. In assessing whether there is a likelihood that a child or young person will suffer harm, regard must be had to not only the current circumstances of their care but also the history of their care and the likely cumulative effect on the child or young person of that history (Pursuant to section 18 of the <i>Children and Young People (Safety) Act 2017</i> Act).
SAPOL	South Australia Police
Service Provider Staff	All employees, agents, consultants, contractors or subcontractors employed or engaged by the Service Provider in respect of the Services (including any person assisting in the provision of services in a voluntary capacity or as a volunteer, and any students on placement with the Service Provider).
Significant Incident	An event that occurred as a result of, or during the delivery of, services directly provided or funded by DCP, that includes death, serious injury harm or illness to a young person, pregnancy, serious care concern, child or young person commits a criminal offence of significant nature, young person is the victim of a criminal offence or witness to a serious criminal offence, matters likely to attract public or media interest, external review or inquiry, data breach employee, contractor or carer commits a criminal offence.
Standards of Care	The standards of care that children and young people in South Australia under the guardianship or custody of the Chief Executive are to receive are set out in the the National Standards for Out of Home Care 2008-2020 , and the Charter of rights for Children and Young People in Care .
Substantiated	A care concern outcome is substantiated when on the balance of probabilities the concern is deemed to have occurred and has met the threshold of abuse/deficit in care.

Term	Meaning
Undetermined	A care concern outcome is undetermined where there is no evidence with which to corroborate or negate the allegations.
Unsubstantiated	A care concern outcome is unsubstantiated on the balance of probabilities the concern either did not occur or did not meet the threshold of abuse/deficit in care.

Document control

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