

Significant Neglect – Information Sheet

This information sheet provides guidance to assist organisations in deciding whether conduct or behaviour is significant neglect under the Reportable Conduct Scheme. This information may not cover all possible situations. Each matter is assessed on its individual merits, taking into account the specific facts and circumstances involved. If further guidance is required, please contact the OIR.

How is neglect defined in the *Child and Youth Safe Organisations Act 2023*?

Neglect is defined in section 7(1) as “the deliberate or reckless failure to meet the basic needs of the child”.

What does “basic needs” mean?

The ordinary meaning of basic needs contemplates the minimum resources necessary for a child or young person’s wellbeing, typically food, clothing, shelter and safety. However, the meaning of basic needs could be interpreted more widely to include supervision, medical and health related matters.

What does “reckless or deliberate” mean?

Recklessness is a disregard for known risks whereby actions or omissions would impact adversely on a child or young person’s safety. A deliberate failure means an intentional failure to do something that should be done.

What is Significant Neglect?

Section 7(2) (f) of Tasmanian *Child and Youth Safe Organisations Act 2023* states that significant neglect of a child constitutes reportable conduct.

Significant neglect means neglect that is “more than trivial or insignificant but is not required to be deemed serious or to have a lasting permanent effect”.

Significant neglect usually involves a pattern of repeated failure to meet a child or young person’s basic wellbeing needs, but in some circumstances may be a single, notable incident where a caregiver fails to fulfil their duty, resulting in neglect which may or may not result in actual harm to a child or young person.

Is proof of harm necessary?

The definition of neglect makes no reference to harm being caused or likely to be caused. While proof of harm is not a requirement under the law to establish neglect, harm may be a relevant consideration in assessing the seriousness or otherwise of neglect. In other words, the capacity to demonstrate harm may be a relevant consideration in determining significant neglect

Questions to guide decision making

To determine/decide whether alleged conduct is significant neglect consider these questions:

YES

NO

Was there a failure to meet the basic needs of the child or young person?

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Was it a deliberate, or reckless failure to meet a child or young person's basic needs?

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Can the neglect be described as "significant" (ie. the neglect is more than trivial or insignificant but not serious or having a lasting permanent effect)?

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Was the capacity to demonstrate harm considered in assessing the seriousness of the alleged neglect?

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Could a significant foreseeable risk have arisen from the alleged neglect?

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Could the worker or volunteer have chosen to meet the child or young person's needs but did not?

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What neglect might look like

There are different types of neglectful behaviour summarised in the table below. Examples are provided to help guide your decision making.

Type	Description and examples
Supervisory neglect	Failing to appropriately provide adequate supervision or control of a child or young person, for example: • leaving a child or young person alone or unsupervised, having taken into account the child's age, individual needs and circumstance. • leaving a child in a hot car in summer. • unlawful or dangerous behaviour that puts a child at risk of potential harm, such as driving recklessly or not utilising appropriate car restraints or seat belts. • exposing a child or young person to inappropriate material or environments such as illicit drugs or pornography. • leaving a child in the care of a person who is prohibited from engaging with children and young people. • exposing a child or young person to hazards such as allowing a young child to walk the streets at night alone.
Medical Neglect	Failing to seek or comply with appropriate or recommended medical treatment, for example: • Failure to seek necessary professional medical, psychological, or dental attention for serious conditions • Inappropriate provision (withholding or oversupply) of medication, aids or therapeutic devices to children or young people, intentionally or recklessly.
Physical neglect	Failing to meet a child or young person's physical needs including the provision of adequate and appropriate food, clothing, shelter or physical hygiene needs, for example: • failing to provide safe accommodation for a child or young person • providing inadequate food or food that is not of appropriate nutritional value. • clothing that is inappropriate to the weather conditions or clothing that is tattered, unhygienic or soiled.
Educational neglect	Failing to ensure that a child's formal educational needs are being met, for example: • Intentional or chronic prevention from attending school without lawful reason, impairing development.