



Ministry of Health, Welfare and Sport

Model Reporting Code Domestic Violence and Child Abuse

Action plan for responding to signs
of domestic violence and child abuse



Model Reporting Code

Domestic Violence and Child Abuse

Action plan for responding to signs
of domestic violence and child abuse



Introduction

This document is a guide intended for officials in institutions, practices, and other organisations charged with drawing up a code for reporting domestic violence and child abuse. It will enable you to tailor your own reporting code to suit your organisation's needs. Part 4 of this guide consists of a model reporting code, giving you an idea of what a reporting code could look like.

Model Reporting Code

This guide consists of four parts:

- **Part 1 describes the purpose, scope, and functions of reporting codes.**
- **Part 2 describes the actions required of organisations adhering to the reporting code and the responsibilities they must accept.**
- **Part 3 provides background information on the duty of confidentiality and how it relates to the action plan.**
- **Part 4 consists of a model reporting code to help you draw up your own reporting code.**

I. Purpose and functions of a reporting code

1.1 Background

In autumn 2008, Jet Bussemaker (State Secretary for Health, Welfare and Sport), Ernst Hirsch Ballin (Minister of Justice), and André Rouvoet (Minister for Youth and Families) announced their intention to introduce a bill that would require organisations and independent professionals to adhere to a code for reporting all forms of domestic violence and child abuse, including sexual violence, female genital mutilation, honour-based violence, and senior abuse. The bill was intended as a quality assurance measure.¹

The requirement will apply to organisations and independent professionals in education, health care, child care, youth care, social work, and the criminal justice system.

Attached to the bill is a guide to help the officials responsible to draw up reporting codes for their own organisations. Since plans for a common reporting code are currently being developed in several regions, the Government has decided to publish this guide before the new act comes into force, so that the organisations concerned will be well prepared.

1.2 Functions of a reporting code

Organisations and independent professionals will be required to adhere to a reporting code to help them deal with signs of domestic violence and child abuse. The reporting code will include an action plan, guiding professionals through all the steps in the process, from identifying the signs of violence or abuse to deciding whether to file a report. The steps make it clear to professionals what is expected of them when they identify signs of domestic violence or child abuse and how, given their duty of confidentiality, they can reach a sound decision on whether to file a report. We expect these steps to help make our approach to domestic violence and child abuse more effective.

When organisations are subjected to an official inspection, they will be required to show they adhere to a reporting code and that they have created the conditions whereby their professionals can comply with it in a safe working environment. Individual professionals within organisations may be required to show that they are carrying out the action plan when they identify signs of domestic violence or child abuse. In investigations into individual cases, inspectors will examine whether the organisation has a reporting code and whether it has done enough to make it work. The action plan makes it possible to track each of the professional's actions.

¹ For the letter to the House of Representatives in which the Government announced its intention to introduce the bill, see House of Representatives of the States General, 2008-2009, 28 345, no. 72.

‘The steps make it clear to professionals what is expected of them when they identify the signs of domestic violence or child abuse’

1.3 Purpose of the model reporting code

This guide is intended to help organisations and independent professionals draw up their own reporting codes, tailored to their specific situation. The model reporting code corresponds as closely as possible to the reporting codes and protocols developed in recent years by various professional groups in various fields.² We therefore expect that it will fit in well with existing practices.³

General terms

In this guide, terms like ‘organisation’, ‘professional’, and ‘client’ are used very generally. The reporting codes drawn up by individual organisations should define these terms more specifically and describe in detail

which professionals are expected to carry out which steps. Are all the teachers in a school, for instance, expected to take action, or only internal counsellors? And what role should the pupil support advisory team play in this? In hospitals, will only doctors carry out the steps, or will nurses also do so? In addition, which professionals should carry out which steps in prisons? The reporting codes of individual organisations must specify which staff members are to be consulted for advice and assistance in carrying out each step. An organisation may for instance have in-house specialists in domestic violence and child abuse.

2 See the list of codes and protocols at the end of this basic guide.

3 Reporting codes already developed and implemented, such as that of the Royal Dutch Medical Association (KNMG) on child abuse, still serve as a starting point for the professional groups concerned. Since the KNMG reporting code is intended for doctors, the National General Medical Practitioners’ Association (LHV) also played an important part in drawing it up.

Definitions of domestic violence and child abuse

The model reporting code adheres to the definition of ‘child abuse’ contained in the Youth Care Act. Child abuse thus includes instances where children witness domestic violence between other housemates. Since domestic violence is not (yet) defined in legislation, we adhere to a definition used by public services for several years, which specifically mentions sexual violence, genital mutilation, honour-based violence, and senior abuse as forms of domestic violence or child abuse. Dealing with these forms of violence and abuse requires specific professional skills and expertise. If these are lacking, and there are signs of specific forms of violence or abuse, the organisation should immediately call in external experts. The model reporting code does not cover instances of domestic violence or child abuse committed by professionals themselves. Such cases require other actions, involving the organisation’s management and official inspectors.

Clients as victims, witnesses, and offenders

The client – that is, the person with whom the professional has professional contact – will not always be a victim of domestic violence or child abuse. He may also be a suspected offender or, especially if younger, a witness to domestic violence or child abuse.

Cruelty to animals

Where there is domestic violence or child abuse, pets are also often abused. Veterinary surgeons adhere to a reporting code on cruelty to animals⁴ aimed at identifying and preventing the cruelty at an early stage. If you encounter or suspect cruelty to animals, phone ‘144’, the emergency number for animals in distress.

4 You will find the reporting code for cruelty to animals at <http://www.knmvd.nl/cms/showpage.aspx?id=2207>.

‘The model reporting code does not cover instances of domestic violence or child abuse committed by professionals themselves’.



II. The action plan

2.1 Introduction

This part of the guide describes the steps that organisations must require their professionals to take when they identify domestic violence or child abuse. After describing the various steps, we will briefly explain the responsibility of organisations to ensure that all requirements are met.

Three initial observations.

One-off contact

The action plan assumes that professionals and clients have regular contact with each other. But the situation in a GP's surgery is different from that in a hospital's A&E department or an out-of-hours GP service (for evenings and weekends), where much of the contact is one-off, making it impossible to carry out all the steps in the action plan. In such cases, the organisation's reporting code must describe the steps to be taken when signs of violence or abuse are identified during a one-off contact. Ambulance services and A&E departments sometimes work with specific reporting codes, transferring cases if necessary after the initial contact to a GP, paediatrician, the Advice and Reporting Centre for Child Abuse and Neglect, or the Domestic Violence Advice and Support Centre.

Criminal-justice approach

If the suspicion arises that a serious offence has been committed, you should coordinate the steps to be taken (possibly via the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre) with any action that the police may take. Interviews with victims and witnesses can obstruct the production of evidence in criminal cases.

Relation to the Register of At-Risk Juveniles

In cases of suspected child abuse, the professional will usually not only carry out the steps described in the reporting code, but also consider whether to file a report with the Register of At-Risk Juveniles. The Register aims to bring professionals working with the same young people in contact with each other in order to identify risks to the young person's development. The purpose is to adopt a joint approach to the problems of young people and their families. NB: the professional does not have to choose between filing a report with the Register of At-Risk Juveniles and carrying out the steps in the reporting code. Both actions are appropriate when child abuse is suspected because they complement each other.

2.2 The steps that professionals are expected to take

The steps in the process begin as soon as the professional identifies signs of violence. Identification itself has a separate place in the model reporting code. Professionals regard it as an important socio-normative skill. As such, it is not a step in the action plan, but a basic component of the professional's attitude

towards clients, students, and patients.

The steps guide the professional through the procedure to be followed if he suspects domestic violence or child abuse.

Order in which steps should be carried out

The steps described below should be carried out in a certain order, although this is not obligatory. What matters is that the professional should carry out every necessary step before filling a report. Sometimes, the professional will discuss certain signs with the client as soon as he identifies them. At other times, before he speaks with the client, he will first consult with a colleague and the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre. Some steps may be carried out two or three times.

Specific forms of domestic violence and child abuse

The action plan outlines in general terms the steps that must be carried out when signs of domestic violence or child abuse are identified. The steps need to be described in more detail in cases of specific types of violence or abuse, such as sexual violence and female genital mutilation. For the latter, see the FGM interview protocol of the AJN (Dutch Association of Doctors in Youth Health Care) and the FGM procedural protocol of Pharos (the Knowledge and Advisory Centre on Migrants, Refugees and Health Care Issues). For dealing with signs of honour-based violence, see the soon-to-be-published 'Handleiding voor de aanpak van eergerelateerd geweld' ('Manual for Tackling honour-based Violence'), produced by the Federation of Shelters and Movisie (the Netherlands Centre for Social Development).

Step 1: Identifying the signs

When a professional identifies signs of domestic violence or child abuse, he is expected to make a record of the signs, the conversations about them, the steps taken, and the decisions he has made.

He should also record any information that contradicts the signs. When recording the signs, the professional should follow the codes and procedures of his own organisation.

Many organisations keep a file on each client. In such cases, the professional should add to the file all the information about the signs of abuse and the steps he has carried out. If an organisation does not keep client files, its code must indicate how and where the professional is to record information about the signs and the steps he has carried out.

NB: Each step in the action plan is accompanied by a brief set of practical instructions to help the professional carry out the step properly.

The instructions for the first step are concerned with the careful recording of information. They remind the professional to distinguish between facts and signs, to mention the status of hypotheses and assumptions, and to name the source when recording information from a third party.

Signs relating to the client's children

A professional may have concerns about a client's children or other family members with whom he himself has no contact. A mental health professional or social worker, for instance, may have concerns about the safety of a client's children if the client is occasionally aggressive or unable to look after his children owing to excessive drug use. Even if the professional cannot assess the children's situation because he has no contact with them, he will have enough reason to further investigate the circumstances in which the children live.

Step 2: Peer consultation and, if necessary, consultation with the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre

The second step is consultation on the signs of violence or abuse. To interpret the signs he has recorded, the professional must consult an expert colleague, such as a specialist in domestic violence or child abuse within the organisation or the school's pupil support advisory team. As long as the information on the client has been rendered anonymous, the professional may also consult the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre. If the professional suspects that female genital mutilation or honour-based violence has been committed or is imminent, he must call on specific expertise.

Advice and Reporting Centre for Child Abuse and Neglect and Domestic Violence Advice and Support Centre

Advice

At any step in the action plan, it is possible to contact the Advice and Reporting Centre for Child Abuse and Neglect, which is part of the Youth Care Office, or the Domestic Violence Advice and Support Centre. Both centres have extensive in-house expertise on the possible signs of domestic violence and child abuse. Their staff can also advise on the actions required and the conduct of interviews with clients about the signs. When consulted for advice, neither centre will approach the client or third parties. They communicate their advice only to the professional seeking it. The Advice and Reporting Centre for Child Abuse and Neglect will inform anyone who reports suspicions of child abuse of what has been done with their information.

NB: Advisory consultations are conducted on the basis of anonymous client information. To consult them, you need not breach your duty of confidentiality.

Filing a report

If, after carrying out the appropriate steps in the action plan, you decide to file a report, the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre will take over the investigation into the domestic violence or child abuse. Both centres keep the professionals who have filed reports informed of the results of the investigations and the actions taken.

NB: When filing a report, you must provide client information, because the two centres cannot otherwise respond.

In cases involving domestic violence between adults, you should file your report with the Domestic Violence Advice and Support Centre. T 0900 126 2626. In cases involving the abuse of children or minors or a child witnessing domestic violence between other family members, you should contact the Advice and Reporting Centre for Child Abuse and Neglect directly. T 0900 123 1230.

For more information about the Advice and Reporting Centre for Child Abuse and Neglect, see the the Centre's protocol of conduct (June 2009).



If the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre suspects honour-based motives behind (imminent) violence or abuse, they may seek advice on the safety risks from the National Expertise Centre on honour-based Violence, an independent unit within the Haaglanden regional police force.

NB: In this guide, we have chosen to augment peer consultation, wherever necessary, with advice from the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre. The KNMG (Royal Dutch Medical Association) reporting code on child abuse requires doctors always to augment this second step (peer consultation) with advice from the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre.

Step 3: Interview with the client

After peer consultation and possible consultation of the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre, the next step is an interview with the client. Since openness is fundamental to the professional's approach to assisting clients, he must seek contact with the client (or the parents) as soon as possible in order to discuss the signs of violence or abuse. In some cases, the interview will remove suspicion, in which case the next steps in the action plan will be unnecessary. If the interview does not remove suspicion, the next steps will be carried out.

If a professional needs assistance at this stage, he should consult a colleague or a specialist within his organisation or the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre.

In the interview with the client, the professional must:

1. explain the purpose of the interview;
2. discuss the signs of violence or abuse identified, that is, the facts recorded and the observations made;
3. invite the client to respond;
4. and only after this response, if necessary, interpret what he has seen and heard and what he has been told in response.

No interview with the client

The instructions on this step set out the types of situation where the professional may dispense with an interview with the client. Situations, for instance, in which an interview might endanger the safety of one of the parties. A professional may decide (for the time being) not to discuss with a suspected offender his suspicions of sexual abuse or honour-based violence, for fear that the suspected offender might subsequently take it out on the victim. The professional may also dispense with an interview if there is good reason to believe that it would prompt the client to break contact with the professional, who would then lose sight of him.

Interviews with children

The professional should interview minor clients even if they are very young, unless the child's age makes it impossible or too difficult. The professional may himself assess whether an interview would be useful or possible, if necessary in consultation with a colleague or the Advice and Reporting Centre for Child Abuse and Neglect.

NB: It may be important to speak to a child alone without the parents present so that the child can express itself freely. In such cases, the professional must adhere to the rules that apply to his own sector. A teacher, for instance, may, without much ado, interview a pupil. If a paediatrician wants to interview a 10-year-old child, he must first inform the parents. However, if the safety of the child, the paediatrician, or other parties is at stake, he may conduct an initial interview with the child without informing the parents in advance.

Interviews with parents

If the client is a minor, the professional will usually interview the parents about the signs of violence or abuse. This is important whether or not the parents are the suspected offenders, because the parents must, as a rule, be informed about what is going on with their child, especially if they have parental responsibility.

NB: An interview with (one of) the parents may be dispensed with if the safety of the child or other parties is at stake, for instance, if the professional has reason to believe that an interview will lead to loss of contact with the child because the parents will take the child out of school, stop taking it to the child care centre, or commit more honour-based violence.

Step 4: Assessing violence and child abuse

Once the professional has carried out the first three steps, he will have quite a lot of information: a description of the signs he has recorded, the results of the interviews with the client, and the advice of experts. In Step 4, the professional assesses all this information. This step requires the professional to assess the risk of domestic violence or child abuse as well as its nature and seriousness.

If the organisation or professional group has a risk assessment instrument, the professional should use it. In Step 4 too, the professional may seek advice from experts such as the dedicated post holder, the pupil support advisory team, the Advice and Reporting Centre for Child Abuse and Neglect, or the Domestic Violence Advice and Support Centre.

NB: In the KNMG reporting code for doctors, this step is combined with Step 5. The KNMG reporting code advises doctors – as an additional step and if necessary – to obtain information from other professionals working with the family. See Artsen en Kinder mishandeling, Meldcode en Stappenplan ('Doctors and Child Abuse, Reporting Code and Action Plan'), Utrecht, September 2008, p.17 ff (Step 4) and p. 24 ff (Article 9), www.knmg.nl/publicaties (in Dutch only).

Step 5: Reaching a decision: organising or reporting assistance

After the assessment in Step 4, the professional, if necessary assisted by experts, will decide whether to organise assistance himself or to file a report. The professional has to assess whether he himself – given his competences, responsibilities, and the limits to his professional expertise – can effectively offer or organise assistance. If he considers that he cannot do so completely, he should file a report.

Organising assistance and tracking its effects

If the professional considers that he and his organisation can protect the client sufficiently against the risk of domestic violence or child abuse, he should provide or organise the necessary assistance. He should track the effects of this assistance and, if the violence continues or flares up again, he must file a report.



Filing a report

If the professional considers that he and his organisation cannot protect the client sufficiently against the risk of domestic violence or child abuse, he should file a report so that the situation can be further investigated and action taken to protect the client and his family sufficiently.

The Advice and Reporting Centre for Child Abuse and Neglect will follow up the report with an investigation of the signs, that is, it will interview the parents and professionals working with the child. On the basis of the results of this investigation, the Centre will decide what should happen next. It will often organise voluntary assistance, but it may also decide to file a report with the Child Protection Board and/or report the abuse to the police.

Once the Domestic Abuse Support Centre has received the report, it will seek contact with the client to assess what assistance is needed. It will then organise assistance for the victim and, under the provisions of the Temporary Domestic Exclusion Order Act, for the offender and, if necessary, explain it to both parties.

When filing a report, get the facts right

When you draw up a report, you should include as much detail as possible about the signs of violence or abuse, that is, the facts and events observed. If you also mention facts and events that others have seen or heard, you should name your sources clearly.



‘A report is not an end in itself. The action plan sets out what the professional can do, after filing his report, to protect and assist the client or his family’

Contact with the client and/or the parent(s) about the report and the efforts necessary for obtaining permission for the report

Before the professional files a report, he must seek contact with the client to explain his intention to file a report, the report’s importance to the client, and its purpose. The professional will then ask the client to respond. If the client objects to the report, the professional will discuss the objections with the client and look at how they can be overcome.

If the client’s objections remain, the professional will make a judgement. He will weigh the importance of these objections against the need to file a report in order to protect the client or other parties from violence or abuse. In doing so, he will also take account of the nature and severity of the violence and the need to protect the client or other parties from it.

The professional will try to obtain permission from the client. Only if he cannot do so, even after long discussions, will he consider filing a report without the client's permission. For more information, see Part 3 of this document.

Position of minor clients and their parents

If the client is under 12 years old, the professional will conduct an interview as described above with the client's parent(s).

If the client is 12 to 15 years old, the professional will conduct an interview with the client or the parents.

Filing a report without having interviewed the client or the parents

The instructions for Step 5 describe situations in which the professional may dispense with contact with the client and/or the parents concerning the report. They include situations in which the safety of one of the parties could be at risk. The professional may also dispense with an interview if there are good reasons to believe that it would prompt the client to break contact with the professional and thus disappear out of sight.

Disclosure of the identity of authors of reports concerning child abuse

Article 55 of the Youth Care Act Implementing Decree lays down the general rule that the Advice and Reporting Centre for Child Abuse and Neglect must inform the family concerned of the identity of the author of a report of violence or abuse.

The author's identity may however be withheld from the family if disclosure is likely to:

1. put the young person concerned, other young people, or the author or his colleagues at risk; or
2. damage the trust between the author and the client and/or the family.

NB: The Domestic Violence Advice and Support Centre has not yet established a procedure for this eventuality. The general rule is openness about reports unless the identity of the author needs to be withheld from the client for safety reasons.

Efforts following the report

A report is not an end in itself. Once a professional has filed a report, the action plan lays down that he should consult the Domestic Violence Advice and Support Centre or the Advice and Reporting Centre for Child Abuse and Neglect on what he can do himself, within the limits of his professional expertise, to protect and assist the client and/or the family. This is explicitly included in Step 5 to make it clear that the professional's involvement with the client continues after the report has been filed. The professional is expected to continue assisting and protecting the client to the best of his abilities. In order to ensure a cohesive approach, he should do so in consultation with the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre.

These centres keep the authors of report informed of the results of investigations and actions taken.

2.3 Responsibility of organisations for creating conditions for a safe working and reporting environment

If domestic violence and child abuse are to be properly identified and all the appropriate steps taken, the reporting code must be properly implemented within a safe working environment. This is why the model reporting code also details the responsibilities of the organisations concerned, especially in relation to the implementation of the action plan and the creation of a safe reporting environment. The organisation must:

- inform professionals and clients about the reporting code used and its purpose;
- offer professionals adequate and regular training;
- regularly evaluate the use of the reporting code on the basis of case histories. This will help improve the quality of the reporting code and raise awareness of how professionals identify domestic violence and child abuse;
- ensure that experts are available to be consulted;
- oversee the effects of the reporting code;
- make arrangements with professionals (for instance via the works council) on how the organisation will assist them if clients hold them accountable – in or out of court – for the steps in the action plan.

These arrangements are important for maintaining a safe working and reporting environment, and they make it clear to the professionals that following the reporting code is not an individual choice but a matter of policy required by the public authorities.

III. The duty of confidentiality, the reporting code, and the right to report

3.1 Introduction

In this section, we provide some background information about the duty of confidentiality, the statutory right to report, and the relationship between the two.

3.2 Definition and purpose of the duty of confidentiality

General duty of confidentiality

Any professional who provides individual clients with assistance, care, support, or any other form of guidance has a duty of confidentiality. This duty requires the professional to withhold information about the client from third parties unless the client has given him permission to disclose it.

The duty of confidentiality is intended to make the threshold for seeking assistance as low as possible and help the client feel that he can speak freely.

‘All in all, dealing with the duty of confidentiality is a balancing act between secrecy whenever possible and cautious disclosure whenever necessary.’

The duty of confidentiality applies to social workers, internal counsellors, elder-care workers, youth workers, health care professionals, child care providers, and playgroup leaders. It also applies to counsellors and social workers in the probation service and custodial institutions (especially for young offenders), even though the coercive nature of the criminal justice system will sometimes result in breaches of confidentiality.

The general duty of confidentiality referred to above is not specifically included in any legislation, but it is derived from the privacy provisions of the European Convention on Human Rights and Fundamental Freedoms (Article 8) and the Dutch Constitution (Article 10). These provisions are further supported by Article 272 of the Criminal Code, which contains a ban on disclosing secrets entrusted to professionals.

Specific duty of confidentiality

Some professional groups adhere to a specific duty of confidentiality that is regulated in special legislation. The duty of confidentiality of medical professionals, such as doctors and nurses, for instance, is laid down in Article 88 of the Individual Health Care Professions Act and Article 7:457 of the Civil Code. That of youth care professionals is laid down in Article 53 of the Youth Care Act. And that of confidential inspectors in education is laid down in Article 6 of the Education Inspection Act.

Paradox of the duty of confidentiality

Dealing with confidentiality involves a certain paradox. Confidentiality is the tool of choice for ensuring that people turn to professionals and are willing to speak openly about their concerns. It gives people the confidence that their story will remain between them and the professional. But applying the duty of confidentiality too rigidly can have the effect that clients who urgently need assistance are ignored because the professional concerned believes he may not intervene owing to his duty of confidentiality. ‘All in all, dealing with the duty of confidentiality is a balancing act between secrecy whenever possible and cautious disclosure whenever necessary.’ This guide aims to help the professional strike the right balance when dealing with signs of domestic violence or child abuse.

Asking for permission

When providing information from a client to a third party, as when filing a report to the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre, the professional should, as a rule, try to get permission for his report. This guide outlines the procedure for doing so. If the client gives permission, a report can be filed. If the client refuses permission, despite the professional’s efforts, the professional should not abandon the report but should reconsider the situation (see section 3.3).

NB1: The Personal Data Protection Act provides that clients aged 16 or over must give their permission for professionals to divulge information about them to third parties (whether or not in the form of a report). The Youth Care Act and the Medical Treatment Agreements Act give clients this right from the age of 12. But a report concerning a minor client who still lives at home must also be discussed with the parents. The report will usually contain information not only about the minor client but also about the parent(s).

NB2: The requirement to obtain permission may be waived if the safety of the client, the professional, or other persons is at stake.

3.3 Conflict of duties

As old as the duty of confidentiality is the notion that this duty can obstruct the professional in the conduct of his work. Situations may arise in which the professional could help the client merely by speaking out, but he may not do so owing to his duty of confidentiality. In such situations, the professional faces a conflict of duties: the duty to remain silent versus the duty to assist the client by discussing the case with a third party. This is an issue only in very serious situations in which the client can be assisted only by involving a third party.

In cases brought before professional disciplinary tribunals, it has been established that, if a professional faces a conflict of duties, he may speak about the client to a third party even without the client's permission. A decision to breach the duty of confidentiality must of course be taken with the utmost caution.

For assistance in deciding whether to breach the duty of confidentiality, go to www.huiselijkgeweld.nl/cgi-bin/beroepsgeheim.

In most cases answering the following five questions will lead to a carefully considered decision:

1. Can I protect the compelling interests of my client or his children through disclosure?
2. Is there another way of achieving the same goal without breaching my duty of confidentiality?
3. Why is it not possible to ask for or acquire the client's permission to discuss his situation with someone who can help him?
4. Are the client's interests that I wish to serve through disclosure so compelling that they outweigh his interest in my remaining silent?
5. If I decide to disclose information, whom should I provide with what information in order to address the violence or abuse effectively?

Position of the client

The position of the client plays an important role in decisions on whether to breach the duty of confidentiality. The professional will be more likely to break his silence on behalf of a client in a dependent position, who is less able to act himself against violence or abuse. Such individuals are primarily children and young people. They may be clients themselves or children of clients.

Adult clients can, as a rule, decide for themselves how they live their lives and whether they want assistance or other interventions. Self-determination is an important starting point in the provision of assistance to clients. But it is not absolute.

There are situations where self-determination has to be compromised because the client is in a very serious situation, such as one involving domestic violence. Research has shown the extent to which victims can be so trapped by their situation that they cannot get out of it on their own. The professional will first need to make every effort to obtain the client's permission. But if the client refuses, the professional cannot simply resign himself to silence. He must weigh the seriousness of the client's situation against the fact that the client will not permit him to file a report. If the professional concludes that the domestic violence is so serious that the client must be protected, he must file a report even without the client's permission. He has concluded that the compelling interest of his duty of confidentiality is outweighed by the more compelling interest of protecting his client against serious and/or regular violence.

NB: Before a professional takes a decision, he must discuss the situation with an expert colleague and if necessary (providing the client information has been rendered anonymous) seek advice from the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre.

Assessment of decisions to breach the duty of confidentiality

If a supervisory body is asked to express an opinion in retrospect on the actions of a professional, it will first assess the care the professional exercised in reaching the decision to breach his duty of confidentiality.

It will examine factors such as:

- peer consultation;
- consultation with the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre;
- the existence of sufficient relevant facts or signs, carefully recorded;
- a careful and specific assessment of all the interests;
- the history of contact with the client about the report. In specific terms, a supervisory body will examine whether the professional, given his scope for action and his client's circumstances, tried to obtain the client's permission to file a report or, if this was impossible, informed the client of his intention to do so.

Advice for professionals on deciding whether to breach the duty of confidentiality can be found at the Ministry of Justice's privacy helpdesk: www.huiselijkgeweld.nl/cgi-bin/beroepsgeheim.cgi.

NB: For decisions to be assessed in retrospect, it is essential to keep a careful record of all decisions to file a report concerning a client without first having obtained the client's permission. The professional must record not only the filing of the report, but also the interests considered and the persons consulted prior to the decision.

3.4 Statutory right to report

When child abuse is suspected, the Youth Care Act (section 53, subsection 3) upholds the doctrine of the conflict of duties, which explicitly provides for a right to report. This entitles any professional with a duty of confidentiality or other duty of non-disclosure to report suspicions of child abuse to the Advice and Reporting Centre for Child Abuse and Neglect, if necessary without the child's or parents' permission. The right to report also includes the professional's right, at the request of the Advice and Reporting Centre for Child Abuse and Neglect, to provide information about the child and/or his parents, if necessary without their permission.

The new bill will include a similar right to report in cases involving only domestic violence between adults. Until the new bill is enacted, the conflict of duties will offer a solution in cases where the professional cannot request or obtain permission and a report is necessary to stop the violence and protect the client.



IV. Model reporting code for responding to signs of domestic violence or child abuse

The competent authority of

[name of the organisation for which the
reporting code is being drawn up]

Considering

- that [name of organisation] is responsible for providing quality services to its clients and that this responsibility is certainly relevant to services to clients who are or may be affected by domestic violence or child abuse;
- that the professionals employed by [name of organisation] to share this responsibility are expected in all their dealings with clients to be attentive to signs that may indicate domestic violence or child abuse and to respond effectively to these signs;

- that [name of organisation] wishes to draw up a reporting code so that the professionals it employs know what steps they are expected to take if they observe signs of domestic violence or child abuse;
- that, in this reporting code, [name of organisation] will also lay down how it will assist the professionals in carrying out these steps;
- that ‘domestic violence’ is defined as: (threats of) violence, in any location, committed by a person in the victim’s domestic circle, ‘violence’ being defined as physical, sexual or psychological harm to the victim’s personal integrity (including senior abuse and honour-based violence). The victim’s domestic circle includes (former) partners, family members, relatives, and housemates;
- that ‘child abuse’ is defined as any threatening or violent interaction of a physical, psychological or sexual nature with a child that the parents or other persons with whom the child is in a relationship of dependency or constraint impose actively or passively, causing or liable to cause serious harm to the child in the form of physical or psychological injury (including honour-based violence and female genital mutilation);
- that ‘professional’ is defined as the professional employed by [organisation name] who provides the organisation’s clients with care, counselling, education, or other forms of assistance;
- that ‘client’ is defined as any person to whom the professional provides his professional services.

Taking into account:

- the Personal Data Protection Act;
- the Youth Care Act;
- the Social Support Act *[other legislation relating to the organisation’s handling of personal information]; the privacy rules of [name of organisation].*

Adopts the following Domestic Violence and Child Abuse Reporting Code.

Emergencies

If you identify signs of violence so serious that your client or his family require immediate protection, you should seek advice immediately from the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre. If they consider that immediate action is necessary, you can, at the same time, file a report so that the necessary action can be taken in the short term. In emergencies, you can also contact the Child Protection Board, the emergency service of the Youth Care Office, and/or the police.

IVa. Action plan for responding to signs of domestic violence and child abuse

Step 1: Identifying the signs

Identify and record the signs that corroborate or disprove suspicions of domestic violence or child abuse. In addition, record all instances of contact with the client concerning these signs plus any steps or decisions taken.

When identifying signs of domestic violence or child abuse, use a dedicated instrument for identifying abuse or domestic violence (if your organisation has one).

If you have no contact with your client's children, you can still record information about their situation if your client's situation so warrants.

If you observe signs of domestic violence or child abuse committed by a professional, inform the manager responsible or your organisation's management board in accordance with in-house guidelines. In such cases, the action plan does not apply.

Describe the signs as factually as possible. If you also record hypotheses or assumptions, state explicitly that this is their status. Add a follow-up note if a hypothesis or assumption is later corroborated or disproved. If you record information from third parties, always specify the source. Only record diagnoses if they are given by competent professionals.

Step 2: Peer consultation and, if necessary, consultation with the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre

Discuss the signs with an expert colleague. If necessary, consult the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre.⁵

Step 3: Interview with the client

Discuss the signs with the client. If you require assistance in preparing for or conducting the interview with the client, consult an expert colleague and/or the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre.

1. Explain the purpose of the interview to the client.
2. Describe the facts you have recorded and the observations you have made.
3. Invite the client to respond.
4. Only after this response, if necessary, interpret what you have seen and heard and what you have been told in response. In cases of female genital mutilation, you can use the Declaration against Female Genital Mutilation.

You may file a report without discussing the signs with the client only if:

- your own safety, that of your client, or that of a third party is at stake;
- you have good reason to suppose that an interview would prompt the client to break contact with you.

Step 4: Assess the nature and severity of the domestic violence or child abuse identified

Having considered the signs, the advice obtained, and the interview with the client, assess the risk of domestic violence or child abuse. In addition, assess the nature and severity of the domestic violence or child abuse identified. When assessing the risk of domestic violence or child abuse, use a risk assessment instrument (if your organisation has one).

NB: In the KNMG reporting code for doctors, this step is combined with Step 5. The KNMG reporting code advises doctors, as an additional step and if necessary, to obtain information from other professionals working with the family. See Artsen en Kindermishandeling, Meldcode en Stappenplan ('Doctors and Child Abuse, Reporting Code and Action Plan'), Utrecht, September 2008, p.17 ff (Step 4) and p. 24 ff (Article 9), www.knmg.nl/publicaties.

Step 5: Reaching a decision: organising assistance yourself or filing a report

Organising assistance and tracking its effects

In view of your assessment in Step 4, if you think you can protect your client and his family against the risk of domestic violence or child abuse:

- organise the assistance necessary;
- track the effects of that assistance;
- file a report if you identify signs that the domestic violence or child abuse is continuing or has resumed.

⁵ The KNMG reporting code also advises doctors always to seek advice from the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre.

‘If you identify signs of serious violence, seek immediate advice from the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre’

Filing a report and discussing it with the client

If you cannot protect your client from the risk of domestic violence or child abuse, or if you doubt whether you can do so:

- report your suspicions to the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre;
- attach to your report as much factual evidence as possible, and state clearly if the information you are reporting (also) comes from third parties;
- when drawing up your report, consult the Advice and Reporting Centre for Child Abuse and Neglect or the Domestic Violence Advice and Support Centre about how you yourself can protect your client and his family from the risk of domestic violence or abuse – within the limits of your normal duties – after you have filed your report.

Before you file your report, discuss it with your client (if aged 12 or over) and/or with the parent (if the client is under 16).

1. Explain your reasons for filing a report and the purpose of doing so.
2. Ask the client explicitly for a response.
3. If the client objects to the report, discuss with him how you can meet his objections.
4. If you cannot do so, weigh the objections against the need to protect your client or a family member from violence or child abuse. In your assessment, take account of the nature and severity of the violence and the need to protect your client or his family from it.
5. File a report if you believe that protecting the client or his family is the decisive factor.

You can dispense with contact with the client about the report:

- if your own safety, that of your client, or that of a third party is at risk;
- if you have good reason to suppose that an interview would prompt the client to break contact with you.

IVb. Responsibilities of [name of organisation] for creating conditions for a safe working and reporting environment

To enable professionals to identify domestic violence and child abuse in a safe working environment and take the steps described in the reporting code, [name of organisation] will:

- ensure that the purpose and substance of the reporting code are well known within the organisation and among clients;
- regularly provide training and other forms of professional development so that professionals are able to acquire the appropriate skills and knowledge to identify domestic violence and child abuse, and carry out the steps described in the reporting code;
- ensure that the right experts are available to assist professionals in identifying violence or abuse and taking the steps described in the reporting code;
- ensure that the reporting code fits in with other procedures within the organisation;
- regularly evaluate the reporting code and take any necessary action to optimise it;
- make arrangements on how [name of organisation] will assist its professionals if their clients hold them accountable – in or out of court – for the way they apply the reporting code.

Protocols, reporting codes, and other documents used in preparing this basic guide (all available in Dutch)

- Letter to the House of Representatives from the Secretary of Health, the Minister for Youth and Family, and the Ministry of Justice concerning mandatory reporting codes on domestic violence and child abuse. See House of Representatives, 2008-2009, 28 345, no. 72, p. 2008.
- Summary of reporting codes, Netherlands Youth Institute, Utrecht, 2008
- Amsterdam Protocol on Child Abuse
- Youth Health Care Service draft guidelines on the secondary prevention of child abuse, 2007
- Dutch Association of Doctors in Youth Health Care (AJN) interview protocol on female genital mutilation, 2005
- Pharos action protocol on female genital mutilation, 2007
- KNMG reporting code and action plan, September 2008
- KNOV code for reporting child abuse, February 2007
- NIZW code for reporting child abuse, 2002
- Haaglanden ambulance services code for reporting child abuse, April 2009
- SEH Medical Centre Haaglanden protocol for reporting child abuse, March 2009
- Rotterdam domestic violence and child abuse protocol
- Sample protocols for reporting child abuse in primary and secondary schools, developed by the The Hague municipal health department, South Holland West public health department, and the JSO expertise centre.
- Zicht op de Rotterdamse Meldcode ('Guide to the City of Rotterdam Reporting Code'), an evaluation of Rotterdam's domestic violence and child abuse code, K. Lünemann, Verwey Jonker Institute, March 2009



This is a publication of
Ministry of Health, Welfare and Sport

Address for visitors
Parnassusplein 5 | 2511 vx The Hague

Postal address
PO Box 20350 | 2500 EJ The Hague
T +31 (0)70 340 7911
F +31 (0)70 340 7834
www.minvws.nl

Publication number
DVC-90487

Editorial board: VWS/DMO/MDH
Design: Optima Forma by
Printed by: Vijfkeerblauw

April 2012