

Child Protection

About child protection, mandatory reporting and supporting permanency for children in need of protection

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Overview

The Department of Health and Human Services

Child Protection

The legislative framework

Mandatory reporting

Permanency changes

The Department of Health and Human Services

- The department was established on 1 January 2015, bringing together the functions of health, human services and sport and recreation.
- The department has a unified vision to work together to develop improved social and economic policies and programs designed to enhance the wellbeing of Victorians.
- The broad ranging departmental programs are managed across four ministerial portfolios

Child Protection

Organisational structure

Child Protection services are delivered via:

- 4 divisions – North, East, South and West
- 17 local areas – place based services
- 24 departmental offices
- 5 multi-disciplinary centres – co-located CP, CASA & VicPol
- 4 divisional child protection intake teams
- Central After Hours Services – After Hours Child Protection Emergency Service, Streetwork Outreach Service, child protection and youth justice bail placement services.

The role of child protection

- The department's Child Protection Program is specifically targeted to children and young people at risk of harm where parents are not protecting them.
- The main functions of child protection are to:
 - receive reports about children believed to be in need of protection
 - investigate matters where it is alleged that a child is at risk of significant harm
 - refer children and families to services that assist in providing the ongoing safety and wellbeing of children
 - take matters before the Children's Court if sufficient safety cannot be established without a court order
 - administer orders made by the Children's Court following a protection application, supervising or providing for the child's care and wellbeing.

Child protection – fact and figures

- In 2014-15, over 91,000 reports were received and assessed at intake
- ~25% of reports are investigated
- In ~60% of investigations, the protective intervener determines that the child is in need of protection, referred to as substantiation (~15% of all reports)
- In ~60% of substantiated cases, protective concerns are addressed without bringing the matter to Court
- In 2013-14, nearly 4,900 protection applications were issued (~5% of all reports)
- The vast majority of children who return to parental care do so within 2 years (most within 6 months)

Children, Youth and Families Act 2005

- The best interests of the child must be the paramount consideration for all decision making and actions - for Child Protection, the Children's Court, and registered community services.
- In determining a child's 'best interests', consideration must be given to the need to:
 - protect the child from harm
 - protect the child's rights
 - promote the child's development (taking into account their age and stage of development).

Children, Youth and Families Act

- Intervention into family life is limited to that necessary to secure the safety and wellbeing of the child.
- Children are only to be removed from parental care if there is an unacceptable risk of harm to the child.
- It is only when, even with available supports, the child remains in need of protection from significant harm, and the parents have not or unlikely to protect the child, that Child Protection makes an application to the Children's Court for a protection order.
- The Court cannot make a protection order unless it is satisfied that all reasonable steps have been taken by the Secretary to provide the services necessary in the best interests of the child, and to enable the child to remain in the care of their parents.

Child FIRST

The Children, Youth and Families Act:

- provides the legislative basis for the registration of community services
- positions Child FIRST to:
 - receive referrals where there is a **significant concern for the wellbeing** of a child
 - provide a single point of entry into an integrated local service network
 - undertake assessment of needs and risks, and determine provision of services
 - provide early intervention for families
 - consult with and report to Child Protection as required.

When is a child in need of protection?

Under the Act a child is in need of protection if any of the following grounds exist:

- The child has been abandoned (where the parent or other suitable person cannot be found)
- The child's parents are dead or incapacitated and there is no other suitable person willing and able to care for the child
- The child's parents have not protected, or are unlikely to protect the child from:
 - significant harm as a result of physical injury
 - significant harm as a result of sexual abuse
 - significant damage to emotional or intellectual development from emotional or psychological harm

Cont/...

When is a child in need of protection?

- The child's physical development or health has been, or is likely to be, significantly harmed and parents have not arranged or allowed provision of basic care or effective medical, surgical or other remedial care.

The Act provides that:

- the harm may be constituted by a single act, omission or circumstance or accumulate through a series of acts, omissions or circumstances.
(note this includes omission and commission)

Who is a mandated reporter?

- a registered medical practitioner
- a nurse
- a midwife
- a teacher registered or granted permission to teach under the Education and Training Reform Act 2006 – includes school and kindergarten teachers
- the principal of a government or non-government school under the Education and Training Reform Act 2006
- a police officer

NOTE: other professions identified in the legislation have not been gazetted
(s. 182 Children, Youth and Families Act)

What am I mandated to report?

When should I report?

What?

Physical or sexual abuse

s. 184 (1) ...in the course of practising his or her profession or carrying out duties of his or her office, position or employment, forms the belief on reasonable grounds that a child is in need of protection on a ground in s.162 (1) c & d must report to the Secretary that belief and reasonable grounds for it as soon as practicable

Note: Making a report to Child Protection regarding sexual abuse is a reasonable excuse for not reporting child sexual abuse to police, as required by the recently introduced 'failure to disclose' laws, because Child Protection passes such allegations on to police.

When?

(a) after forming the belief; and

(b) after each occasion on which you become aware of any further reasonable grounds for the belief

Why report and how am I protected?

Why?

- Mandated professional
- Professional obligation but not mandated
- Moral obligation but not mandated.

The responsibility for the safety of children rests with the entire community.

Making a report to Child Protection –

- does not for any purpose constitute unprofessional conduct or a breach of professional ethics
- does not make the person by whom it is made subject to any liability in respect of it
- does not constitute a contravention of Section 141 of the *Health Services Act 1988* or Section 346 of the *Mental Health Act 2014*

How to report?

Report by phone to the Intake Team in the location where the child resides.

During business hours, ring the number covering the local government area (LGA) where the child lives.

If you know the suburb or postcode, you can find the LGA on the [Department of Environment, Land, Water and Planning](#) website. (external link).

Metropolitan – north, east and west	
Northern and western suburban LGAs	1300 664 977
Banyule, Brimbank, Darebin, Hobsons Bay, Hume, Maribyrnong, Melbourne, Melton, Moonee Valley, Moreland, Nillumbik, Whittlesea, Wyndham, Yarra.	
Eastern suburban LGAs	1300 360 391
Boroondara, Knox, Manningham, Maroondah, Monash, Whitehorse, Yarra Ranges.	
Rural and regional – north, east and west	
Western rural and regional LGAs	1800 075 599
Ararat, Ballarat, Golden Plains, Hepburn, Hindmarsh, Horsham, Moorabool, Northern Grampians, Pyrenees, West Wimmera, Yarriambiack, Colac-Otway, Corangamite, Glenelg, Greater Geelong, Moyne, Queenscliffe, Southern Grampians, Surf Coast, Warrnambool.	
North-western rural and regional LGAs	1800 675 598
Buloke, Campaspe, Central Goldfields, Gannawarra, Greater Bendigo, Loddon, Macedon Ranges, Mildura, Mount Alexander, Swan Hill.	
North-eastern rural and regional LGAs	1300 360 391
Alpine, Benalla, Greater Shepparton, Indigo, Mansfield, Mitchell, Moira, Murrindindi, Strathbogie, Towong, Wangaratta, Wodonga.	
South – all LGAs	
Bayside, Cardinia, Casey, Frankston, Glen Eira, Greater Dandenong, Kingston, Mornington Peninsula, Port Phillip, Stonnington, Bass Coast, Baw Baw, East Gippsland, Latrobe, South Gippsland, Wellington.	1300 655 795

After Hours Child Protection Emergency Service (Statewide) – 131 278

<http://www.dhs.vic.gov.au/for-individuals/children,-families-and-young-people/child-protection/child-protection-contacts>

Permanency changes - overview

- In 2014, Parliament passed amendments to the Children, Youth and Families Act that underpins child protection practice in Victoria, and will change case planning and orders for the protection and permanent care of children.
- The changes came into effect on 1 March 2016.
- The amendments are designed to:
 - simplify Children's Court orders
 - align case plans with orders and make the intent of intervention clear
 - assist with addressing barriers to permanency for children, including enabling timely decisions by child protection and the Children's Court.

Why change is needed in Victoria

- The Protecting Victoria's Vulnerable Children Inquiry (PVVCI) found that:

“The average time taken between a child's first report and their ultimate permanent care order, at just over five years, is too long.”

- It found this delay was harmful and recommended that the department identify and remove barriers to timely permanency for children.
- The vast majority of children return to parental care within two years, but we need to do better for children who cannot safely return home and need ongoing alternative care.

Evidence from other jurisdictions and research

- Successful reunifications occur where parents are highly motivated to make changes quickly.
- Where parents are unwilling or unable to make the needed changes so their children can return home reasonably quickly, reunification either never occurs or is less likely to be enduring.
- 12 – 18 months is a typical timeframe for pursuing reunification, and is based on the evidence regarding impacts on child development. A 12 month timeframe, with potential to extend to a two year maximum has been introduced in Victoria.
- There is evidence for shorter timelines, especially for infants.
- In systems that do not have a firm timeline, there is a strong tendency for children to drift in care for many years which has been found to be harmful to children.

What is meant by the term 'permanency'

- The changes to the Act embed the term 'permanency' in child protection practice.
- Permanency refers to the achievement of a **permanent and ongoing care arrangement** for a child that promotes the child's safety, development, and sense of belonging. Achieving this in the care of a parent is preferred. If not, ongoing out-of-home care is needed, placement with relatives is preferred.
- For the majority of children who come to the attention of child protection, the most appropriate permanency objective will be to remain in or return to the care of a parent. This will not change.

Permanency planning framework

Section 167 CYFA sets out the hierarchy of permanency objectives in order of preference:

1. family preservation
 2. family reunification
 3. adoption
 4. permanent care
 5. long-term out of home care
- For out of home care, kinship placements are explicitly preferred.
 - No change to Victoria's adoption laws – almost always requires parental consent.

Changes to case planning requirements

- Case planning will commence much earlier - when child protection is satisfied that a child is in need of protection (at substantiation)
- Each child will have a single case plan with a clear permanency objective. In most cases the permanency objective will be family preservation or family reunification.
- All case plans will be reviewed at least annually – and earlier if there is a significant change of circumstances

Changes to cultural planning requirements

Cultural support planning is now required for all Aboriginal children in out of home care.

- The child's case plan needs to address their cultural support needs, which will vary depending on the child's circumstances.
- It needs to reflect and be consistent with the child's cultural support needs, having regard to the child's circumstances, to—
 - maintain and develop the child's Aboriginal identity
 - encourage the child's connection to their Aboriginal community and culture.
- A cultural plan is to be provided to each Aboriginal child in out of home care.

New scheme of Children's Court orders

Order	Key features
Family preservation order	<ul style="list-style-type: none"> - Does not affect parental responsibility; child in parental care with supervision; may include conditions
Family reunification order	<ul style="list-style-type: none"> - Secretary has parental responsibility but decisions about major long-term issues require parents' agreement; may include conditions - For length with effect of child being in out-of-home care for 12 months (may be extended if compelling evidence that reunification likely by 24 months)
Care by Secretary order	<ul style="list-style-type: none"> - Secretary has parental responsibility to exclusion of all others - Two year order; may be extended only if a permanent or long-term care order cannot be made, except in exceptional circumstances - Does not include conditions – decisions made through case planning
Permanent care order	<ul style="list-style-type: none"> - Permanent care parent has parental responsibility to exclusion of all others - Standard condition to preserve child's identity, connection to culture of origin and relationships with birth family - May include conditions regarding contact with siblings; cultural plan for Aboriginal child; and contact with parent, initially up to 4 times per year, with additional contact by agreement - Siblings able to apply to vary - Parents require leave of the Court to apply to vary or revoke; if varied after 12 months, no limit to number of court-ordered contacts
Long-term care order	<ul style="list-style-type: none"> - Secretary has parental responsibility to the exclusion of all others - With identified carer, until 18 years. - Does not include conditions – decisions made through case planning

Decision making for children in care

- Out-of-home care includes, placement with a suitable person, in a hospital, parent and baby unit, or disability service under an interim accommodation order, or in kinship, foster, residential care, secure welfare, or with intended permanent carers.
- **Interim accommodation order** – to parents or out-of-home care
- Parents retain full parental responsibility under IAO to parents, and under family preservation order – may be moderated by conditions of the order
- IAO to out-of-home care – service is responsible for care and conditions of the order will moderate decisions
- Child Protection is able to authorise carers to make certain decisions where the Secretary has parental responsibility.

Questions

