

VFPMS seminar 2017

The medical evaluation of child abuse

The Role of DHHS Child Protection.

Mandatory reporting – who, what, why & when?

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Overview

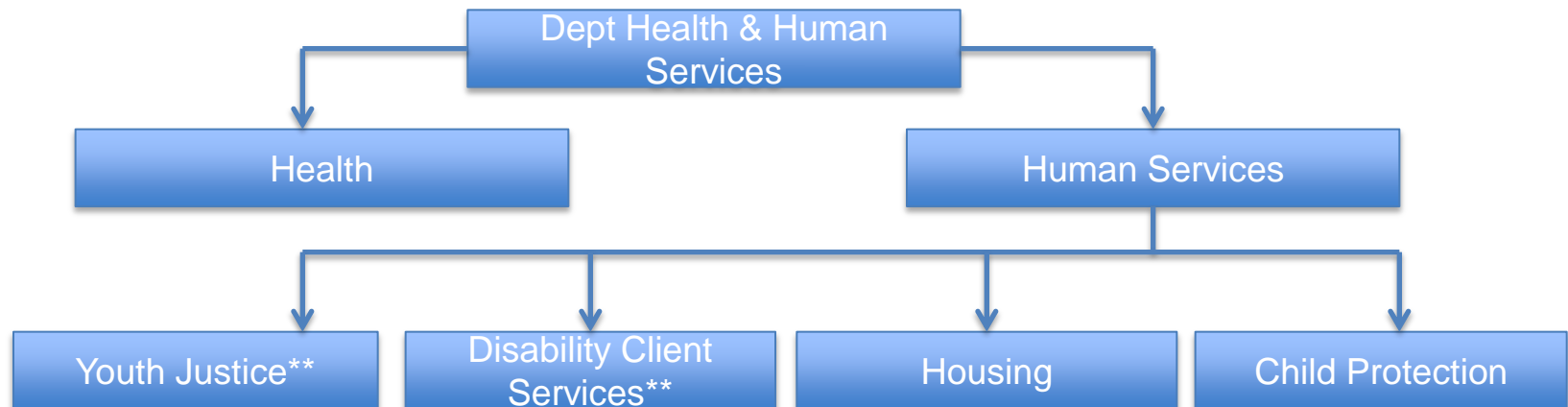
- The Department of Health & Human Services
- Child Protection
- The legislative framework
- History, facts & figures
- Mandatory reporting – who, what, why, when & how

The Department of Health & Human Services (DHHS)

The DHHS 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.



(**Youth Justice to DOJR and DCS to NDIS)

Child Protection

Organisational Structure

Child Protection services are delivered via:

- 24 departmental offices
- Within four Divisions – North, East, South & West
- 4 Child Protection Intake Teams
- Varying number of Investigation and Case Management Teams within each division and office
- After Hours Child Protection Emergency Service
- 5 Multi-disciplinary Centres

Victorian Child protection – history, facts & figures

- 1987 Approx. 8,000 reports to Child Protection
- 1989 Children and Young Peoples Act (commencement 1992)
- 1989 Fogarty Report recommends phasing out the dual track system (Police & Children's Protection Society)
- 1990 Death of Daniel Valerio – A shared responsibility
- 1993 Mandatory Reporting introduced in Victoria
- 1997-98 Over 35,000 reports to Child Protection
- 2005 Children Youth and Families Act (commencement 2007)

Victorian Child protection – history, facts & figures

- 2007 Child FIRST commences
- 2009-10 Over 50,000 reports to child protection
- 2009-10 Family violence reports where child present - 12,690
(Vic Police Crime Statistics)
- 2011 Report of the Protecting Victoria's Vulnerable Children Inquiry
- 2012 Child Protection Operating Model commences
- 2012-13 Over 73,000 reports to child protection

Victorian Child protection – history, facts & figures

- 2013-14 Family violence reports where child present - 22,445
- 2014 Death of Luke Batty, Family Violence Royal Commission
- 2013-14 Over 82,000 reports to child protection
- 2014-15 Over 91,000 child protection reports 127 % increase in 7yrs
- 2015-16 Over 100,000 child protection reports

Shared responsibility to report

Meeting the needs of children and making sure they are safe in their family is a shared responsibility between:

- individuals,
- the family,
- the community and
- the government.

Who are mandated reporters?

CYFA 2005 s. 182

- (a) Registered medical practitioner
- (b) nurse
 - (ba) a midwife
- (c) Teacher registered or granted permission to teach under the Education and Training Reform Act 2006
- (d) The principal of a government or non-government school under the Education and Training Reform Act 2006
- (e) A police officer

n.b. other professions identified in s.182 f-l were never gazetted

What am I mandated to report? When should I report?

What?

s. 162 (1) c & d

n.b. If a report contains information that must be disclosed under s.327 of the Crimes Act 1958, the Secretary must report the information to a Police officer.

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 –

When?

(a) after forming the belief; and

(b) after each occasion on which he or she becomes aware of any further reasonable grounds for the belief

Criminal offences to improve responses to child sexual abuse

Three criminal offences were introduced to improve responses within organisations and the community to child sexual abuse.

The offences form part of the Victorian Government's response to the recommendations of **Betrayal of Trust**, the report of the Parliamentary Inquiry into the Handling of Child Abuse by Religious and other Non-Government Organisations.

- **'Failure to disclose' offence** - Came into effect on 27 October 2014 for adults who fail to disclose child sexual abuse to police. The offence applies to all adults, not just professionals who work with children. Any adult who holds a reasonable belief that a sexual offence has been committed by an adult against a child in Victoria must report that belief to police, unless they have a reasonable excuse for not reporting.
- **'Failure to protect' offence** - Came into effect on 1 July 2015. Applies to people within organisations who knew of a risk of child sexual abuse by someone in the organisation and had the authority to reduce or remove the risk, but negligently failed to do so.
- **Grooming offence** – Came into effect on 9 April 2014. This offence targets predatory conduct designed to facilitate later sexual activity with a child under the age of 16 years.

Why report?

Why?

- Mandated professional
- Professional obligation but not necessarily mandated
- Moral obligation but not mandated. The responsibility for the safety of children is one of the entire community.

Protections for reporters

s.189 A report made in good faith

- (a) does not for any purpose constitute unprofessional conduct or a breach of professional ethics...
- (b) does not make the person by whom it is made subject to any liability in respect of it; and
- (c) ...does not constitute a contravention of
 - (i) s.141 of the Health Services Act 1988
 - (ii) s. 346 of the Mental Health Act 2014

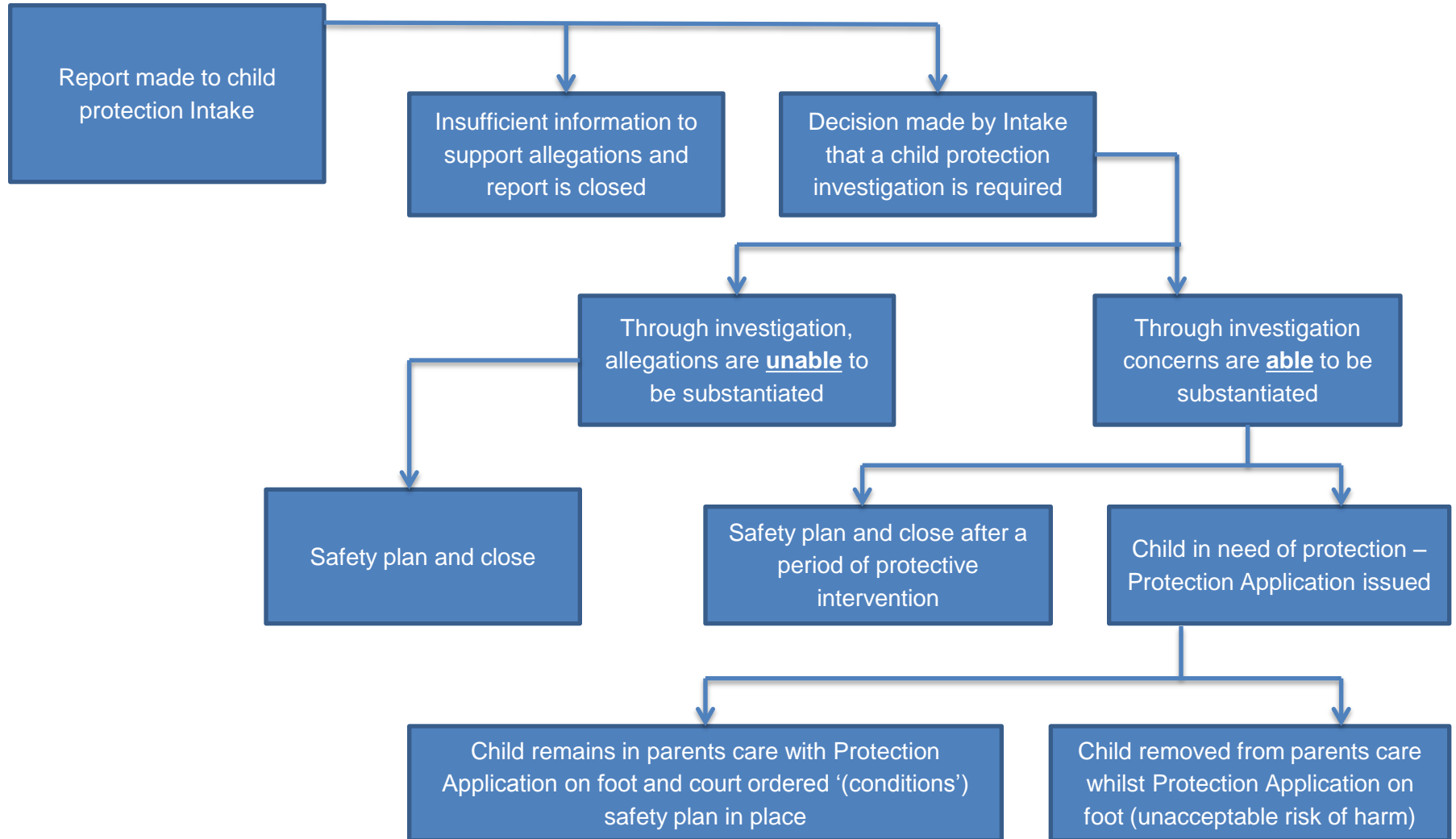
When is a child in need of protection?

The child's parents have not protected, or are unlikely to protect the child from harm.

The harm may be constituted by a single act, omission or circumstance or accumulate through a series of acts, omissions or circumstances.

Omission versus commission

What happens to your report?



Child Protection

Role of Intake:

Early intervention and prevention

The incorporation of developmental approaches to children's wellbeing and safety across sectors

Collaboration between child protection and family services to share responsibility for the protection and wellbeing of children

What happens when you make a report?

You will speak directly with a Child Protection Practitioner from the Intake team. They will ask you a number of questions, please allow enough time to make the report (20-30mins)

Have as much of the following information ready as possible:

- child's name, DOB, address, school/child care for all children in sibling group
- parent/carers name, DOB, address, contact details
- ATSI / cultural background, language spoken at home, is an interpreter required
- what your concerns are in as much detail as possible
- if it is an allegation of physical or sexual abuse – have the Police been notified? (Child protection will notify the local SOCIT (Sexual Offences and Child Abuse Investigation Team) of Victoria Police regarding any allegations of physical or sexual abuse)
- any known information about support services / extended family supports

All reports are recorded against the child's name in the DHHS Client Recording Information System (CRIS)

Reporter details are kept confidential and will not be disclosed to the family.

What happens to the report?

Following making a report, the information will be assessed by the intake team, they will consider any child protection history, the age and vulnerability of the children and may contact other services to gather further information.

The possible outcomes for a report to child protection are:

1. Insufficient information – report closed.
2. Therapeutic treatment report – Sexually exhibited behaviours between ages 10-15
3. Well being advice report – no follow up required report closed, advice provided to reporter only.
4. Well being report – follow up required by Intake.

What happens to the report?

If follow up is required:

a) Intake will gather further information, and obtain insufficient information to warrant any further repose. Report may then be closed with a referral onto another service.

b) Intake will find sufficient information to warrant a child protection investigation commencing

- Protective Intervention report
- Safety planning with the family, helping to understand what the problem is, parents to voluntarily address concerns.
- If through investigation the child is assessed as unacceptable risk of harm, child protection will seek legal intervention through a 'Protection Application' to the Melbourne Children's Court for a child protection order

How to report?

By phone to the divisional Intake Team for the Local Government Area (LGA) **where the child resides.** Hours: 8.45am to 5.00pm Monday to Friday

North Division – 1300 664 977 (LGA's - Banyule, Buloke, Darebin, Campaspe, Central Goldfield, Gannawarra, Greater Bendigo, Hume, Loddon, Macedon Ranges, Mildura, Moreland, Mount Alexander, Nillumbik, Swan Hill, Whittlesea, Yarra & Western metropolitan Melbourne LGA's Brimbank, Hobsons Bay, Maribyrnong, Melbourne, Melton, Moonee Valley, Wyndham.)

East Division - 1300 360 391 (LGA's - Alpine, Benalla, Boroondara, Greater Shepparton, Indigo, Knox, Manningham, Mansfield, Maroondah, Mitchell, Moira, Monash, Murrindindi, Strathbogie, Towong, Wangaratta, Whitehorse, Wodonga, Yarra Ranges)

South Division - 1300 655 795 (LGA's - Bass Coast, Baw Baw, Bayside, Cardinia, Casey, East Gippsland, Frankston, Glen Eira, Greater Dandenong, Kingston, Latrobe, Mornington Peninsula, Port Phillip, South Gippsland, Stonnington, Wellington)

West Division - 1800 075 599 (Rural & Regional LGA's only - Ararat, Ballarat, Colac-Otway, Corangamite, Glenelg, Golden Plains, Greater Geelong, Hepburn, Hindmarsh, Horsham, Moorabool, Moyne, Northern Grampians, Pyrenees, Queenscliffe, Southern Grampians, Surf Coast, Warrnambool West Wimmera, Yarriambiack.

After Hours Child Protection Emergency Service – 131 278 (Statewide service - 5.00pm to 9.00am Monday to Friday & 24 hours on weekends & public holidays)

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

Child Protection

Role of Investigation team:

The department's Child Protection Program is specifically targeted at children and young people at risk of harm or where families are unable or unwilling to protect them.

The main functions of child protection are to:

- investigate matters where it is alleged that a child is at risk of 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 the child's safety cannot be ensured within the family
- supervise children on legal orders granted by the Children's Court
- make assessments guided by legislation

When is a child in need of protection?

162(1) CYFA details the following grounds:

- a)** The child has been abandoned (where the parent or other suitable person cannot be found)
- b)** The child's parents are dead or incapacitated and there is no other suitable person willing and able to care for the child
- c)** The child has suffered, or is likely to suffer significant harm as a result of physical injury
- d)** The child has suffered, or is likely to suffer significant harm as a result of sexual abuse
- e)** The child has suffered, or is likely to suffer significant harm as a result of emotional or psychological harm
- f)** The child's physical development or health has been, or is likely to be, significantly harmed

Investigation and assessment

Children, Youth and Families Act 2005:

The Best Interests Principles provides the basis for all decision making and actions in relation to children and young people;

In determining a child's 'best interests', consideration must be given to:

- the need to protect the child from harm
- the need to protect the child's rights
- the need to promote the child's development.

Investigation and assessment

Intervention into family life should be to the minimum extent that is necessary to secure the protection of the child.

All reasonable steps must be taken by the Secretary to provide the services necessary to enable the child to remain in the care of her or his parents.

It is only when, even with the availability of supports, the child remains in need of protection and the parents are unable or unwilling to protect the child, that Child Protection makes an application to the Children's Court for a protection order.

Review

- The Department of Health & Human Services structure
- History, facts & figures
- Child Protection – role
- The legislative framework
- Mandatory reporting – who, what, why, when & how

Questions?

