Memorandum of Understanding

The Royal Children's Hospital
and the
Department of Health and Human Services –
Child Protection;
and
The Royal Children's Hospital
and the
Victorian Aboriginal Child Care Agency

September 2018

Contents

Memorandum of Understanding

Parties

The Royal Children's Hospital ABN 35 655 720 546 **(RCH)**

Department of Health and Human Services ABN 74 410 330 756 **(the department)**

Victorian Aboriginal Child Care Agency ABN 44 66 54 55 609 **(VACCA)**

Recitals

(a) The purpose of this Memorandum of Understanding (**MOU**) is to support and promote a collaborative and coordinated approach to the delivery of services for vulnerable children and their families.

(b) The MOU sets out the role and statutory responsibilities of the department and Aboriginal Children in Aboriginal Care (ACAC) provider, the role and responsibilities of the RCH and their shared responsibilities to children for whom the parties have a service responsibility.

(c) This document is intended to reflect the legal obligations of the parties but the parties acknowledge their respective legal obligations override this document if there is any inconsistency.

(d) While the MOU aids effective communication between the department, ACAC provider and RCH it does not replace the requirement for open and collaborative relationships between each at the operational level.

Operative Provisions

1. Definitions

In this MOU:

The department's Child Protection program or child protection practitioners will be referred to as **Child Protection**; and

The Victorian Aboriginal Child Care Agency (VACCA) as a provider of Aboriginal Children in Aboriginal Care will be referred to as the **ACAC provider**; and

The Royal Children Hospital or hospital practitioners will be referred to as **the RCH**.

2. Principles underlying the Memorandum of Understanding

The parties agree the principles underlying this MOU are:

- The best interests of the child are the paramount consideration.
- Children have the right to be protected from abuse and neglect and their safety, wellbeing, and rights must be protected whenever intervention occurs.
- Child Protection intervention is limited to that necessary to provide for the protection of the child from significant harm including cumulative harm.
- In situations where Child Protection and RCH or ACAC provider and RCH are providing services to a child or their family, a collaborative approach that facilitates appropriate and timely exchange of information between the organisations should occur at key decision points and specifically regarding discharge planning.

3. Legal Framework and protocols

This MOU is underpinned by the:

- *Children, Youth and Families Act 2005 (Vic) (**CYFA**)*
- *Child Wellbeing and Safety Act 2005 (Vic) (**CWSA**)*
- *Charter of Human Rights and Responsibilities Act 2006*
- *Health Records Act 2001 (Vic) (**HRA**)*
- *Privacy and Data Protection Act 2014 (Vic) (**PDPA**)*
- *Family Violence Protection Act 2008 (Vic) (**FVPA**)*
- *Health Services Act 1988 (Vic) (**HSA**)*
- *Crimes Act 1958 (Vic) (**CA**)*

The MOU is also supported by existing protocols including:

- Healthcare that counts: A framework for improving care for vulnerable children in Victorian health services, DHHS 2017

https://www2.health.vic.gov.au/about/publications/policiesandguidelines/healthcare-that-counts-framework

- Chief Psychiatrist guidelines: Priority access for out-of-home care, Department of Health, 2011

http://www.cpmanual.vic.gov.au/sites/default/files/Chief-Psychiatrists-guideline-priority-access-for-out-of-home-care_2011-2824.pdf

4. Roles and Responsibilities

4.1 Roles

(a) Child Protection

Child Protection has a statutory responsibility under the CYFA to provide Child Protection services for children in Victoria under the age of 17 years or, when a protection order is in place, children under the age of 18 years. Child Protection also accepts reports on unborn children who may be at risk upon their birth.

The underpinning principle of the CYFA is the best interests of the child must always be the paramount consideration in all decisions made by Child Protection. In determining whether any decision or action is in the best interests of the child, the need to protect the child from harm, to protect the child's rights, and to promote the child's development must be considered. Section 168 (1) of the CYFA requires a case plan to be prepared for every substantiated case and this is the responsibility of child protection.

Child Protection intervenes to the degree necessary to protect a child from significant harm where the child's parent is unable or unwilling to protect the child from such harm. **The harm may be a single incident or cumulative in nature.** Child Protection also facilitates access to support and treatment services to address the impact of harm.

The Child Protection service is delivered within area based structures. Reports are accepted by the divisional intake teams with coverage for the local government area within which the child ordinarily resides. Intake teams operate on business days between the hours of 8.45am and 5.00pm.

(b) Aboriginal Children in Aboriginal Care (ACAC) provider

Section 18 of the CYFA enables the Secretary of the Department of Health and Human Services to authorise the principal officer of an Aboriginal agency to undertake specified functions and powers in respect of an Aboriginal child or young person who is the subject of a Children's Court protection order. For Aboriginal children under section 18, an authorised Aboriginal agency may provide child protection services instead of child protection.

The ACAC program is the operationalisation of section 18 of CYFA. Currently the ACAC provider is VACCA which is a signatory to this MOU. In future, additional Aboriginal agencies may be gazetted as ACAC providers.

ACAC providers only work with children authorised under section 18 of the CYFA. An Aboriginal agency may work with children in other capacities, such as case management or care provider.

ACAC providers provide child protection services for Aboriginal children on Children's Court protection orders made in the family division. Orders that can be transferred to authorised Aboriginal agencies are:

- Family Preservation Orders
- Family Reunification Orders
- Care by Secretary Orders
- Long-term Care Orders.

Interim Accommodation Orders and orders made in the criminal division of the Children's Court are excluded.

VACCA as an ACAC provider operates on business days 9am to 5pm. Outside these hours, the After Hours Child Protection Emergency Service (**AHCPES**) is available to respond to urgent matters involving ACAC clients. AHCPES will consult with ACAC providers on-call if there is a critical incident and/or a decision is required to be made relating to the safety of the child or young person.

(c) Child Protection and After Hours Child Protection Emergency Service (AHCPES) delivery arrangements

Outside these hours, the **AHCPES** is a State wide service that operates after hours, on weekends and on public holidays. AHCPES is a crisis service that responds to urgent child protection and ACAC provider matters that are not able to be safely delayed until the following working day. AHCPES is not an extension of the day time child protection services. The operational hours of the AHCPES are between 5.00pm and 8.45am on weekdays and 24 hours on weekends and public holidays.

Phone: 131278

A priority access telephone line is available for hospital emergency departments and police only.

https://services.dhhs.vic.gov.au/child-protection-contacts

(d) Secure Welfare Service

Secure welfare service forms part of a continuum of strengthened care and protection services for child protection clients aged 10 to 17 years who are at substantial and immediate risk of harm. This service is considered an option of last resort, where containment is deemed necessary, and when the broader protection and care network cannot manage or reduce the risks to the child. As the facility is secure, placement at the service is the most extreme form of protective intervention and all other options must be explored first and relevant human rights considered.

4.2 Child and Family Information, Referral and Support Teams (Child FIRST)

Funded by the department, Child FIRST sites are established in sub-regional catchments across Victoria to provide a single referral and coordination point for family services.

The role of Child FIRST is to:

- Provide a point of entry to an integrated local network of family services

- Receive referrals about vulnerable children when there are significant concerns about their wellbeing
- Identify initial needs and assess underlying risks to children in consultation with Child Protection and other services
- Identify different service responses for families related to the assessment of needs and underlying risks
- Determine the priority of a response and allocation of families to family support services.

Support and Safety Hubs known as the Orange Door, are being rolled out across the state. The Orange Doors bring together access points for family violence services, family services and perpetrators/men's services. As they come on-line across the state they replace existing referral points for victims and perpetrators of family violence and children and families in need of support.

https://www.vic.gov.au/familyviolence/support-and-safety-hubs.html

4.3 Royal Children's Hospital (RCH)

The RCH provides a coordinated medical, surgical and allied health service to children and young people. These services are provided primarily to Victorian children and young people, however, patients from other Australian states and other countries can also receive services as appropriate.

The RCH has a commitment to the well-being and safety of all children and young people who are either inpatients or outpatients at the Hospital.

Services provided by RCH to vulnerable children include:

- Paediatric forensic evaluation of suspected cases of physical abuse, sexual abuse and significant neglect.
- Medical and surgical care of children injured as a result of child abuse and neglect.
- Psychosocial assessment and provision of other Social Work services to vulnerable children.
- Provision of specialist services for Aboriginal and Torres Strait Islander people by the Wadja Aboriginal Family Place team and via the Wadja Health Clinic.
- Psychosocial assessment, treatment and 24 hour crisis services in cases of acute sexual assault.
- Therapeutic counselling services for children, young people and families impacted upon by sexual abuse and/or family violence.

Admission and continued placement at the hospital is a clinical decision made by the RCH.

The RCH departments described below have defined roles to care for abused and vulnerable children.

(a) Victorian Forensic Paediatric Medical Service (VFPMS)

The VFPMS is a state-wide medical service providing specialist forensic evaluation and healthcare for abused and vulnerable children. The service is governed by the RCH. Clinics operate during business hours (9am to 5 pm weekdays) at RCH and Monash Medical Centre (MMC) and after hours services (24/7) are provided at both hospitals. The Victorian Forensic Paediatric Medical Service also has state-wide responsibilities to provide advice and assistance in relation to medical evaluation when child abuse is suspected and the planning of health interventions. For further information see: https://www.rch.org.au/vfpms/

(b) RCH Social Work Department and Wadja Aboriginal Family Place

The social work department provides a comprehensive and responsive service across the entire hospital (inpatient and outpatient) between the hours of 8am-midnight Monday to Friday and 8am-8pm on weekends and public holidays. There is also an on-call service available overnight on Friday, Saturday and Sunday for acute crises. Services are targeted to those with the greatest medical and psychosocial need. Social workers provide psychosocial assessment, case consultation, liaison with child protection workers and direct services to children and families, including those who are at risk of, or have sustained, physical abuse, emotional abuse and neglect. The social work department coordinates the hospital's response to requests for patient information under the CYFA.

The Wadja Aboriginal Family Place is a team of Aboriginal case managers and Team Leader who provide cultural, practical and emotional support to Aboriginal and Torres Strait Islander patients of RCH. Alongside two paediatricians, the team provide the Wadja Health Clinic - a general paediatric outpatient clinic for assessment and management of Aboriginal children. A significant proportion of Wadja Health clinic patients are involved with Child Protection or in out-of-home care.

(c) Gatehouse at RCH

The Gatehouse Centre is a department of the RCH and Centre Against Sexual Assault (**CASA**) that specialises in the psychosocial assessment and therapeutic treatment of sexual and physical abuse for children, young people (up to 18 years) and their families or carers.

This includes children and young people who have experienced abuse, have witnessed extreme violence, as well as children and young people who have exhibited problematic or harmful sexual behaviour (the REFOCUS Program). This includes both young people who have been made the subject of a Therapeutic Treatment Order in the Children's Court of Victoria and those who, with their family's support, attend voluntarily.

Gatehouse, in collaboration with VFPMS, provides a crisis care multidisciplinary response to acute sexual assault, 24 hours a day.

Gatehouse has an education and training program which delivers to a broad range of professionals and community groups.

5. Mandatory Reporting section 182(1) Children, Youth and Families Act

A range of professional groups are listed in the CYFA section 182(1) as mandatory reporters, the gazetted/legislated professionals required to report are:

- registered medical practitioners (including psychiatrists)
- nurses (including school nurses and midwives)
- police officers
- teachers and early childhood educators, registered or granted permission to teach under the *Education and Training Reform Act 2006* and
- principals of Government and non-Government schools within the meaning of the *Education and Training Reform Act 2006*.

Additionally, pursuant to section 67ZA of Family Law Act 1975 (C'th), the following professionals are listed as mandatory reporters:

- the Registrar or a Deputy Registrar of a Registry of the Family Court of Australia
- the Registrar or Deputy Registrar of the Family Court of Western Australia
- a Registrar of the Federal Circuit Court of Australia
- a family consultant
- a family counsellor
- a family dispute resolution practitioner
- an arbitrator and
- a lawyer independently representing a child's interests.

Mandatory reporters must make a report to Child Protection as soon as practicable after forming a belief on reasonable grounds that a child is in need of protection on the grounds that they have suffered, or are likely to suffer, significant harm as a result of physical injury or sexual abuse and the child's parents have not protected, or are unlikely to protect, the child from harm of that type.

In addition to mandatory reporting, section 327 of the CA, requires an adult who has a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child aged under 16 years disclose that information to police unless they have a reasonable excuse.

6. Reports from Royal Children's Hospital to Child Protection and referrals to Child FIRST

When cases of suspected child abuse or significant neglect are identified in any unit within RCH, early consultation with the VFPMS should occur in accordance with the RCH Vulnerable Children Policy. For physical abuse or neglect, the Unit Social Worker should also be consulted. For sexual abuse Gatehouse should also be consulted.

If the RCH has a significant concern about the protection of a child, a report is to be made to Child Protection in accordance with the CYFA. Parental knowledge or consent is not required for a report to be made to Child Protection. Consideration should be given to the particular circumstances of each case to determine whether or not the parents should be informed.

Child Protection must report all concerns regarding suspected physical or sexual abuse or serious neglect to Victoria Police in accordance with the *Protecting Children Protocol between the Department of Human Services – Child Protection and Victoria Police 2012.*

If the RCH has a significant concern about a child's wellbeing, a referral to Child FIRST or to an Orange Door should be made. Parental knowledge or consent is not required for a report to be made to Child First or an Orange Door where it is done in good faith in these circumstances. Consideration should be given to the particular circumstances of each case to determine whether or not the parents should be informed.

In deciding to make a report to Child Protection, RCH staff should consider a range of issues including:

- mandatory reporting obligations
- the nature and extent of the child's condition, including the medical opinion
- psychosocial assessment and
- potential risks for other children in the family (in addition to the child at the Hospital).

Additionally, the RCH will consider making a report to Child Protection if they believe on reasonable grounds that a child is in need of protection on other grounds set out in section 162 of the CYFA (abandonment by parents, death or incapacitation of parents, emotional or psychological harm or neglect of physical development or health).

6.1 How to make a report

A report to Child Protection can be made by contacting the intake team covering the child's usual place of residence during business hours. Reports regarding the concerns about the immediate safety of children outside of business hours can be made to the AHCPES, 7 days per week.

It is the responsibility of Child Protection to determine whether the available information indicates that a direct response by Child Protection is required and the action that is required.

If the RCH is aware that the report relates to an Aboriginal child who is the subject of a protection order to an ACAC provider, the report should be made to the ACAC provider.

6.2 Reports by RCH regarding children from interstate

A report regarding an interstate child/young person who is a patient of RCH should be made to the Preston Divisional Office on 1300 360 462 (business hours) or to AHCPES on 13 12 78 (after hours).

6.3 Protection for the Reporter

Except in the limited circumstances provided for in the CYFA, it is unlawful for a person to disclose the identity of a reporter or any information likely to lead to the identification of the reporter without the reporter's written consent.

6.4 Feedback to RCH regarding report made

Child Protection will attempt to contact the RCH reporter by phone to inform them of the outcome of a report, unless there are exceptional circumstances or it is considered not to be in the child's best interests. This will usually occur within two days of the classification of the report being determined. The reporter will be advised of the outcome of the report, but not the outcome of a referral to another service provider or the outcome of an investigation unless the reporter is actively involved in the ongoing service provision, care or support relevant to the child's protection or wellbeing.

7. Multidisciplinary Case Conferences

7.1 Suspected Child Abuse and Neglect (SCAN) Meetings

SCAN meetings are multi-disciplinary professionals-only meetings attended by health professionals, child protection practitioners, ACAC provider practitioners and police. The purpose of SCAN meetings is to share information, plan investigations and plan the multiagency response. SCAN meetings will be instigated by the RCH. The parties agree to attend SCAN meetings.

The meetings will be chaired by the consultant paediatrician and coordinated by the RCH. Attendance at meetings will ordinarily include a Child Protection Practice Leader or Team Manager, police and RCH medical and social work staff.

If a SCAN meeting relates to an Aboriginal child who is the subject of a protection order to an ACAC provider, the case manager and/or team leader from the ACAC provider will attend. The meeting should occur no later than the next business day following a report by the RCH to Child Protection, ACAC provider or police (or on the next possible business day).

Formal minutes of the meeting will be documented by the RCH and provided to attendees of the meeting within 24 hours.

(See **Attachment 1** for the SCAN Agenda and Minutes templates).

AHCPES attendance at SCAN meetings will occur in exceptional circumstances.

7.2 Discharge Planning Meetings

In circumstances in which Child Protection or a contracted case manager in a funded agency or ACAC provider case manager is involved with a child who has been admitted to hospital with:

- a medical condition or surgical condition and significant concerns exist about the capacity of the child's caregivers' to meet the child's needs

- an undetermined illness when child abuse (including factitious or induced illness) or neglect is a possible cause
- an injury, condition, or illness where the cause is undetermined, suspicious or vague or
- complex needs, including complex medical needs and a limited life expectancy

a discharge planning meeting will be held prior to the child's discharge unless a SCAN meeting or other multi-agency case conference involving RCH, Child Protection or ACAC provider has already occurred.

The RCH will convene and chair the discharge planning meeting. A Child Protection representative who has knowledge of the child's needs is to attend. If the discharge meeting relates to an Aboriginal child who is the subject of a protection order to an ACAC provider, the case manager and/or team leader from the ACAC provider will attend. The treating medical team and social work staff are to attend. Other professionals and police may also be invited.

The purpose of the discharge planning meeting is to:

- determine, if possible, the diagnosis or explanation of the child's condition; and
- determine a discharge plan and establish case management responsibilities. The discharge plan will address the child's medical and protection needs and will be developed through processes that support coordinated and collaborative practice that includes information sharing in accordance with relevant legislation and privacy principles and that is in the best interests of the child.

Where a child is not returning to parental care, Child Protection or ACAC provider will use all reasonable efforts to obtain alternative accommodation for the child by the estimated discharge date as advised by the RCH. It is Child Protection's or the ACAC provider's responsibility to ensure a care arrangement is in place for the child in time for discharge. Child Protection or the ACAC provider understands and accepts the RCH cannot accommodate children who do not have a medical need to be in hospital.

The RCH will formally document the outcomes of the discharge planning meeting and provide these to meeting attendees within 24 hours of the meeting occurring (see **Attachment 2** for Discharge Planning Meeting Agenda and Minutes templates)

8. Information Sharing

The timely, purposeful and coordinated exchange of information between services is critical to the immediate and ongoing protection and well-being of children.

The CYFA prescribes when and how information may be shared about Child Protection clients. Where there are no specific provisions in the CYFA relevant to a particular circumstance, information sharing must be consistent with other relevant legislation such as the CWSA, *FVPA*, PDPA, section 141 of the HSA, and the HRA.

Information sharing provisions that exist between Child Protection and the RCH will also operate between RCH and the ACAC provider in respect of an Aboriginal child or young person who is the subject of a protection order to the ACAC provider. The RCH may request a copy of the child or young person's court order and instrument of authorisation from the ACAC provider. The instrument of authorisation will demonstrate

the ACAC provider has authority with respect to the specified child or young person under section 18.

Child Protection, ACAC providers and RCH acknowledge that the child's best interests and their professional responsibilities will guide information exchange and ongoing communication, with due consideration being given to the family's right to privacy and relevant legal obligations in this regard.

In situations where there is uncertainty regarding the release or exchange of information, parties will obtain legal advice promptly.

8.1 RCH release of information to Child Protection

The preferred practice is for parental consent to be obtained for the release of information about a child. However, the CYFA allows information to be exchanged for the purposes of Child Protection assessing a protective intervention report. The release of information by the RCH to Child Protection in accordance with the CYFA (section 192 concerns voluntary disclosure; compulsory disclosure arises under specific provisions) does not constitute a breach of privacy, confidentiality or professional ethics if it is done in good faith. Information given to Child Protection without parental consent will be given only in accordance with the CYFA or other applicable legislation, such as the CWSA, FVPA, PDPA, section 141 of HSA, and the HRA.

(a) Report to Child Protection

Where a report to Child Protection is made by a RCH staff member, RCH will liaise with Child Protection to ensure that it has all the information it requires to consider the report.

(b) Child Protection and ACAC provider's requests for information from RCH where RCH has not made a report

Child Protection and ACAC provider's staff may require information, written and/or oral from RCH staff to:

- assist in a risk assessment
- present as evidence in a legal proceeding
- assist with decision-making and care planning.

In relation to requests for information from a medical record, Child Protection or the ACAC provider must provide a written request which outlines the specific information required. Where possible, the request should enclose a copy of parental consent. If Child Protection or the ACAC provider has been unable to obtain parental consent, the written request should also include details of:

- the stage of the investigation and section of the CYFA under which Child Protection or ACAC provider considers the RCH is permitted to disclose the information; and
- the name and role of the person requesting the information and the delegation or power under which he or she is authorised to request the information.

Requests for written and/or oral information by Child Protection or ACAC provider should be directed to the **RCH Social Work Department (ph. 9345 6111).**

Child Protection or ACAC provider will generally limit a request for information to the specific information which will assist with its investigation rather than request copies of entire medical records.

(c) Provision of RCH written reports to Child Protection or ACAC

If Child Protection or ACAC provider requests an interim medical report, wherever possible they must advise the treating doctor of this prior to the commencement of a paediatric evaluation.

If the child is seen at the VFPMS, then a detailed medical report will be provided to Child Protection, ACAC provider and/or Victoria Police.

If the child is seen at the Gatehouse Centre, clinical assessment reports, treatment reports and reports to the Therapeutic Treatment Board may be made available to the Family Division of the Children's Court upon the receipt of a **subpoena** or by an order of the Court. Child Protection or ACAC provider may seek permission from the author to release these reports to other parties if considered important to the case.

(d) Provision of copies of photographs

Requests for copies of forensic/medical photographs should be made to the Victorian Forensic Paediatric Medical Service using the request form on the VFPMS website (http://www.rch.org.au/vfpms/). Such requests should be made in writing. The VFPMS verification and authorisation procedure must be followed prior to the copying and release of copies of photographs to police or Child Protection.

(e) Child Protection and ACAC provider requests for RCH staff and records for court proceedings

If an RCH staff member is required to give evidence, Child Protection or the ACAC provider will issue a **subpoena**. Subpoenas for RCH staff to give evidence must be issued to the relevant RCH staff member and served upon him or her personally unless otherwise agreed in the time provided by, and otherwise in accordance with, the relevant court rules so that appropriate arrangements can be made for the RCH staff member to cover other responsibilities at the hospital.

Child Protection or the ACAC provider will make every attempt to provide reasonable notice for RCH staff who must attend court to provide evidence. Practitioners should inform RCH staff who are required to appear as soon as a decision is made that a subpoena will be issued. Child Protection or the ACAC provider will provide the estimated day and time that an RCH staff member will be required to attend court, will keep the staff member informed as to the progress of the case and any changes in the timetable, and will collaborate with RCH staff to minimise, as much as is possible, negative effects on other professional duties.

(f) Child Protection telephone or face-to-face secondary consultations with VFPMS Staff

At times, Child Protection or the ACAC provider may request a consultation with a VFPMS doctor. The doctor can be contacted on 1300 661 142. Consultation may be required in relation to situations of suspected physical, sexual abuse or neglect.

Child Protection or ACAC provider may request a case file review by VFPMS.

Other general medical questions relating to the specific medical needs of a child or young person are best directed to the child or young person's treating doctor. These consultations may occur via the telephone or in person.

8.2 Child Protection or ACAC provider release of Information to RCH

The CYFA places restrictions on the sharing of information gathered by Child Protection in relation to children who are the subject of a report.

(a) RCH requests for information from Child Protection or ACAC provider

For children who are shared clients of RCH and Child Protection or the ACAC provider, Child Protection or ACAC provider will inform RCH of the outcomes of relevant case conferences, investigations, case planning meetings and legal proceedings, in accordance with the provisions of the CYFA and where it is assessed as being in the best interests of the child the RCH be provided with such information.

When a child who is the subject of a Children's Court order is admitted to the RCH, Child Protection or ACAC provider will provide RCH with a copy of the Children's Court order. Child Protection or ACAC provider will also ensure that any conditions or relevant information contained in those orders are brought to the attention of the relevant RCH staff member.

When a child is an outpatient of the RCH, Child Protection or ACAC provider will provide RCH with a copy of the Children's Court order when it is in the child's best interests, is permitted under the CYFA, CWSA or the PDPA, and when attendance at medical appointments or adherence to the advice of RCH practitioners are conditions of the order. A copy of the child's court order and instrument of authorisation may also be requested by the RCH should the child be the subject of an authorisation under section 18 of the CYFA.

The RCH will inform Child Protection if RCH staff become aware a child who has been admitted to the hospital is the subject of a relevant court order relating to Child Protection.

Child Protection or ACAC will provide notice (where possible) to the RCH should they intend to attend the RCH to investigate concerns or issue protection applications, and engage in planning with RCH staff via the allocated social worker or, when outside of Social Work operating hours, the hospital manager on how and where these actions should be conducted.

8.3 Child Protection release of information regarding potential danger

If Child Protection or ACAC provider staff become aware of a named person's potential to be a danger to staff or patients visiting the hospital, then this information will be shared with senior managers (head of department or more senior) at RCH in order to develop a risk management plan.

9. Consent for medical procedures

Valid consent must be obtained prior to medical assessment or treatment. In most circumstances this is obtained from the person with parental responsibility for the child.

9.1 Consent for children subject to a Child Protection order

The terms custody and guardianship have been replaced with parental responsibility, and sole parental responsibility, respectively, in the CYFA. This is consistent with terms used in family law.

Parental responsibility in relation to a child is defined in the CYFA as 'all the duties, powers, responsibilities and authority which, by law or custom, parents have in relation to children'. When a Children's Court order confers parental responsibility on the Secretary, or ACAC provider to exercise parental responsibility with respect to a child, the Secretary or the principal officer ACAC provider is responsible for the day-to-day care and wellbeing of the child, including where the child is to reside, and the care of the child's medical, physical, intellectual or mental health. However, parental consent is required for important and long-term issues.

When a Children's Court order confers sole parental responsibility on the Secretary, ACAC provider to exercise sole parental responsibility, the Secretary or principal officer ACAC provider is the guardian of the person and estate of the child to the exclusion of all other persons and has the same rights, powers, duties, obligations and liabilities as a natural parent of the child would have. Parental consent to medical treatment is not required where the Secretary or principal officer has sole parental responsibility for a child.

Whenever a child requires a medical examination, treatment, surgery or admission to hospital, parents will in most instances be informed, consulted and involved, as appropriate and required by law. For children who are the subject of a Children's Court order, or an interim accommodation order, Child Protection's usual practice is to seek parental consent for examination and treatment regardless of whether the legislation requires consent or not.

Under section 597(1) of the CYFA, the Secretary or principal officer ACAC provider may at any time order a person be examined to determine his or her medical, physical, intellectual or mental condition, if the Secretary or principal officer ACAC provider has parental responsibility for the person as the result of:

- a family reunification order (the Secretary or principal officer ACAC provider has sole parental responsibility)
- a care by Secretary order (the Secretary or principal officer ACAC provider has sole parental responsibility)
- a long-term care order (the Secretary or principal officer ACAC provider has sole parental responsibility)
- a therapeutic treatment (placement) order (the Secretary only has parental responsibility)

- an interim accommodation order (the Secretary only has parental responsibility) or
- being placed in emergency care (the Secretary or principal officer has parental responsibility).

parental consent is not required.

- Under section 597(3) of the CYFA the Minister, the Secretary, principal officer (the Secretary or principal officer ACAC provider or any person authorised by the Secretary (other than an officer or employee) has the authority to consent to medical treatment, surgery or the admission to hospital of a child subject to a family reunification order, a care by Secretary order, or a long-term care order, if a registered medical practitioner advises it is necessary, even if the child's parent objects. Only the Secretary has the authority to consent to medical treatment, surgery or the admission to hospital of a child subject to a therapeutic treatment placement order.

  Under section 597(4) of the CYFA, the Minister, Secretary, or any person authorised by the Secretary (other than an employee) has the authority to consent to medical treatment, surgery, or the admission to hospital of a child placed in an out-of-home care service, declared hospital, or declared parent and baby unit, or with a suitable person or persons as the result of having being placed in emergency care, or under an interim accommodation order, and a registered medical practitioner has advised the medical treatment, operation or admission to hospital is necessary to avoid a serious threat to the health of the child and the child's parent refuses consent or cannot be found within a time which is reasonable in the circumstances.

  The Secretary may also order that a child or young person in the legal custody of the Secretary in a remand centre, youth residential centre or youth justice centre (custody still applies to youth justice clients), or a child for whom the Secretary has parental responsibility placed on an interim accommodation order in out-of-home care or placed in emergency care, be examined to determine his or her medical, physical, intellectual or mental condition. Parental consent is not required.

  Each registered Community Service Organisation (CSO) or Aboriginal agency providing out-of-home care for children or case management services for child protection clients placed in kinship care has been issued with an Instrument of Authorisation – Medical Consents (the instrument), signed by the divisional Director, Child Protection.

  In the case of a child who resides in out-of-home care as a result of:

  - a family reunification order
  - a care by Secretary order
  - a long term care order
  - a therapeutic treatment placement order

  the instrument enables an authorised person in the relevant CSO or Aboriginal agency to provide consent to the child receiving medical treatment, surgery or other operation, or admission to hospital, if a registered medical practitioner advises that it is necessary, even if the child's parent objects.

  In the case of a child who resides in out-of-home care as a result of:

  - being taken into emergency care
  - an interim accommodation order (IAO)

the instrument enables an authorised person in the relevant CSO or Aboriginal agency to provide consent to the child receiving medical treatment, surgery or other operation, or admission to hospital, if a registered medical practitioner advises that it is necessary to avoid a serious threat to the child's health and the child's parent refuses to give consent or cannot be found in a reasonable time.

The instrument specifies by role the person in the CSO or Aboriginal agency, such as executive director, chief executive officer, director, manager, who can give medical consent and this person must personally consent. Prior to providing consent to medical treatment the authorised person must satisfy themselves that the treatment has been recommended by a registered medical practitioner as necessary, is appropriate treatment and that all reasonable effort has been made to obtain the views and, where possible, the consent of a parent.

Prior to providing consent to treatment, the authorised person will consider the appropriateness of seeking advice from Child Protection. The authorised person will ensure there is appropriate documentation of the consent process.

9.2 Supervised contact with a parent of a Child Protection or ACAC provider client at RCH

RCH is not a supervised environment and the supervision or monitoring of contact between inpatients and their families is not the role of RCH staff. Child Protection or ACAC provider will make appropriate arrangements to supervise or monitor the contact of parents with children at the hospital where this is a requirement of a Children's Court order. RCH staff will contact Child Protection or the ACAC provider immediately it becomes aware that a parent is seeking access with a child contrary to a Children's Court order.

9.3 Child who is an inpatient and subject to an Interim Accommodation Order (IAO)

The RCH social worker must be consulted with regard to any proposed IAO to the RCH which Child Protection or the ACAC provider intends to seek prior to the making of an application to the Court for such an order. Child Protection or ACAC provider will obtain from the RCH a statement of placement availability as required under section 263(1)(f) of the CYFA signed by an authorised representative of the RCH in the form set out in **Attachment 3** prior to making an application to the Court for the IAO. Where possible, Child Protection or the ACAC provider will request the signed statement of placement availability at least 24 hours in advance of the court hearing. In some circumstances where an urgent application is required, Child Protection or the ACAC provider may not be able to provide notice within the timeframe stipulated above. Child Protection or the ACAC provider agrees not to seek an IAO to the RCH which extends beyond the expected discharge date as set out in that form.

10. Dispute Resolution

It is essential that differences are addressed promptly. Differences may relate to roles, professional and organisation philosophies or priorities, systems issues, status and perceived power, and communication difficulties. These factors have the potential to damage collaborative working relationships and negatively impact on children.

In the event a dispute arises between the parties to this MOU, the parties must ensure differences of opinion are addressed as soon as practicable. The resolution of differences should be addressed at an individual and agency level. Professional conduct is critical in dispute resolution.

A dispute resolution process includes:

- Clear identification by the parties of the problem or issue
- Acknowledgement of relevant goals and interests
- General or practical options to address the problem
- Seeking agreement when a preferred option is not agreed and/or
- Agreement on an outcome and its implementation.

10.1 Complaints procedure

Where the issue of concern cannot be resolved between the individual parties, the procedures for the handling of complaints are as follows:

Level 1

In the first instance, the concern should be dealt with at the local level between the Child Protection practitioner or ACAC provider practitioner and the RCH staff involved. This may involve a senior Child Protection practitioner or ACAC provider senior practitioner and relevant supervisors and managers of the organisations. The aim of the contact will be the resolution of the case-specific problems.

If the problem cannot be resolved at this level, it should be referred to level 2.

Level 2

The complaint should be addressed and resolved by the Child Protection Operations Manager or Senior Program Manager ACAC provider and the appropriate Director of Allied Health at the RCH. If the problem cannot be resolved at this level, it should be referred to level 3.

Level 3

The complaint should be addressed and resolved by the Divisional Director Child Protection or the Director of the ACAC provider, who may consult with the Director of the Office of Professional Practice or the ACAC provider's Principal Practitioner and the Executive Director of Nursing and Allied Health, RCH.

10.2 Policy and practice implications

Any issues arising that impact on policy or have state-wide significance shall be directed to the Assistant Director, Child Protection, Children and Families Policy and the CEO, RCH. Joint discussions will be held between the parties to address policy differences and deficits.

11. Governance

Representatives from the parties will establish a governance group which will meet six monthly, to oversee the implementation and promotion of the MOU. To facilitate effective communication the department, ACAC provider and the RCH will provide an updated organisational chart to the other party annually.

12. Review

Child Protection, ACAC provider and RCH will, as required and agreed:

1. Review this MOU in 24 months from the date of commencement or earlier and consider whether the purpose of this MOU is being achieved;
2. Discuss, and work in partnership to resolve, any issues or concerns

Signature page

EXECUTED as a Memorandum of Understanding
Date: 20/11/18 **2018**

Executed for and on behalf of
The Royal Children's Hospital
by its authorised officer in the
presence of:

Signature of Witness

SIMONE WILLIAMS
Name of Witness

Signature

JOHN STANWAY
Chief Executive Officer
The Royal Children's Hospital

Name

Date 20/11/18

JOHN STANWAY
Chief Executive Officer
The Royal Children's Hospital

Executed for and on behalf of
the Department of Health and
Human Services - **Child
Protection** by its duly
authorised representative in the
presence of:

Signature of Witness

ALICIA ROBSON
Name of Witness

Signature

ARGIRI ALEXANDRAKIS
Name

8/10/18
Date

Executed for and on behalf of
**Victorian Aboriginal Child
Care Agency** by its duly
authorised representative in the
presence of:

Signature of Witness

TERESA HOFFMAN
Name of Witness

Signature

MURIEL BAMBLETT
Name

12/10/18
Date

Attachment 1

SCAN Meeting Agenda

Date: .....

Client Name: .....RCH UR:.....

Attendees (circulate list for attendees - separate page below) / A**pologies**

Information and opinions from each of the key agencies

- RCH Medical Teams information and current opinion
    - General Medical Unit
    - Other involved medical /surgical units
    - VFPMS
- Police information and current opinion
- Child Protection information and current opinion

Further action planned by each of the three key agencies

- RCH Medical Teams
    - General Medical Unit
    - Other involved medical /surgical units
    - VFPMS
- Police
- Child Protection information and current opinion

Discussion

Further Actions

This might include planning further investigations, the child's discharge time, with whom the child is to be discharged to, whom a medical report is to be sent, any further meetings.

SCAN MEETING ATTENDEES

Client Name: ..... RCH UR: ..... Date: .....

	Name	Role	Organisation	Contact phone/email
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10				
11				
12				
13				
14				
15				

SCAN Meeting Minutes

Date: .....

Client Name: .....RCH UR:.....

General Medical Unit Registrar to complete and circulate to all attendees within 7 days.
Attach list of attendees & apologies

Information and opinions from each of the key agencies

RCH Medical Teams information and current opinion
(General Medical Unit / Other involved medical /surgical units / VFPMS)

Police information and current opinion

Child Protection information and current opinion

Further action planned by each of the three key agencies:

RCH Medical Teams
(General Medical Unit / Other involved medical /surgical units / VFPMS)

Police

Child Protection

Discussion (include any points of disagreement)

Other Actions

Minutes completed by: ..... Date:

Attachment 2

Discharge Planning Meeting and Case Conference Agenda

Child's Name: _____ DOB: _____
Date: _____

Attendees:
Apologies:
Chair:
(circulate attendance list)

Information and opinions/assessments from each of the key agencies-

- RCH Medical Teams information and current opinion
- RCH Social work assessment and current opinion
- DHHS Child Protection information and current assessment
- Other community agencies' information and current opinion

Further action planned by each of the key agencies-

- RCH Medical Teams
- RCH Social Work
- DHHS Child Protection
- Other community agencies

Discussion-

Actions-

- The child's discharge date
- To whom the child is to be discharged
- Recommended treatment
- Additional investigations
- Planned monitoring of child's safety and wellbeing, adherence to recommended treatment
- Which agencies will remain involved post discharge and their tasks
- Referrals to other agencies and expected time frame for response
- Further meetings

Agreed discharge date-

Discharge Planning Meeting and Case Conference Minutes

Child's Name: _____ DOB: _____
Date: _____

Attendees:
Apologies:
Chair:

Information and opinions from each of the key agencies-

- RCH Medical Teams information and current opinion

- RCH Social work assessment and current opinion

- DHHS Child Protection information and current opinion/assessment

Nature of Child Protection involvement and current concerns for the child
Status of Child Protection involvement (intake, investigation, protective intervention, protective order)
Caregiver/parental information and care arrangements – who will the child be discharged to
Other service involvement
History of involvement with Child Protection – including previous reports and assessments by other professionals
Any other information that may impact on the circumstances of the child's discharge

- Other community agencies' information and current opinion

Attachment 3

Statement of Placement Availability

Court Ref.—

Name of Child — ..... RCH UR - .....

*Male/*Female

Date of Birth — .....

Address — .....

I, ... *being the/*on behalf of the chief executive officer of The Royal Children's Hospital state that there is a bed available for

..... at The Royal Children's Hospital until

...../...../..... or such earlier time as *she/*he is able to be discharged on medical grounds.

Date— ...../...../.....

(*Signature*) .....

Name— .....

* Delete if not applicable