

Living with Mum Protocol
between
Corrections Victoria, Department of Justice and Community
Safety
and
Child Protection, Department of Families, Fairness and Housing
and
Aboriginal Children in Aboriginal Care providers



Justice
and Community
Safety



Foreword

The Department of Justice and Community Safety (DJCS) and the Department of Families, Fairness and Housing (DFFH) have jointly developed this Protocol, in consultation with the signatory Aboriginal Children in Aboriginal Care (ACAC) providers, to guide the exchange of information between staff of Corrections Victoria (CV), Child Protection and ACAC providers to promote the best interests and wellbeing of children who participate in the Living with Mum Program and support assessment and decision making in respect to applications from women who seek to have their child reside with them in prison.

The protocol will provide guidance for the staff of child protection, ACAC providers and Corrections Victoria staff employed within the Women's Prisons Region, to ensure effective exchange of information and an appropriate and high-level service response to applications for children to reside in custody with their mothers through the Living with Mum Program.

While the protocol aids effective communication between Child Protection, ACAC providers and the Women's Prisons Region, it does not replace the requirements for open and collaborative relationships between Corrections Victoria and Child Protection or ACAC providers at the operational level. Corrections Victoria, Child Protection and ACAC providers are committed to providing the highest level of service. Working together will ensure professional, sensitive, and well targeted responses to those children who are abused or neglected.

This protocol is an update of the 2010 'Mothers and children in prison protocol' and supersedes that document.

This protocol will be supported by additional or updated material, such as practice guidelines, and updates to operating manuals, to ensure CV and child protection and ACAC staff understand the protocol's operational requirements.

Endorsement

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1. Purpose of Protocol

The purpose of the Protocol between the parties is to:

- support the commitment of Corrections Victoria, Child Protection and Aboriginal Children in Aboriginal Care providers to work together to promote the best interests of every child subject to applications and participation in the Living with Mum Program
- outline the purpose and process for information sharing between agencies
- outline the respective roles and responsibilities in respect to the program inclusive of consultation, decision making and communication.

This Protocol is underpinned by the principle of establishing the 'best interests' of the child.

2. Statutory responsibilities

The Living with Mum Program is established by CV and operates under section 31 (1) of the *Corrections Act 1986* which states a prisoner's child may be permitted to live with the prisoner if the Secretary (or delegate) is satisfied that:

- it is in the best interests of the child to live with their parent in the prison; and
- the management and good order or security of the prison will not be threatened by the child living in prison.

and regulations 43-47 of the *Corrections Regulations 2009*.

Corrections Victoria has a statutory responsibility for the management of prisoners in custody and the management of this program.

Under the *Children, Youth and Families Act 2005* child protection has the statutory responsibility to make decisions in the best interests of a child; ACAC providers have the statutory responsibility for authorised cases (under s18 Children, Youth and Families Act) to make decisions in the best interests of a child.

2.1 Parties

Corrections Victoria (Department of Justice and Community Safety), Child Protection, Children, Families, Communities and Disability Division (Department of Families, Fairness and Housing) and the Victorian Aboriginal Child Care Agency (VACCA) and Bendigo and District Aboriginal Cooperative (BDAC) as Aboriginal Children in Aboriginal Care providers are the parties in this protocol.

3. Definitions and acronyms

3.1 Definitions

For this Protocol the following definitions apply:

- **Child** - refers to a child aged 0-5 years (under school age).
- **Child's best interests** - s (10) of the *Children, Youth and Families Act 2005*.
- **Mum or mother** - used to represent the parent – s31(4) *Corrections Act 1986*, in this section, parent of a child means a person who would have day to day care and control of the child and with whom the child would ordinarily be resident if the person were not in prison.



3.2 Acronyms

The following acronyms are used throughout this Protocol:

- **ACAC providers** – Aboriginal Children in Aboriginal Care providers authorised under S18 of the Children, Youth and Families Act.
- **CRIS** – Client Relationship Information System
- **CSOD** – Community Services Operations Division
- **CV** – Corrections Victoria
- **DFFH** – Department of Families, Fairness and Housing
- **LWM Program** – Living with Mum Program

4. Living with Mum Program

The LWM Program is a full-time mother and child residential program run by CV, which is offered at Dame Phyllis Frost Centre and Tarrengower Prison. The program sits under *Corrections Victoria's Mother and Children Services Delivery Framework (2020)* and relates to children 0-5 years (under school age).

Women who are pregnant or are the primary carer of a child under school age can apply to participate in the program and must enter into an Agreement with CV.

The program aims to encourage and foster the mother-child relationship and reduce the impact of a mother's imprisonment on her dependent children.

The program is available to all women received into prison custody who can demonstrate they are the 'parent' of the infant or pre-school aged child, to whom the application relates, and would have had day-to-day care and control of the child, and with whom the child would ordinarily reside had the woman not been imprisoned. Women are able to lodge applications at the time they become pregnant and women who are sentenced and on remand can apply.

The legislation places the onus for the child's safety and welfare while in custody on the imprisoned primary carer.

Corrections Victoria puts measures into place to promote the safety and wellbeing of children and takes steps to prevent harm to children participating in the LWM Program by:

- ensuring there is a rigorous process attached to assessing applications
- creating an environment that considers the health and safety of children from newborn through to pre-school aged children
- supporting the prison workforce to identify and respond to the needs of children and mothers taking care of those children.

The LWM Program complies with the Child Safe Standards and associated responsibilities outlined in the *Child Wellbeing and Safety Act 2005*.

The process of determining suitability of mothers and children for the LWM Program is conducted by CV, with the final approval for placements made by the Deputy Commissioner, Custodial Operations, Corrections Victoria (Deputy Commissioner).

The determination of suitability includes consideration of advice and information provided by the Department of Families, Fairness and Housing's Child Protection program or ACAC provider. This advice will include information relating to Court Orders or matters before the court under the Children Youth and



Families Act, placing the child in the care of another person. Ideally, matters should be settled before the decision is made regarding the Living with Mum Program.

5. Child protection services

Child protection services are based on the legal framework set out in the Children, Youth and Families Act. The main principle underpinning the Act is the best interests of the child must always be the paramount consideration. 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 always be considered.

Child protection intervention is child centred and family focussed and is limited to that necessary to secure the safety and well-being of the child. The core aspect of child protection work is assessing risk to children, see **Appendix A** for additional information.

6. Aboriginal Children in Aboriginal Care

Aboriginal Children in Aboriginal Care is a program for Aboriginal children subject to a Children's Court protection order. Section 18 of the Children, Youth and Families Act enables the Secretary of the Department of Families, Fairness and Housing to authorise the principal officer of an Aboriginal Community Controlled Organisation (ACCO) to undertake specified functions and powers in relation to a Children's Court protection order for an Aboriginal child or young person.

Once a protection order for an Aboriginal child has been made by the Children's Court, an approved ACCO may be authorised to take on full responsibility for the child.

The Victorian Aboriginal Child Care Agency (VACCA) and the Bendigo and District Aboriginal Cooperative (BDAC) are the ACAC providers in Victoria and are signatories to this protocol. In future, additional Aboriginal Community Controlled Organisations may be gazetted as ACAC providers. This protocol will be applicable to future ACAC providers.

7. Charter of Human Rights and Responsibilities Act 2006

Each party to this protocol acknowledges section 17 of the *Charter of Human Rights and Responsibilities Act 2006*; families are the fundamental group unit of society, entitled to protection by society and the state, and which also acknowledges an individual's cultural and kinship rights.

8. Information sharing

The timely, purposeful, and coordinated exchange of information between the parties is required to support the assessment function undertaken by CV and any ongoing communications regarding the best interests of children engaged in the LWM Program.

Information exchange will occur in accordance with relevant sections of the Children, Youth and Families Act, the *Correction Act 1986*, *Corrections Regulations 2009*, *Privacy and Data Protection Act 2014* and the *Health Records Act 2001*, in order to promote the best interests of a child.

Corrections Victoria undertakes to hold information given to it by DFFH or ACAC providers securely and in accordance with the Public Record Office of Victoria and information will not be used for any other purpose than to assess the suitability of the mother or child to participate in the LWM Program.



8.1 CV background information requests

Requests will be initiated by the LWM Program Support Worker or relevant correctional staff as part of the application process.

Persons authorised to make a request as part of a LWM application include:

- Mother and Child/Parenting Program Support Workers
- Programs Manager, Women's Prisons Region, or their delegate
- General Manager, Women's Prison Region, or their delegate
- Officer in Charge, Tarrengower Prison, or their delegate

Corrections Victoria will submit all requests via email to cpbackgroundchecks@dfh.vic.gov.au

Where the request is 'Urgent', CV will make phone contact with the Senior Project Officer - Community Services Operations Division (CSOD) responsible for the DFFH administrative functions associated with requests for information regarding applications for the LWM Program. This phone call is in addition to the Urgent email request and this function can only be operationalised by CSOD on standard business days.

The email subject line should be explicit:

General request: e.g. Living with Mum application – J. Citizen – Tarrengower

Urgent request: e.g. URGENT - Living with Mum application – J. Citizen – Tarrengower

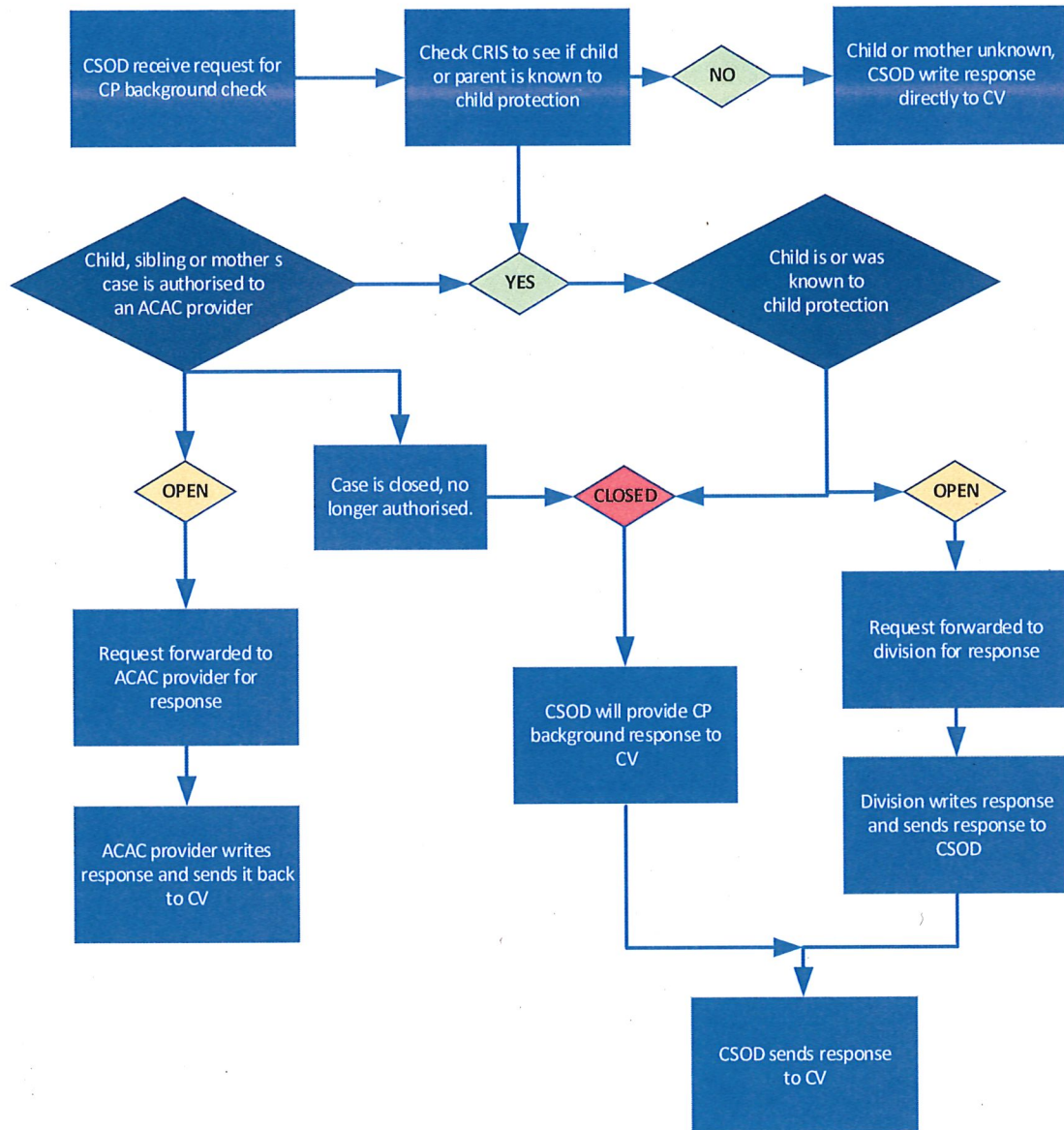
Each request will be accompanied by:

- specific information about each person for whom an information request is being made
- include details of the mother's charges (remand) and convictions and any other relevant offences
- for each child, written evidence of the mother's informed consent to the disclosure of records held by DFFH or ACAC provider.
- be accompanied by the signed informed consent for DFFH or ACAC provider to release the applicant's personal information, information about the subject child and any siblings.

8.2 DFFH receipt of requests for information

Within DFFH, CSOD is responsible for receiving and coordinating responses to requests for the Living with Mum Program.

CSOD make determinations regarding who will respond to the request, as follows:



On all applications, CSOD or the ACAC provider will complete a preliminary screening of the available information and make a judgement if a child protection report should be made under sections 28, 29 or 30 of the CYFA.

8.3 Responses to requests

Each response will fall into one of the following categories:

8.3.1. No history with the mother or the child.

- CSOD will provide a written response to CV to this effect.



8.3.2. Previous child protection involvement (closed case)

- **Child's case was managed by child protection or ACAC provider** – Where there has been previous child protection involvement with the mother or the child, CSOD will provide a written summary of child protection history, including if the mother has been responsible for harm, as it relates to the application and will make a recommendation regarding the suitability of the application that considers the best interest of the child.

8.3.3. Current child protection involvement (open case)

- **Child's case is managed by child protection** including the subject child, their sibling or an unborn child, the request will be referred to the relevant division for a response. The division will provide a written summary of child protection history as it relates to the application, including if the mother has been responsible for harm, and will make a recommendation regarding the suitability of the application that considers the best interest of the child. The response will be sent back to CSOD who will send it to CV.
- **Child is authorised to an ACAC provider** including the subject child or their sibling, the request will be referred to the ACAC provider for a response. The ACAC provider will provide a written summary of child protection history as it relates to the application, including if the mother has been responsible for harm, and will make a recommendation directly to CV regarding the suitability of the application that considers the best interest of the child.

DFFH and ACAC providers will endeavour to provide responses to CV within **14 business days** of receipt of the request.

DFFH and ACAC providers will endeavour to provide a response to 'urgent requests' in **24 hours** (whenever possible). Urgent requests can only be actioned on usual business days.

9. Safety of children

The parties acknowledge that mothers and pregnant women may come into contact with the prison system through a broad range of charges and sentencing conditions. Reception of these women into custody does not in itself constitute significant concern for the safety and wellbeing of an unborn child, and CV does not routinely make reports about women in custody solely because they are pregnant or have dependent children.

9.1 Unborn reports

If the applicant is pregnant, CSOD will initiate a discussion between the CV (Living with Mum Program Support Worker or CV staff coordinating the application). A decision will be made as to whether an unborn report is required under S29 CYFA. In these circumstances the report will be made by the party that holds the information on risk.

All decisions and actions must be recorded by each party and include all agreed actions and who will make the unborn report. If CV are making the report, they will advise the CSOD Senior Project Officer when the report has been made.

An unborn report reduces the likelihood of child protection intervention after the child's birth by working earlier and in partnership with the mother and appropriate support services to address the need or risk factors.

As a general principle, an unborn report should be made when the pregnancy is confirmed to:

- allow sufficient time for a well-informed assessment and effective planning



- enable effective referrals to be made to Child FIRST or other appropriate support services prior to the child's birth
- minimise initial approaches for advice and assistance being made to the mother during the last stages of her pregnancy
- provide opportunities for the mother to engage with professionals and services and contribute her own ideas and solutions to concerns to achieve better outcomes.

9.2 Active child protection involvement

Where child protection or ACAC provider is actively involved with a mother or child engaged in the LWM Program, upon request from the child protection or ACAC provider, CV will provide regular feedback on their participation and progress in relevant programs, and in regard to the child's circumstances and wellbeing, including any adverse incidents impacting the child.

Where child protection or ACAC provider needs to contact a prisoner involved in the LWM Program they must liaise with the Living with Mum Program Support Worker.

For **phone and video appointments**, Child Protection or ACAC providers will email Dame Phyllis Frost Centre (DPFC) via dpcfcoffenderservices@justice.vic.gov.au inbox and Tarrengower Prison via tarrengower.programs@justice.vic.gov.au

For **paperwork** to be given or served to the women, please use express or registered post. The Family Engagement Worker should be contacted via email to be advised in advance if the paperwork is likely to have a significant impact or reveal an unexpected result to the mother, which may require a distress referral by CV.

9.3 CYFA Statutory lens of applications

The LWM Operational Steering Committee considers all applications to the LWM Program and provides confidential consultation within the committee to contribute to the recommendations on suitability of each application to the Deputy Commissioner.

The State-wide Principal Practitioner Child Protection (DFFH) or their delegate, provides expert advice and opinion through the lens of the best interests of the child as prescribed in section 10 of the Children, Youth and Families Act to all applications for the Living with Mum Program.

ACAC Practice Leaders or their delegate provide expert advice and opinion on applicant mothers or children authorised under section 18 Children, Youth and Families Act and through the lens of the best interests of the child as prescribed in section 10 of the Children, Youth and Families Act.

Corrections Victoria will provide the State-wide Principal Practitioner Child Protection and ACAC Practice Leaders an email package at least four business days before each Operational Steering Committee meeting.

The package includes:

- The date, venue, and agenda for the upcoming meeting
- The minutes of the previous meeting
- Applications requiring review
- Progress reports on existing LWM Program participants
- Any other documents/information to be considered at the meeting

Where the State-wide Principal Practitioner Child Protection or ACAC Practice Leader delegate their attendance, it is their responsibility for ensuring their delegate has access to the package of information.



Where an applicant is deemed unsuitable for the LWM Program, CV will be solely responsible for communicating this outcome to the applicant.

The Operational Steering Committee members will be advised of final decisions made by the Deputy Commissioner via the steering committee.

9.4 Planned release

Where the mother and child or the child, with current child protection involvement are planned to leave prison, CV will advise the appropriate child protection practitioner or ACAC case manager directly at the earliest possible time of the release date, preferably no later than one month prior to release.

The State-wide Principal Practitioner Child Protection and ACAC Practice Leader or their delegate will be advised at the appropriate steering committee meeting.

Wherever necessary a case conference to prepare an exit plan will be arranged between the prison, child protection or ACAC case manager and/or the State-wide Principal Practitioner Child Protection, or ACAC Practice Leader and the mother.

9.5 Change in mother's circumstances

When a child participating in the LWM Program is not able to remain in the prison due to a change in the mother's circumstances or an emergency, CV will activate external alternative care arrangements in accordance with the Living with Mum policy. Where the child or mother are subject to current child protection involvement, CV will notify the child protection or ACAC provider case manager and the State-wide Principal Practitioner Child Protection or ACAC Practice Leader by email and phone, within one business day of the change of circumstances being noted.

10. Child protection reports by Corrections Victoria

While CV staff do not have mandatory reporting obligations, **custodial staff and Victorian Public Servants working in Victorian prisons have a duty to report concerns of child abuse and neglect.**

Corrections Victoria staff will follow their internal procedures to make a report to child protection (Appendix B Child Protection Program service contacts and hours of operation).

If CV has concerns that a child's life is in danger, CV will immediately contact Victoria Police on 000.

11. Roles and responsibilities under this Protocol

The administration of the LWM Program and activities is the responsibility of CV and DJCS, which will address community or government enquiries, concerns or issues relating to or arising out of activities associated with the LWM Program.

The DFFH contact for this protocol is the State-wide Principal Practitioner Child Protection, Community Services Operations.

The ACAC provider contacts are the CEO signatories to this Protocol or their delegates.

The CV contact for this protocol is the General Manager, Rehabilitation and Reintegration Branch.

These offices will meet at the request of either party to consider questions or issues of mutual concern. Each party will take steps to ensure relevant agency officers are aware of the protocol through the dissemination of supporting material, such as fact sheets and operating guidelines.



12. Dispute resolution

If there is a dispute between parties concerning this protocol, the parties agree that they will take all necessary steps to resolve the dispute quickly and expeditiously by mutual agreement.

Despite the existence of a dispute, each party will, unless requested not to do so in writing by the other Party, continue to perform its obligations under the protocol.

Appendix A – Overview of child protection

Child protection services are based on the legal framework set out in the *Children, Youth and Families Act 2005* (CYFA). The main principle underpinning the CYFA is that the best interests of the child must always be the paramount consideration. 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 always be considered.

The Child Protection Manual is the primary point of reference for child protection practitioners and managers employed by the Victorian Department of Families, Fairness and Housing regarding statutory child protection policy, procedures and supporting advice. It also contains protocols, practice resources and tools, and links to materials external to the manual that are relevant to child protection practice.

<https://www.cpmanual.vic.gov.au/>

ACAC providers have procedure manuals within their agencies for their delivery of child protection.

Child protection intervention is child centred and family focussed and is limited to that necessary to secure the safety and well-being of the child. The core aspect of child protection work is assessing risk to children.

The [Best interests case practice model](#) provides the foundation for case practice in child protection. The model includes interconnected stages of professional practice, which is child focussed and family sensitive.

Case Planning Process

Case planning in child protection practice specifically relates to the processes of planning with children and their families following substantiation of child protection concerns. Case planning includes legislative and policy requirements relating to the preparation, provision and review of case plans and specific requirements and considerations for case planning for Aboriginal children.

Phases of Child Protection involvement

There are a number of phases in Child Protection involvement, which require different courses of action.

1. Intake

The intake phase commences with a report and concludes when the report is transferred for investigation or closed with or without the provision of advice or referral.

2. Investigation and Assessment

Where a decision is made in the intake phase that a report will be classified as a protective intervention report, child protection is required to see the child and family and conduct a comprehensive investigation to determine the actual circumstances of the child and whether these circumstances meet the legislative requirements that the child is in need of protection as defined in s. 162 of the Act.

As well as seeing the child and parents in person, this will involve having contact with significant others and professionals who know the child and family to the extent required to obtain sufficient information to



determine whether the report is substantiated or not, and whether further protective intervention is required.

3. Protective intervention

This stage involves Child Protection, following substantiation, working with a family by agreement, or issuing a protection application either by notice or emergency care.

4. Protection Order

The protection order phase commences when a protection order has been made in respect of a child by the Children's Court. Either at this time or an earlier point, the Court will have found the protection application (PA) proven. This means that the child has been found to be in need of protection in accordance with the provisions of the CYFA and that the Court has determined an order is required to ensure the child's safety and ongoing wellbeing.

5. Case Closure

Case closure is the last phase of child protection involvement with a child and family and is an active phase in itself, involving casework actions and tasks as well as administrative tasks.

Case plan

Case planning is the process of making significant decisions in relation to a child during child protection involvement, from intake to closure. Planning stems from effective information gathering and analysis of the available information. It is directly informed by the current assessment of the child's situation and lived experience, and directly informs any actions that need to be taken.

A case plan is a record of all significant decisions made about a child by Child Protection and includes a permanency objective. An actions table is also completed and outlines the goals, tasks, timelines, and people responsible for undertaking them.

The case plan is first developed following the substantiation decision.

Cultural Plan

Every Aboriginal child subject to a Children's Court order which places them in care must have a cultural plan completed for them.

Service Delivery Information

Child Protection provides services to children and their families when children are assessed as being at risk of significant harm and in need of protection.

Child Protection Program

Child Protection service delivery is organised through an area based structure. There are 17 areas across four divisions in Victoria.

Each division has an intake team situated at a designated office to accept reports. Note: West Division operates a metropolitan intake as well as a rural and regional intake.

Hours of Operation

Normal hours of operation are 8.45 am to 5.00 pm, Monday to Friday, at all Department of Families, Fairness and Housing offices listed below.



After-Hours Child Protection Emergency Service

The Department of Families, Fairness and Housing After Hours Child Protection Emergency Service (AHCPEES) is a crisis service that responds to urgent matters that cannot wait until the next working day. It is not an extension of the daytime activities of Child Protection for children provided in normal office hours.

Appendix B – Child Protection Program Service Contact and Hours of Operation

Divisional child protection hours of operation

Normal hours of operation are 8.45 am to 5.00 pm, Monday to Friday, at all Department of Families, Fairness and Housing offices listed below.

North Division intake: 1300 664 977

Covering the following areas and LGAs:

Banyule, Buloke, Darebin, Campaspe, Central Goldfield, Gannawarra, Greater Bendigo, Hume, Loddon, Macedon Ranges, Mildura, Moreland, Mount Alexander, Nillumbik, Swan Hill, Whittlesea, Yarra.

South Division intake: 1300 655 795

Covering the following areas and LGAs:

Bass Coast, Baw Baw, Bayside, Cardinia, Casey, East Gippsland, Frankston, Glen Eira, Greater Dandenong, Kingston, Latrobe, Mornington Peninsula, Port Phillip, South Gippsland, Stonnington, Wellington.

East Division intake: 1300 360 391

Covering the following areas and LGAs:

Alpine, Benalla, Boroondara, Greater Shepparton, Indigo, Knox, Manningham, Mansfield, Maroondah, Mitchell, Moira, Monash, Murrindindi, Strathbogie, Towong, Wangaratta, Whitehorse, Wodonga, Yarra Ranges.

West Division intake - **metropolitan**: 1300 664 977

Covering the following areas and LGAs:

Brimbank, Hobsons Bay, Maribyrnong, Melbourne, Melton, Moonee Valley, Wyndham.

West Division intake - **rural and regional**: 1800 075 599

Covering the following rural and regional areas and LGAs:

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.



Aboriginal Children in Aboriginal Care (ACAC)

For children whose Children's Court protection orders are authorised to an ACAC provider, contact the ACAC provider below. If in doubt, Child Protection can advise you whether to contact ACAC.

The Victorian Aboriginal Child Care Agency (VACCA) provides ACAC through its Nugel Program: (03) 9287 8800.

Nugel operates in the following LGAs:

Banyule, Darebin, Hume, Moreland, Nillumbik, Whittlesea, Yarra.

The Bendigo and District Aboriginal Cooperative provides ACAC through its Mutjang Bupuwingarrak Mukman program: (03) 5442 4947

Mutjang Bupuwingarrak Mukman operates in Dja Dja Wurrung Country including the following LGAs: Central Goldfield, Greater Bendigo, Loddon, Macedon Ranges, Mount Alexander.

After Hours Services

The Department of Families, Fairness and Housing Child Protection After Hours Service operates outside of business hours.

Operating hours: 5pm – 9am weekdays and 24hours on the weekends and public holidays
Phone: 13 12 78

Interstate contact numbers

- Australian Capital Territory (ACT) - 1300 556 729
- New South Wales (NSW) - 13 21 11
- Northern Territory (NT) - 1800 700 250
- Queensland (QLD) - (07) 3235 9999
- South Australia (SA) - 13 14 78
- Tasmania (TAS) - 1300 737 639
- Western Australia (WA) - (08) 9325 1111