

Program requirements for the Aboriginal Child Specialist Advice and Support Service

February 2019

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Where the term 'Aboriginal' is used it refers to both Aboriginal and Torres Strait Islander people. Indigenous is retained when it is part of the title of a report, program or quotation.

Available at <http://cpmanual.vic.gov.au/advice-and-protocols/advice>

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1 Introduction

The Aboriginal Child Specialist Advice and Support Service (ACSASS) is a specialised program that provides culturally attuned input into risk assessments and cultural information to child protection to inform the assessment of all reports regarding the abuse or neglect of Aboriginal children. It also provides culturally attuned advice and consultation to child protection on significant decisions that determine the future of Aboriginal children across all phases of child protection intervention.

This edition of the program requirements outlines all functions and requirements of ACSASS. It replaces the earlier document of the same name dated 2012. The document was developed in partnership with Aboriginal Controlled Community Organisations (ACCOs) and reflects the broad children and families reform agenda and commitment to Aboriginal self-determination and self-management.

The Children and Families Policy Branch of the Department of Health and Human Services (the department), would like to acknowledge the members of the Project Advisory Group who gave considerable time to provide the advice and input that shaped these requirements. We would also like to thank the Mallee District Aboriginal Service (MDAS) and the Victorian Aboriginal Child Care Agency (VACCA) for the contribution of their expertise and experience in delivering ACSASS.

1.1 Scope of program requirements

This document provides a detailed description of the role and responsibilities of ACSASS providers and child protection to enable ACSASS to meet its intended purpose to improve outcomes for Aboriginal children and young people who come into contact with child protection. It is intended to sit alongside funding agreements between the Department of Health and Human Services (the department) and each service provider.

The requirements are statements of what Aboriginal agencies need to do in order to meet service expectations and enable child protection to meet its legislative responsibilities under the Children, Youth and Families Act 2005 (CYFA) to consult with an Aboriginal agency when making significant decisions about Aboriginal children.

Aboriginal agencies will develop and provide a distinctly Aboriginal practice approach to service delivery that meets these program requirements. Noting, while the requirements are not intended to prescribe how Aboriginal agencies will deliver ACSASS, they establish minimum requirements for consistency in areas of service delivery that ACSASS providers must meet.

1.2 Historical context

Aboriginal children and young people in Victoria are significantly over-represented across all phases of child protection and in care. Contributing factors to the level of over-representation include: the impact of colonisation and forcible removal of Aboriginal children from their families (the Stolen Generations); racism; unconscious bias; lack of knowledge regarding Aboriginal child-rearing practices; and the lack of investment in Aboriginal-led services.

The history of forcible removal of Aboriginal children from their families has resulted in Aboriginal families often being suspicious of health and welfare services and being concerned that their children will continue to be removed on the basis of race.

The ACSASS practice approach reflects an understanding of the issues affecting Aboriginal children, young people, families and communities and their interactions with child protection and mainstream 'welfare' services.

1.3 The United Nations Convention on the Rights of the Child

The Convention on the Rights of the Child (the Convention), adopted by the United Nations in 1989, sets out the undertakings of the international community to recognise children as independent persons with their own integrity and human rights. The Convention refers to the best interests of the child being the primary consideration when government intervenes in family life. It also recognises the role of the government to respect and provide support for the responsibilities, rights and duties of parents, extended family or where applicable, the community.

The Convention also states that: children have a right to an identity; young people who are capable should be able to speak for themselves in matters that affect them; Indigenous children shall not be denied the right, in community with other members of the group, to enjoy their own culture; and attention shall be paid to the cultural background of children in out-of-home care.

1.4 Policy context

This edition of the program requirements has been developed at a time of significant reform of the children and families service system. The Victorian Government is committed to working towards self-determination for Aboriginal people and communities, with self-determination and self-management the overarching policy and implementation drivers for system and service reform. Consistent with this vision, significant reform is underway to enable Aboriginal self-management for Aboriginal children on Children's Court protection orders. This will create new opportunities for collaboration between child protection and ACSASS providers to support Aboriginal children to transition to the care and case management of Aboriginal Controlled Community Organisations (ACCOs).

The following information provides a brief overview of key principles, policy documents and reform initiatives relevant to ACSASS.

Self-determination and self-management

Self-determination and self-management are vital for improving Aboriginal people's health and wellbeing. The National Aboriginal Community Controlled Health Organisation described self-determination as:

The ability of Aboriginal people to determine their own political, economic, social and cultural development as an essential approach to overcoming Indigenous disadvantage.¹

Research conducted on self-determination by first peoples in other countries shows that first peoples suffer greatly when the right to make their own decisions is taken away. The devastating impact of failed policies can only begin to be turned around when Aboriginal people are supported to make their own decisions on matters including: governance; natural resource management; economic development; health care; social service provision; and care of Aboriginal children.

There is no single approach to achieving self-determination and/or self-management. The requirements of each Victorian Aboriginal community are unique.² Aboriginal people know what is best for Aboriginal children and young people and should have input into significant decisions made by child protection and an opportunity to advocate for the child to ensure their cultural rights and cultural safety are upheld.

Roadmap for Reform

The Roadmap for Reform: strong families, safe children (the Roadmap) was launched on 13 April 2016. The Roadmap provides the blueprint and vision for reforming the children and families system. Through the Roadmap and *Ending Family Violence: Victoria's Plan for Change*, the Victorian Government is committed to an ongoing, sustained effort to improve outcomes for vulnerable children, young people

¹ National Aboriginal Health Strategy Working Party (NAHSWP) 1989, *A national Aboriginal health strategy*, National Aboriginal Health Strategy Working Party, Canberra.

² Department of Health and Human Services 2017, *Korin Korin Balit-Djak: Aboriginal health, wellbeing and safety strategic plan 2017-2027*, Victorian Government, Melbourne.

and families. The Roadmap includes a commitment to Aboriginal self-determination around decision making and care for vulnerable Aboriginal children and young people.

Korin Korin Balit-Djak Aboriginal health wellbeing and safety strategic plan 2017-2027

Korin Korin Balti-Djak: Aboriginal health, wellbeing and safety strategic plan 2017-2027 provides an overarching framework for action to improve the health, wellbeing and safety of Aboriginal Victorians. It holds self-determination as its policy and implementation driver and acknowledges the centrality of culture to achieving positive outcomes for Aboriginal people. *Korin Korin Balit-Djak* is available at <https://www2.health.vic.gov.au/about/health-strategies/aboriginal-health/korin-korin-balit-djak>.

Wungurilwil Gaggapduir Aboriginal Children and Families Agreement

Wungurilwil Gaggapduir Aboriginal Children and Families Agreement, signed in April 2018, is the first tripartite agreement between the Aboriginal community, child and family services sector and the Victorian government. It is a shared commitment to improve outcomes for Aboriginal children in Victoria, with its aims and objectives based on the overarching principle of Aboriginal self-determination. *Wungurilwil Gaggapduir* commits child protection, ACSASS providers and all professionals that work with Aboriginal children as part of agencies that are signatories to the agreement, to work collaboratively in the interests of Aboriginal children and young people. *Wungurilwil Gaggapduir* is available at <https://dhhs.vic.gov.au/publications/wungurilwil-gaggapduir>.

Aboriginal Children in Aboriginal Care

Aboriginal Children in Aboriginal Care (ACAC) is the program name for Section 18 of CYFA which enables the Secretary of the department to authorise the Principal Officer of an Aboriginal agency to perform specified functions and powers conferred on the Secretary in relation to an Aboriginal child or young person subject to a protection order.

ACAC is an important and vital step for Aboriginal self-determination and self-management that will have a significant impact for Aboriginal children. The first authorisations were made in November 2017 to the Chief Executive Officer of VACCA.

Authorised Aboriginal agencies are not required to consult ACSASS in relation to authorised children; however, they must still comply with the Aboriginal decision-making principles and the Aboriginal child placement principle. Child protection must consult with ACSASS when considering recommending an Aboriginal child for section 18 authorisation.

Transitioning Aboriginal children to ACCOs

The department is working in partnership with ACCOs and Community Service Organisations (CSOs) to support the gradual transfer of case management and care of all Aboriginal children and young people on contractible protection orders to ACCOs. The Aboriginal Children's Forum has set a target of 100 per cent of Aboriginal children on contractible orders to be transitioned to ACCOs by 2021. Child protection must consult with ACSASS when considering contracting case management to an ACCO.

Service pathways for families and children

The Orange Door

The Orange Door will commence operating at five sites in 2018 and will operate in all 17 departmental areas across Victoria by 2021. The Orange Door was a recommendation of the Royal Commission into Family Violence. The Orange Door will provide highly visible, new service access points for women, children and families experiencing family violence and families in need of support with the care, wellbeing and development of children to access coordinated support from justice, health and social services. In sites where The Orange Door are implemented child protection and other services will refer to The Orange Door where they previously referred to Child FIRST.

The implementation of The Orange Door will be accompanied by enhancements to information sharing and risk assessment and management approaches. The Orange Door will include Aboriginal workers and strong links to ACCOs and Aboriginal communities and, consistent with the principal of self-determination, will support Aboriginal people to choose whether to access services from The Orange Door or an ACCO.

1.5 The Protocol

The *Protocol between the Department of Health and Human Services Child Protection and the Victorian Aboriginal Child Care Agency* (the protocol) establishes the agreed principles that underlie the intent, and functioning of, ACSASS. It sets out the broad responsibilities of the department and ACSASS providers to ensure culturally attuned input into risk assessments and cultural information is incorporated into child protection decision making for Aboriginal children and young people. Importantly, the protocol establishes referral and consultation mechanisms for the ACSASS program.

The protocol was signed in 2002. In the course of developing these program requirements a decision was reached to refresh and modernise the protocol and include the ability to add signatories as required should additional ACCOs deliver ACSASS in the future. This work will commence in the second half of 2018 in collaboration with ACSASS providers. Until this time the existing protocol will continue to apply.

The protocol is available on the Child Protection Manual <<http://www.cpmanual.vic.gov.au>>.

1.6 Legislation

The Children, Youth and Families Act 2005

The CFYA is the primary act governing the provision of child protection services in Victoria. The legislation promotes the safety, wellbeing and healthy development of children. It also places a strong emphasis on the need to consider the impacts of cumulative harm and to preserve cultural identity. The intent of the CYFA with regard to Aboriginal children, families and communities is to maintain Aboriginal children with their families and communities and, where this is not possible, to ensure an ongoing connection with their families, communities and culture.

ACSASS was established to meet the legislative requirements outlined in section 12 of the CYFA regarding decision making for Aboriginal children. The CYFA requires child protection to consult an Aboriginal agency and have regard to the views of members of a child's Aboriginal community in making significant decisions.

Other relevant sections of the CYFA include:

- Section 3 Definitions (Aboriginal agency, Aboriginal person)
- Section 6 Aboriginal agency
- Section 10 Best interests principles
- Section 11 Decision-making principles
- Section 12 Additional decision-making principles
- Section 13 Aboriginal Child Placement Principle
- Section 14 Further principles for placement of Aboriginal child
- Section 16 Responsibilities of the Secretary
- Section 18 Secretary may authorise principle officer of Aboriginal agency to act
- Section 162 When is a child in need of protection
- Section 166 What is a case plan?
- Section 167 Permanency objective

- Section 168 Preparation of case plan
- Section 169 Review of case plan
- Section 176 Cultural support for Aboriginal child
- Sections 228 to 231 Temporary assessment orders
- Sections 240 to 243 Action by a protective intervener (including placing child in emergency care)
- Sections 244 to 253 Therapeutic treatment orders and therapeutic treatment (placement) orders
- Sections 262 to 270 Interim accommodation orders
- Section 276 Restrictions on making of protection orders
- Section 276A Court to have regard to certain matters
- Sections 272 and 278 Undertakings
- Section 280 Family preservation order
- Sections 312 to 315 Breach of family preservation order
- Section 287 Family reunification order
- Section 289 Care by Secretary order
- Section 290 Long-term care order
- Section 321 Permanent care order
- Section 323 Restrictions on the making of permanent care order in respect of an Aboriginal child

Related legislation, which governs the exchange of information between child protection and ACSASS where this is not dealt with in the CYFA, includes:

- *Privacy and Data Protection Act 2014*
- *Health Records Act 2001*

The *Adoption Act 1984* also contains principles regarding the placement of Aboriginal children.

Aboriginal Agency

ACSASS is provided by ACCOs declared 'Aboriginal agencies' under section 6 of the CYFA.

Best interests principles and Aboriginal decision-making principles

Section 10 of the CYFA states the best interests of a child must always be paramount when making a decision. The best interests principles govern decisions by child and family services, the Children's Court, child protection, placement services and Aboriginal agencies authorised under section 18.

All decision making and actions taken under the CYFA must consider protecting the child from harm, protecting their rights and promoting their development. Included in the best interests provisions is the requirement for consideration be given to 'the need in relation to an Aboriginal child, to protect and promote his or her Aboriginal cultural and spiritual identity and development by, wherever possible, maintaining and building their connections to their Aboriginal family and community' (section 10.3 (c)).

Further to the best interests principles (section 10) and the decision-making principles (section 11), additional principles for decision making for Aboriginal children are contained in section 12 'additional decision-making principles', section 13 the 'Aboriginal Child Placement Principle' and section 14 'further principles for the placement of an Aboriginal child'.

Aboriginal Child Placement Principle

ACSASS plays a key role in ensuring that placements for Aboriginal children in care occur in accordance with the Aboriginal Child Placement Principle. Cultural identity and connectedness are critical to the development and wellbeing of Aboriginal children. Aboriginal children do better when they remain connected to their culture, community and Country. The Aboriginal Child Placement Principle, enshrined in section 13 of the CYFA, recognises that every Aboriginal child has the right to be raised within their own culture and community.

If it is in the best interests of an Aboriginal child to be placed in care, child protection must seek advice from ACSASS about this decision and also to obtain advice on placement options. ACSASS will have regard to the Aboriginal Child Placement Principle when providing this advice.

ACSASS will assist child protection to explore placement options, within the child and young person's kith and kin network as a first priority, with other Aboriginal placement options or, as a last resort, with a non-Aboriginal family living near the child's parents.

The criteria of the Aboriginal Child Placement Principle are:

- as a priority, the child must be placed within the Aboriginal extended family or relatives and where this is not possible other extended family or relatives;
- if, after consultation with the relevant Aboriginal agency, placement with extended family or relatives is not feasible or possible, the child may be placed with -
 - an Aboriginal family from the local community and within close geographical proximity to the child's natural family;
 - an Aboriginal family from another Aboriginal community;
 - as a last resort, a non-Aboriginal family living in close proximity to the child's natural family;
- any non-Aboriginal placement must ensure the maintenance of the child's culture and identity through contact with the child's community.

The Child Wellbeing and Safety Act

The *Child Wellbeing and Safety Act 2005* provides an overarching framework for promoting positive outcomes for all children, emphasising that:

- all children should be given the opportunity to reach their full potential and participate in society, irrespective of their family circumstances and background
- while parents are the primary nurturers of a child, society as a whole shares responsibility for children's wellbeing and safety
- planning and delivering services should focus on sustaining and improving children's outcomes, as well as promoting and protecting a child's safety, health, development, learning and wellbeing.

The Child Wellbeing and Safety Act also contains the Child Safe Standards and the Reportable Conduct Scheme.

2 Service standards

2.1 Standards for community service organisations

ACSASS providers must be registered community services. The CYFA provides for the Minister for Child Protection to determine standards to be met by registered community service organisations (CSOs) providing family services and out-of-home care.

The CYFA requires CSOs providing child and family services and out-of-home care services to be registered as a community service and to comply with relevant performance standards (section 60). These are the Human Services Standards, summarised on page 14 below. Organisations delivering services under the CYFA specifically for children and young people requiring care, support, protection or accommodation are required to be registered as a community service.

2.2 Standards and guidelines for ACSASS

ACSASS providers are required to adhere to the following standards, guidelines and agreements:

- *Protocol between the Department of Health and Human Services Child Protection Service and the Victorian Aboriginal Child Care Agency*
- Registration standards for community service organisations (CYFA)
- *Children, Youth and Families Act 2005*
- *Child Wellbeing and Safety Act 2005*
- *Department of Health and Human Services Policy and Funding Guidelines*
- *Wungurilwil Gagapduir: Aboriginal Children and Families Agreement*
- Victorian Aboriginal Justice Agreement
- *Privacy and Data Protection Act 2014*
- *Health Records Act 2001*
- *Privacy Act 1988 (Commonwealth)*

2.2.1 Service agreement, monitoring and review

Organisations are required to deliver services in line with their service agreement with the department. Performance reporting and monitoring forms part of the agreement. Organisations are required to regularly report on their service outputs through data collection and other reporting requirements as detailed in the service agreement. The specific requirements for monitoring, review and reporting are set out in the service agreement.

The *Department of Health & Human Services monitoring framework* is made up of three components:

- ongoing core monitoring
- an annual desktop review
- possible service review, where the desktop review indicates matters or issues requiring further attention.

For further information, the *Service agreement information kit for funded organisations* can be accessed from the department's website at <http://www.dhs.vic.gov.au/for-service-providers/for-fundedagencies/funded-agency-channel/service-agreement-information-kit>.

2.2.2 Quality assurance standards

Programs and services are expected to have systems in place to maintain quality service delivery and promote positive outcomes for clients.

The Human Services Standards (Standards) (gazetted as Department of Health & Human Services Standards) are a single set of service delivery standards for a range of department-funded programs providing services to clients. Organisations will be externally reviewed against the Standards once every three years by one of a panel of independent review bodies endorsed by the department.

Where a service provider receives funding from the department of \$100,000 or less per annum for activities in scope of independent review, it may, with the approval of the department, undertake a self-assessment rather than an independent review of its compliance with the Standards.

The Standards are summarised as:

- **empowerment:** people's rights are promoted and upheld
- **access and engagement:** people's right to access transparent, equitable and integrated services is promoted and upheld
- **wellbeing:** people's right to wellbeing and safety is promoted and upheld
- **participation:** people's right to choice, decision making and to actively participate as a valued member of their chosen community is promoted and upheld.

The Standards enable programs and services to both internally assess strengths and use emerging practice to reflect on and refine the way services are delivered, and to have an external critique of its service delivery that builds community confidence.

A service provider's governance and management systems are also reviewed using the Standards by an independent review body. The evidence guide for the Standards notes that reviewers will examine a service provider's systems, policies and practices to ensure they reflect the program requirements. The evidence used by ACSASS providers to demonstrate compliance with the Standards will be particular to the program and reflect that ACSASS has indirect responsibility for client outcomes.

More information is available on the department's website at <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/department-of-humanservices-standards>.

2.3 Governance and organisational requirements

Aboriginal agencies providing ACSASS will have strong governance arrangements and experience in delivering services to Aboriginal children and families.

2.3.1 Role of the Board

The Board of the ACSASS provider will not have any direct role in the provision of ACSASS. ACSASS providers must have policies and processes in place to protect client information, including policies that prevent client information being provided to Board members. Further information about privacy and confidentiality requirements is outlined in section 5.

2.3.2 Conflict of interest and allegations management

ACSASS providers will have demonstrable policies and procedures that address potential conflicts of interest that may arise in the delivery of ACSASS. Those policies and procedures will address occasions where a client is related to, or has a close personal relationship with, a staff member, a volunteer or Board member of the Aboriginal agency. This includes situations when a report is made to child protection regarding a staff member's care of a child.

The ACSASS provider must be able to demonstrate that where a conflict of interest is such that its usually designated ACSASS staff member cannot provide a consultation to child protection, a policy and/or process will be enacted to enable another staff member, including senior staff member with appropriate expertise, to provide the ACSASS service with respect to the child concerned. In some limited circumstances, where the conflict of interest cannot be safely or appropriately managed by the ACSASS provider, the provider must make arrangements with an ACSASS service provided by another Aboriginal agency to deliver the service for the specified child.

ACSASS providers will have written policies and procedures in place to maintain client privacy and confidentiality, recognising the sensitive nature of child protection information including the holding of information regarding unsubstantiated reports of abuse and neglect. Privacy and confidentiality requirements are discussed in section 5.

ACSASS providers will also have written policies and procedures in place that staff are familiar with (and that are readily accessible) for resolving complaints and disputes lodged by children and families. In addition, ACSASS providers will have written policies and procedures in place for responding to concerns or allegations related to the conduct and performance of ACSASS staff.

2.3.3 Reportable Conduct Scheme

ACSASS providers, as registered community service providers, must adhere to the requirements of the Victorian Reportable Conduct Scheme, introduced in July 2017. The Reportable Conduct scheme requires organisations to have systems in place to prevent child abuse and, if child abuse is alleged, to ensure allegations will be reported to the Commission for Children and Young People (the Commission) and, where a reportable allegation is made, investigated according to guidelines.

ACSASS providers have an obligation to notify the Commission of reportable conduct allegations regarding ACSASS employees or employees or volunteers from the providing organisations and employees of other organisations, including ACCOs. This also extends to allegations of reportable conduct learnt in the course of providing ACSASS regarding a parent who is employed to, or voluntarily, works with children.

It is a defence to a charge of failing to notify the Commission of a reportable allegation if the head of the organisation proves that they honestly and reasonably believed that another person had notified the Commission of the reportable allegation. In such circumstances ACSASS must confirm and document that child protection, or another organisation, has made the report. Further guidance is provided below.

Where ACSASS becomes aware of a reportable allegation about an employee or volunteer within its own organisation

If the ACSASS program becomes aware of a reportable allegation about an ACSASS staff member or another staff member or volunteer employed by the organisation, the head of the provider (commonly the Chief Executive Officer) must be made aware of the allegation and must notify the Commission within three working days, pursuant to s16M of the Child Wellbeing and Safety Act 2005. This is required as a best practice approach, even if the organisation is of the belief another organisation, including child protection, may have already made a notification to the Commission concerning the employee.

Following the notification to the Commission, the ACSASS provider must undertake an investigation. Guidance to organisations undertaking an investigation of a reportable conduct allegation is available via the Commission's website. See <https://ccyp.vic.gov.au/child-safety/resources/reportable-conduct-scheme-information-sheets/>.

If a conflict of interest prevents the ACSASS provider being able to impartially investigate the reportable conduct allegation, arrangements must be made for the investigation to be undertaken by a person(s) independent of the ACSASS provider.

Where ACSASS becomes aware of a reportable allegation about an employee or volunteer of another organisation

An ACSASS program's responsibilities regarding reportable allegations made against employees or volunteers of other, external organisations will depend on whether the ACSASS program is the primary or secondary holder of information. It is incumbent on the primary holder of information to advise the head of an organisation, or the Commission, of an allegation of reportable conduct. The ACSASS provider is not responsible for investigating reportable allegations if the allegations concern an employee of another organisation, who is not also employed and/or does not hold a volunteer role with the ACSASS provider,

Where ACSASS is advised by child protection or another organisation about a reportable allegation made in relation to an employee of another organisation, it is the responsibility of child protection or the other organisation concerned, as the primary information holder, to report the allegations. The ACSASS provider must confirm with the primary information holder that the allegation has been reported to the Commission. This discussion should be documented.

Anybody has the right to make a public disclosure to the Commission about reportable conduct. If an ACSASS provider becomes aware that a primary information holder has not exercised its responsibility to report a reportable allegation and is concerned that it may not do so, the ACSASS provider should report the allegation to the relevant head of the organisation or the Commission.

If an ACSASS staff member, in undertaking their role as set out in these program requirements, receives information about a reportable allegation that is not known to child protection or another organisation with responsibilities under the scheme, ACSASS must report the allegation to the relevant head of organisation or the Commission. ACSASS must also share this information with child protection if it relates to a child (noting that in some circumstances the reportable conduct allegations may refer to a historical incident and the person impacted may no longer be a child). In this circumstance ACSASS is the primary information holder.

Resources to support organisations to respond to reportable conduct allegations

Further information about the reportable conduct scheme is available on the Commission's website. See <https://ccyp.vic.gov.au/reportable-conduct-scheme>. The Commission has published a series of information sheets including information regarding the responsibilities of the heads of organisations under the scheme; and guidance on reporting and investigating an allegation of reportable conduct. These information sheets are available via the Commission's website.

2.3.4 Training and support

The successful delivery of the ACSASS program is dependent on the specialist skills and personal attributes of ACSASS case advisors and managers. ACSASS providers will have clear policies, processes and resources in place to support ACSASS staff to perform their roles and to access opportunities for professional development.

New ACSASS employees will be offered the opportunity and encouraged to undertake the department's Beginning Practice program for child protection practitioners at the department's expense.

3 Service description

3.1 Overview

ACSASS is a specialised, child-focussed service and has a critical role in enabling culturally appropriate and effective responses to protect Aboriginal children from harm and uphold their cultural rights. It supports child protection to: meet its obligations under the CYFA including principles for Aboriginal children; to uphold tenets of the Convention on the Rights of the Child; and to adhere to principle 5 of the Roadmap to Reform 'ensuring Aboriginal self-determination around decision making and care for Aboriginal children and families.'

It is a requirement under the CYFA that in making a decision or taking action in relation to an Aboriginal child, child protection will ensure:

- the opportunity is given to members of the child's Aboriginal community and other respected Aboriginal persons to contribute their views
- where possible, decision-making meetings are attended by the child, their family and other appropriate members of the child's Aboriginal community
- in making a decision to place an Aboriginal child in out-of-home care, an Aboriginal agency is first consulted and their advice is considered in making that placement
- where possible, the child be placed within the Aboriginal extended family or relatives and where this is not possible other extended family or relatives.

In all these circumstances ACSASS has a role, whether to assist in facilitating the involvement of members of the child's family and Aboriginal community in decision making or to provide advice as the gazetted Aboriginal agency.

While other ACCOs hold expertise regarding Aboriginal children and families and will hold valuable cultural information, ACSASS holds responsibility for providing a consultation service to child protection. Where appropriate, child protection will contact other Aboriginal services for information or referral in addition to ACSASS. However, ACSASS must be consulted in relation to new reports, protective investigations and other significant decisions and decision-making processes throughout each phase of child protection involvement.

3.2 The key dimensions of ACSASS

3.2.1 Target group

The target group is Aboriginal children and young people who have been reported to child protection in Victoria or are subject to a child protection investigation or intervention, including Aboriginal children on protection orders. ACSASS providers work alongside child protection to provide input into risk assessment and assist Aboriginal children, young people and their families to better understand the reasons for child protection's involvement and to explain child protection processes at the time of their involvement with child protection. Other Aboriginal services may also provide advice and support to Aboriginal children and young people who have current or historical experiences of child protection involvement.

Aboriginal children and young people, authorised to the Principal Officer of an Aboriginal Agency under section 18 of the CYFA, are not in scope for ACSASS. Authorised Aboriginal agencies are not required to consult ACSASS in relation to authorised children. However, ACSASS must be consulted regarding the decision to recommend a child for authorisation under section 18 and may be involved in planning the child's transition to an authorised Aboriginal agency thereafter.

Identifying Aboriginality

ACSASS is required to provide specialist advice and consultation to child protection regarding all children and young people who self-identify, or are identified by a parent or a person known to the child's family, as Aboriginal. This is consistent with the way child protection identifies Aboriginality.

Child protection has rigorous procedures that it must follow when consideration is being given to changing a child's status from Aboriginal. These were developed in consultation with the Commissioner for Aboriginal Children and Young People and ACCOs and are designed to offer the widest possible protection of the cultural rights of children about whom child protection receive a report. This is because the decision to de-identify a child as Aboriginal has enduring implications in relation to a child's cultural rights, their access to services and the applicability of specific legislative requirements.

Where an ACSASS provider becomes aware of information that indicates the child may not be Aboriginal this should be discussed with child protection. Where a de-identification process is being followed, ACSASS providers must continue to provide all necessary services for the child involved until such time as the outcome of the de-identification process is known. Should the de-identification process conclude that the child's Aboriginal status remain unchanged, ACSASS providers must continue to provide a service for the child.

Further information about child protection policy and practice regarding de-identification (changing the status of a child from Aboriginal) is available on the Child Protection Manual.

Right to service

All Aboriginal children and young people that identify as Aboriginal or are identified by a parent or person known to the family as being Aboriginal, have the right to the services provided by ACSASS. ACSASS providers cannot refuse to provide a service to an Aboriginal child or young person due to concerns held by the service provider including in situations where:

- the service is not satisfied that the child is Aboriginal and/or has previously been made aware of information to indicate that the child is not Aboriginal
- the provider is delivering services to the child, young person or their family in a different capacity, for example if the child's family is engaged with the provider's family services program
- the provider, through knowledge or other involvement with the family, disagrees with the concerns reported to child protection
- there is current or historical conflict between the child's family and the ACSASS provider or any person employed by the ACSASS provider
- there is a close relationship or connection between the child, young person or their family and the service provider, including where a family member is employed by the service provider.

ACSASS providers are required to have policies and procedures in place that recognise the potential for the above matters to arise and uphold a child or young person's right to service.

3.2.2 Working alongside child protection

The partnership between child protection and ACSASS providers is fundamental to the successful provision of the service. ACSASS works alongside child protection to provide culturally attuned input into risk assessments and cultural information to protect Aboriginal children from harm and uphold their cultural rights while supporting the conduct of child protection investigations and interventions.

3.2.3 Specialist advice and support

ACSASS has responsibility for providing child protection with culturally attuned input into risk assessments and cultural information in relation to significant decisions and actions concerning Aboriginal children across all phases of child protection intervention. Further information, and a list of significant decisions, is at **Appendix 1**. In addition, ACSASS will provide consultation to child protection

on reports regarding unborn children, serious incidents impacting on a child in care including allegations of abuse or neglect by a carer, and therapeutic treatment reports.

While the CYFA requires that child protection consult with ACSASS when making a significant decision about an Aboriginal child, this does not limit child protection's engagement with ACSASS to significant decisions. The role of ACSASS, as an advocate for Aboriginal children and young people involved with child protection, can be broader.

Where competing demands arise, ACSASS providers will make decisions about which consultations to prioritise. While these decisions will be made on a case by case basis in accordance with the best interests of the child and the nature and volume of competing demands, ACSASS providers must consider prioritising the following:

- new reports including unborn reports
- first home visits
- consultations regarding case planning and placement decisions
- case plan reviews and
- case closures.

ACSASS will:

- provide consultation to child protection on all significant decisions and actions concerning Aboriginal children and young people, ensuring a culturally informed and effective response to the protection of Aboriginal children and young people from harm
- provide culturally attuned input into risk assessments and intervention for Aboriginal children and young people
- participate in the planning of an investigation including the first visit with child protection
- attend joint visits with child protection to investigate protective concerns, where there are no family objections
- provide secondary consultations to child protection in instances where families have advised they do not wish to have direct involvement with ACSASS
- assist children, young people and families to better understand the reasons for child protection's involvement and the investigation processes
- provide information and advice to child protection on the child's family and community, suitable local support services and community networks for the purpose of referral
- assist child protection to identify and involve the child's extended family and community members in decision making and case planning
- contribute to Children's Court reports enabling ACSASS' views on risk assessment to be provided to the Court and appear before the Court as a witness, where required
- where appropriate and agreed to by the child and family, participate in case planning meetings, including those held as Aboriginal family-led decision making (AFLDM) meetings
- provide advice to child protection on making a decision to place an Aboriginal child or young person in care and, where a decision has been made to place the child in care, provide advice to child protection on placement options with regard to the Aboriginal Child Placement Principle
- provide advice regarding client incident management where the response requires a significant decision to be made regarding an Aboriginal child's care, placement and wellbeing, including where the incident relates to an allegation of abuse of a child in care by their carer
- provide input into the cultural plan for an Aboriginal child in care
- provide advice to child protection about contracting case management for an Aboriginal child to an ACCO or Community Service Organisation (CSO)

- provide input into the decision to recommend an Aboriginal child for authorisation under section 18 of the CYFA
- provide advice to child protection when a permanent care order is being considered
- provide written advice to child protection where consideration is being given to changing the status of a child, as recorded on the Client Relationship Information System (CRIS), from Aboriginal to non-Aboriginal (de-identification process)
- provide advice to child protection on reports concerning unborn children (where the mother is Aboriginal or the family is known to be Aboriginal and the mother has consented to child protection contacting ACSASS)
- provide advice to child protection and, where appropriate, direct involvement in the investigation of Therapeutic Treatment Reports concerning Aboriginal children and young people
- provide advice to child protection and input into a leaving care planning for an Aboriginal young person
- provide advice to child protection on the interstate movement of Aboriginal children subject to protection orders in accordance with the Transfer of Child Protection Orders and Proceedings (CYFA Schedule 1)
- provide advice to child protection in relation to an Aboriginal child who an interstate child protection authority has placed in Victoria or where a Children's Court order is being transferred to Victoria from another state or territory
- participate in child death inquiries, where required.

3.2.4 After-hours availability

ACSASS provides on-call consultation outside business hours, via telephone, to the Central After Hours Services (CAHS). CAHS is a suite of co-located services that provide statewide services outside business hours. ACSASS is required to receive consultation requests, via telephone, from:

- the After Hours Child Protection Emergency Service (AHCPEs) in relation to all new reports concerning Aboriginal children and young people that cannot wait until the next working day
- the AHCPEs and Streetworks Outreach Service, in relation to other significant decisions and actions being considered or undertaken by these services in relation to open cases
- the Central After Hours Assessment and Bail Placement Service regarding bail applications for child protection clients.

In doing so, ACSASS is required to ensure it is available to child protection 24 hours, seven days a week.

ACSASS will provide a handover service to alert the appropriate day time staff of any after-hours contact received from child protection the following morning. Detail of the contact between ACSASS after-hours service and the AHCPEs will be recorded and provided to day time ACSASS staff, via email or other method of written communication.

3.2.5 Exchange of information between ACSASS and child protection

During the initial assessment of a report regarding an Aboriginal child, child protection is required to consult with ACSASS and may consult with other community services or a service agency for the purpose of seeking advice, assessing risk or determining the most appropriate service response (CYFA section 35(1)).

ACSASS staff are authorised under section 206 of the CYFA to receive information from child protection. To be able to deliver ACSASS, ACSASS staff are authorised to have access to information arising from a child protection investigation under section 205 and to the record of the investigation made under section

206. Child protection will continue to share information with ACSASS for the purpose of consultation throughout all phases of child protection involvement.

No consent from parents or children is required for the information exchange that occurs in the course of an investigation, intervention or other involvement, although best practice is for child protection to inform families about the information that is collected and disclosed about them, subject to the child's safety needs. Child protection and ACSASS should jointly consider the best approach to informing families about the ACSASS role in an investigation and further child protection intervention.

Where ACSASS has been unable to attend a first visit, child protection will explain the role of ACSASS to the family. Where the young person or their family has refused to have ACSASS directly involved, child protection will advise the family they will continue to consult with ACSASS. This is known as a secondary consultation. In these instances, child protection will also advise the family that they can change their mind about ACSASS' direct involvement at any time.

3.2.6 Objection to ACSASS involvement

A child or young person aged 10 and over, or their parents, are entitled to refuse direct involvement with ACSASS. In the case of a child, young person or parent objecting to ACSASS involvement, child protection will record the objection on CRIS and continue to consult with ACSASS in relation to any significant decisions.

The following arrangements also apply:

- during an investigation, if a parent or child objects to ACSASS involvement, the exchange of information between child protection and ACSASS must still occur in accordance with the provisions of the CYFA sections 35(1) and 206(2)(f)
- ACSASS will not attend meetings or visits where the parents of an Aboriginal child object to their involvement, regardless of the stage of child protection intervention
- Where a child aged over 10 and their parents disagree about having direct involvement with ACSASS, child protection and ACSASS will determine the most appropriate response on a case by case basis, in accordance with the child's best interests and taking into account the importance of the child's voice, noting that secondary consultation must continue.

A child, young person or parent is entitled to change their mind about ACSASS involvement at any stage of an investigation or intervention. Where a child, young person or parent has objected to ACSASS involvement, child protection will revisit the objection regularly and when any significant changes to family circumstances occur.

3.2.7 Contracted case management to CSOs

Where case management of an Aboriginal child has been contracted to a CSO, ACSASS will continue to provide consultation to child protection in relation to significant decisions (noting child protection retains responsibility for case planning decisions for all case contracted children). Where a contracted case-manager, employed by a CSO, wishes to consult with ACSASS on an aspect of the child's safety, wellbeing or care that the CSO has been delegated to provide, this consultation will be facilitated by child protection.

Contracted case managers should also seek advice from local ACCOs when making decisions about a child's care and wellbeing. The requirement to consult with ACSASS on all significant decisions, via child protection, *does not* preclude contracted case managers seeking advice directly from local ACCOs or other Aboriginal services involved with the child. Local ACCOs are also a valuable source of advice and in many circumstances will hold rich information about a child's family, culture and community.

3.2.8 Contracted case management to ACCOs

Where case management has been contracted to an ACCO, ACSASS will continue to provide consultation to child protection in relation to significant decisions to enable child protection to meet its legislative responsibilities (noting child protection retains responsibility for case planning decisions for all case contracted children). However, it is acknowledged ACCOs providing contracted case management, will hold valuable cultural information with respect to the child and possess case management expertise and as such child protection's consultations with ACSASS may not, in some instances, need to be as substantial. For example, child protection may seek ACSASS' input regarding risk assessment and intervention but may seek cultural information about the child and their family, and advice on engagement, from the ACCO.

Where an ACCO holds case management responsibility, ACSASS, child protection and the relevant ACCO are encouraged to agree together on what degree of consultation is required with ACSASS.

3.2.9 Relationship between ACSASS providers

Only one ACSASS provider may work with a child or young person and their family at any one time. ACSASS providers with responsibility for consulting with child protection are required to geographically align with the child protection area office responsible for managing the case.

To promote the continuity of knowledge, ACSASS providers are required to develop policies and processes to promptly share information and transfer responsibility for responding to child protection requests where a child moves to an area covered by a different ACSASS provider.

Consultation between ACSASS providers

One ACSASS provider may consult with another ACSASS provider. Consultations may take place in situations including, but not limited to:

- where a case is being transferred between providers
- where another ACSASS provider has been involved with the child and their family historically
- where another ACSASS provider holds cultural information or information about the child's kinship networks.

Only the ACSASS provider with responsibility for consulting with child protection regarding the child should open a client file. ACSASS providers who provide secondary advice to other ACSASS providers should not open a file.

Case transfers

Case transfers for ACSASS providers should only be considered where there is a transfer of case management responsibility between child protection area offices. This is because more frequent case transfers, or case transfers that are not consistent with child protection arrangements, may create confusion for families and child protection practitioners and may impact on the continuity of relationships.

Child protection must consult with ACSASS when consideration is being given to transferring a case to a different child protection area office.

Consistent with child protection policy, if the family is highly mobile, ACSASS providers can transfer a case to another provider when the child or family has been in a new location for eight weeks. This timeframe applies to residence in transitional housing or caravan parks, as families may use these options for significant periods of time. However, it does not apply when a family is in temporary accommodation, for example a refuge or short-term emergency housing, as this type of accommodation is by design, short term.

If the family does not have a history of being highly mobile, the period of time the family lived in the area covered by a different ACSASS provider is not relevant when considering case transfer.

ACSASS providers seeking to transfer case responsibility will make a formal written request to the prospective ACSASS provider. The prospective provider must provide a written response to the transfer request within five working days. The transfer of case responsibility should not be delayed due to workload issues from the transferring or accepting provider, unless a longer timeframe is negotiated by mutual agreement.

Transferring client files

Files must be transferred by the date the transfer takes effect. The ACSASS provider transferring the case holds responsibility for initiating the file transfer. Files may be transferred in their entirety, noting a hard copy will be required as providers will use different databases, or via a transfer summary. A summary may be used for cases where there has been minimal contact with ACSASS and/or little information is held.

The files must contain the following information at a minimum:

- all the demographic information known about the child
- the phase of child protection involvement
- the date and nature of the last consultation between child protection and ACSASS and what advice was provided
- the child's court order (where applicable)
- the child's permanency objective (where applicable)
- details about any upcoming tasks including but not limited to home visits, case plan meetings and court activity
- the history of ACSASS' involvement with the child
- any known cultural information

The transferring and receiving ACSASS providers are encouraged to supplement the file transfer process with a telephone call to discuss the information. This may be particularly useful for families who have had a lot of contact with ACSASS or where the family's circumstances are particularly complex.

4 Practice and procedures

ACSASS is funded to provide consultations to child protection through all phases of child protection involvement with an Aboriginal child or young person. A description of each phase of child protection involvement is at **Appendix 2**.

To perform its required role and responsibilities, as outlined in these requirements, ACSASS relies on child protection providing it with timely and clear information. These program requirements must be read in conjunction with the protocol (see description on page 10) and relevant sections of the Child Protection Manual, available from <http://www.cpmanual.vic.gov.au/>, which outline the roles and responsibilities of child protection.

Where the responsibilities of child protection are discussed below these apply to child protection practitioners, child protection managers and community-based child protection practitioners.

4.1 Consultation

Child protection is responsible for requesting a consultation with, or other involvement from, ACSASS. Consultation is the process by which information is shared between child protection and ACSASS and advice is given to achieve the best possible outcomes for Aboriginal children and their families. It recognises, and promotes, the principle of shared responsibility to enable services provided to Aboriginal children and young people to be responsive to cultural needs.

Consultation requires timely and genuine engagement, cooperation, and meaningful consideration of information and advice. It will explore the shared involvement of ACSASS and child protection in assessment, investigation, decision making, case practice and case planning. The purpose of that consultation is to ensure culturally attuned input into risk assessments and intervention and cultural information informs child protection's decision making and actions.

While the substance of the advice and information will vary according to the circumstances of the case and phase of intervention, in general consultation and effective information sharing between child protection and ACSASS will enable child protection to:

- incorporate culturally attuned input into risk assessments and interventions, case practice and case planning that is specific to the child's circumstances and changing risk dynamics
- build understanding about Aboriginal child-rearing practices, Aboriginal culture and norms, holistic approaches to wellbeing and Aboriginal understanding of family
- incorporate into practice an understanding of trans-generational impacts of dispossession and past child welfare practices
- engage more effectively with Aboriginal families and assist Aboriginal families to better understand child protection processes, language and terminology
- enhance knowledge of extended family and community networks, including people and services to involve in decision making and support arrangements
- identify the most culturally appropriate services available to support families and explain the role of support services to families
- better consider placement options with regard to the Aboriginal Child Placement Principle.

Unless child protection, following consultation with ACSASS, determines a report should be treated as a 'child wellbeing' report and referred to Child FIRST, The Orange Door, or another community service, child protection will continue to consult with ACSASS throughout all phases of child protection involvement.

4.1.2 Timeliness of consultation

For a consultation to be genuine and meaningful it must occur within a timeframe that provides ACSASS with sufficient opportunity to consider the information provided and any other contextual information in order to provide child protection with advice regarding risk to the child and cultural information. It must also occur within a timeframe that allows child protection to incorporate the advice provided by ACSASS into its decision making and planning for the child.

Timely consultations are the responsibility of both child protection and ACSASS. Child protection must consult ACSASS as soon as practicable when advice about a significant decision is required. Where the immediacy of risk to the child prevents a consultation from occurring prior to a significant decision being made, a consultation must take place as soon as practicable after the event occurs.

Where ACSASS is not able to provide child protection with an immediate response due to competing demands, ACSASS will make reasonable efforts to contact child protection as soon as practicable.

4.1.3 Recording a consultation

Consultations between ACSASS and child protection must be documented by both services as soon as practicable. Requirements for case recording in child protection practice are detailed on the Child Protection Manual.

ACSASS providers must have a record keeping policy that establishes requirements for case recording.

When recording a consultation, or other event involving contact with child protection and/or the child and their family, ACSASS should document:

- key information provided by child protection and risks identified for the child
- any recommendation or advice provided to child protection
- any outcome or decision made
- any difference of opinions and recommendations.

Critical consultations including a new intake, first home visit or after hours contact must be recorded within 24 hours, wherever possible. Other consultations must be recorded as soon as practicable.

Where child protection or ACSASS seeks a consultation but the other party is not available to participate, the reason the consultation was unable to take place must be recorded.

4.2 Intake

In response to requests for consultation by child protection at intake, ACSASS will:

- provide culturally attuned input into risk assessments and cultural information to inform the assessment of whether the report should be treated as a child wellbeing report or a protective intervention report
- if following consultation a report is classified as a child wellbeing report, provide advice in relation to appropriate referral options (the case is subsequently closed by both child protection and ACSASS)
- if following consultation a report is classified as a protective intervention report, assist in determining the urgency of the response
- record the consultation and information provided to child protection.

Where a new report is made concerning an Aboriginal child or young person child protection will:

- consult with ACSASS immediately, or as soon as practicable, following receipt of the report, seeking:
 - the views of ACSASS regarding the risk assessment and classification of the report
 - where the report is assessed as a child wellbeing report, the views of ACSASS will be sought on appropriate referrals for the family, including to Child FIRST or The Orange Door
 - cultural information and information about the child's family where known

- consider the views of, and information provided by ACSASS, when reaching a reasonable determination on report classification, including the urgency of an investigation
- record the consultation on CRIS and views expressed by ACSASS concerning the risk assessment
- advise ACSASS of the outcome of the report in a timely manner, particularly when the matter will proceed to an investigation.

4.2.1 Intake consultation process

- During business hours, child protection will request consultations with ACSASS via telephone or through a referral from CRIS to CRISSP³. ACSASS will provide a response to requests from child protection for consultation immediately, or as soon as practicable, via telephone or through a response to the request from CRISSP to CRIS.
- After hours, ACSASS After Hours will provide an immediate response, via telephone, to requests for consultation from the CAHS.
- Where child protection holds urgent concerns for the child's safety or wellbeing and ACSASS is not available to consult on the report immediately, child protection will proceed to make a decision or take action as required and contact ACSASS as soon as practicable to advise of the outcome and to consult about information obtained and further actions.
- If a dispute arises in relation to the intake outcome decision, the procedure outlined in section 9 of this document is to be followed. Child protection and ACSASS must document the outcome of this procedure.

4.2.2 Unborn child reports

Where child protection receive a report about an unborn child, and the mother is Aboriginal (or it is otherwise known that the family is Aboriginal), child protection will consult with ACSASS to assist with assessment and determining the most appropriate support and advice to ensure the necessary planning and assistance to the mother.

As the involvement of child protection with an unborn child requires the mother's consent and is in a voluntary capacity, child protection cannot consult ACSASS if the mother does not want ACSASS involvement. The mother's consent may not be able to be obtained until child protection or community-based child protection talk to the mother.

Where the mother agrees to ACSASS involvement, the consultation between ACSASS and child protection will focus on facilitating effective engagement, support and assistance to the mother.

4.2.3 Therapeutic treatment reports

Section 185 of the CYFA makes provision for reports to be made to child protection regarding children aged over 10 and under 15 years who are exhibiting sexually abusive behaviours.⁴ These reports are referred to as Therapeutic Treatment Reports.

If a report is received by child protection under section 185 of the CYFA from a member of Victoria Police or from the court pursuant to section 349 of the CYFA, the report must be referred to the Therapeutic Treatment Board, in accordance with sections 245(2) and 245(4). Where this is the case, child protection must consult with ACSASS upon receipt of the report to obtain cultural information and to enable shared planning of the investigation.

³ CRIS is the Client Relationship Information System used as the primary client record and case management system by child protection. CRISSP is the Client Relationship Information System for Service Providers used by community service providers for client records and case management.

⁴ The Victorian Royal Commission into Family Violence recommended the CYFA be amended to extend the therapeutic treatment order regime to young people aged 15 to 17 years, so that the Children's Court can order their attendance at appropriate support programs. At the time of revising the program requirements for ACSASS, it was anticipated this change to the legislation would take effect from late 2018, subject to successful passage of the legislation through Parliament.

If a report is received from 'any other person' child protection may exercise discretion as to whether to refer the report to the Therapeutic Treatment Board (section 245(3)). However, the report must still be classified on CRIS as a Therapeutic Treatment Report. ACSASS must be consulted upon receipt of the report.

ACSASS will provide advice to, and participate in, the investigation of a Therapeutic Treatment Report in the same way it does any other investigation and will assist child protection to determine the appropriate intervention.

4.3 Investigation and assessment

Where a report concerning an Aboriginal child is investigated ACSASS will:

- respond to requests for consultation from, and maintain contact with, child protection over the course of the investigation to provide input into child protection decision making and provide cultural information
- be available, wherever possible, to attend joint first visits with child protection. ACSASS is to seek to accommodate the need for some visits to occur as soon as possible. In all other cases, ACSASS will seek to support investigations with ACSASS involvement taking place within 14 days as per child protection requirements
- where unable to attend a first home visit, be available for consultation via telephone either during the visit or as soon as practicable following the visit
- be available, wherever possible, to attend other planned investigation activities, as agreed with child protection, in a timely manner with due regard to the urgency of the concerns for the child.

Where ACSASS faces competing demands, the ACSASS provider will determine which requests from child protection must be given priority. ACSASS will advise child protection of the reason for being unable to participate in a visit. Both child protection and ACSASS must record this reason on the child's file (see 4.1.3 case recording).

Where a report concerning an Aboriginal child is investigated child protection will:

- involve ACSASS in the planning of the investigation process, including the approach to investigation and family engagement and any cultural considerations that may influence the investigation approach
- jointly plan, with ACSASS, the first visit with consideration given to the respective roles of child protection and ACSASS, suitable approaches, engaging the family and possible risks, including worker safety and the merits or otherwise of Victoria Police involvement
- seek information, advice and active participation from ACSASS to inform the substantiation decision and determine the future level of risk to the child
- engage in ongoing consultation and joint analysis of information gathered in the course of the investigation
- record all consultations and views expressed by ACSASS on CRIS
- consult with ACSASS about the outcome of the investigation and any further action required.

Role of ACSASS in the substantiation decision

ACSASS will provide advice to assist child protection in determining, based on evidence gathered during an investigation, whether the reported concerns are substantiated or not substantiated.

Where a report *is not substantiated*, the case is closed by both child protection and ACSASS. Prior to closure child protection may seek further advice from ACSASS about suitable referrals. Where a report *is substantiated* child protection will continue consult with ACSASS regarding case planning.

4.4 Protective intervention

Consultation between ACSASS and child protection with regard to the development of a case plan and in relation to all other significant actions and decisions concerning an Aboriginal child is maintained during the protective intervention phase.

When a case concerning an Aboriginal child is in the protective intervention phase ACSASS will:

- respond to requests for consultation from, and maintain contact with, child protection to provide advice and input into child protection decision making.
- be available, wherever possible and agreed by the family, to attend case planning meetings, AFLDM meetings and other planned activities where child protection and ACSASS have identified the need for ACSASS involvement
- identify culturally appropriate services for the purpose of referral (noting it is the responsibility of child protection to make the referral)
- identify kinship placement options where required
- identify and locate family members who can help provide support and assistance to the child and the child's parents
- identify relevant members of the child's Aboriginal community to involve in case planning decisions.

When a case concerning an Aboriginal child is in the protective intervention phase child protection will:

- seek information, advice and input from ACSASS to inform decision making and determine current and future levels of risk to the child
- Seek consultation with ACSASS regarding:
 - new information
 - ongoing assessment
 - development of the case plan, including determination of the permanency objective
 - placement decisions
 - initiation of an Aboriginal Family-led decision making meeting
 - any other significant decisions (refer to Appendix 1)
- record all consultations on CRIS and views expressed by ACSASS
- consult with ACSASS on the protective intervention phase outcome and any further action required.

4.4.1 Case plan permanency objective

The permanency objective of a child or young person's case plan will determine the recommended disposition to the Children's Court. ACSASS must be involved in case planning decisions where permanency objectives are being considered for an Aboriginal child. In situations where an Aboriginal child cannot return to live with their parents ACSASS must be involved in the decision to pursue a non-reunification case plan. In these circumstances, ACSASS must be consulted regarding the decision to recommend either a long-term care order or permanent care order and where the child is to be placed.

4.4.2 Children's Court matters

Child protection and ACSASS will work in partnership on matters related to Children's Court proceedings, including enabling ACSASS' views to be incorporated into Children's Court reports and the attendance of ACSASS at court, where required.

ACSASS will:

- work with child protection to enable ACSASS' views to be reflected in Children's Court reports
- be available to attend court to provide information at the Court's request

Child protection will:

- seek ACSASS' view and advice regarding Court proceedings and document ACSASS' view in all Children's Court reports concerning an Aboriginal child, including where the ACSASS assessment differs from that of child protection
- provide ACSASS with a copy of any section of the court report that refers to advice provided by, or involvement of, ACSASS
- advise ACSASS as soon as possible where ACSASS may be required to attend and provide information directly to the Court.

ACSASS may also choose to provide written advice to the Court upon the Court's request, or on its own initiative.

4.5 Protection order

Where an Aboriginal child is on a protection order child protection will continue to consult with ACSASS with regard to all significant decisions. The respective responsibilities of ACSASS and child protection, as described under section 4.4 above continue into this phase.

In addition when an Aboriginal child is subject to a protection order, ACSASS will provide advice to child protection, upon request, regarding:

- any changes to the child's placement, including when consideration is being given to returning a child to the care of their parent(s) or placing the child in secure welfare
- any applications to breach, vary or revoke the child's protection order
- the determination of appropriate contact arrangements for the child with their family
- case plan reviews
- contracting case management to an ACCO or CSO
- recommending a child for authorisation under section 18 of the CYFA
- the development of the child's leaving care plan.

4.5.1 Cultural planning

ACSASS may provide input into the child's cultural plan and the review of a child's cultural plan. ACSASS, child protection and any ACCO providing support to the child's care team are encouraged to agree together on what degree of input may be required from ACSASS to support the development of a new cultural plan for a child or the review of an existing cultural plan.

When consulting with child protection and attending home visits or meetings with the family, ACSASS should document any relevant cultural information including knowledge of the child's Aboriginal heritage (if known) and information that could assist with building a comprehensive genogram. This will provide documentation of relevant cultural information which can be drawn upon to develop a cultural plan.

4.6 Permanent care

In situations where an Aboriginal child cannot return home to live with their parents and a permanent care order is being considered ACSASS must be involved in this decision. This follows ACSASS' involvement in case planning and permanency planning for the child. It is the responsibility of child protection to seek ACSASS' input into permanency planning and obtain the views of ACSASS regarding the decision to apply for a permanent care order. Child protection must document these views on the child's CRIS file. See section 4.4.1 for further information.

Section 323 of the *Children, Youth and Families Act 2005* (CYFA) establishes restrictions on the making of a permanent care order in respect of an Aboriginal child. Section 323(2) states:

The Court must not make a permanent care order in respect of an Aboriginal child unless –

- (a) *the Court has received a report from an Aboriginal agency that recommends the making of the order; and*
- (b) *a cultural plan has been prepared for the child.*

Consistent with this legislative requirement child protection must obtain a report from an Aboriginal Agency recommending the making of a permanent care order prior to making an application to the Court. Currently the Aboriginal Agency funded to exercise this responsibility is VACCA through its permanent care team.

It is the responsibility of child protection to:

- obtain the views of ACSASS prior to making a decision to apply for a permanent care order
- document ACSASS' views on the child's CRIS file
- seek a cultural assessment and endorsement of the permanent care application from the VACCA permanent care team.

The involvement of the VACCA permanent care team is in addition to the continued involvement of ACSASS in decision making for an Aboriginal child and determining the child's permanency objective. ACSASS providers will be expected to develop links with the VACCA permanent care team in order to advise VACCA whether they agree to the making of a permanent care order.

ACSASS providers are also encouraged to provide VACCA with any relevant information regarding the child or young person and, where possible, participate in the panel that may assist VACCA to make a recommendation to the Court. The ACSASS provider and VACCA's permanent care team should discuss what tasks each could undertake to support the assessment. VACCA, however, as the service funded to undertake this work, will need to coordinate and provide the advice to the Court. Arrangements made between VACCA and ACSASS regarding the permanent care assessment should be shared with child protection or the permanent care team.

At the time of writing these program requirements consideration was being given to future options and opportunities for Aboriginal Agencies to undertake permanent care assessments. Noting that Aboriginal Children in Aboriginal Care providers will undertake permanent care assessments for authorised children.

4.7 Client incident management

ACSASS plays an important role in enabling child protection to provide culturally appropriate and effective responses to protect Aboriginal children in care who have been involved in serious incidents. ACSASS will provide culturally attuned input into risk assessments and cultural information when a serious incident involving a child in care requires a significant decision to be made about their care, placement and/or wellbeing.

This includes incidents relating to allegations of abuse or neglect by carers.

4.7.1 Allegations of abuse or neglect by carers

The guidelines for responding to allegations of abuse by carers are outlined in the *Client incident management guide addendum: out-of-home care* (the addendum). The addendum relates to allegations of abuse concerning carers of children and young people in kinship care, foster care, residential care and lead tenant and provides specific guidance to support the policies and procedures outlined in the *Client incident management* guide. These documents should be read in conjunction.

The addendum distinguishes between the following key processes:

- case planning – child protection retains responsibility for leading case planning
- incident management – service providers retain responsibility for leading screening and any subsequent investigation or review processes.

The service provider is responsible for the management of any client incident related to a child or young person in care and is responsible for any resulting incident investigation or review.

The onus for informing ACSASS about the allegation, and initiating a consultation, lies with the service provider. Child protection is responsible for consulting with ACSASS regarding any significant decision that needs to be made as the result of an allegation of abuse by a carer, including any change to the child's placement. The respective responsibilities of child protection and the service provider are outlined in depth in the addendum.

When an allegation of abuse by a carer towards a child in out-of-home care has been made ACSASS will:

- provide input and advice to the service provider during the screening process
- provide input into the planning and conduct of an investigation, including risk assessment and cultural information
- participate in interviews with the child or young person, where possible
- make recommendations for appropriate support for the child, where required
- contribute to the development of the carer development plan, where required

For children who are authorised to an Aboriginal agency under section 18 of the CYFA, the Aboriginal agency is not required to consult with ACSASS.

4.8 Youth justice proceedings and dual order clients

Children or young people may come to the attention of child protection via a request from the Criminal Division of the Children's Court for a child protection report. Under sections 349 and 350 of the CYFA if a child appears before the Court as an accused in a criminal proceeding and the Court considers there is grounds for the making of a protection application, the matter may be referred to child protection for an investigation. In the case of an Aboriginal young person, child protection is required to consult with ACSASS regarding the investigation and report to the court as it would with any other investigation or court matter.

Some children and young people will be a client of child protection and youth justice (commonly referred to as dual order clients). For these children and young people child protection and youth justice must work collaboratively to meet their often complex needs and keep them safe from harm. ACSASS will provide consultation to child protection, upon request, regarding any significant decisions relating to dual order clients that child protection is responsible for. Where child protection is required to provide input into a court report being prepared by youth justice, child protection is responsible for seeking and setting out the views of ACSASS.

4.9 Transfer of orders interstate or to New Zealand

Provisions for the transfer of child protection orders are contained in Schedule 1 of the CYFA. The Interstate Child Protection Protocol (the interstate protocol) sets out roles and responsibilities of jurisdictions to support information sharing and to facilitate the transfer of Children's Court orders and proceedings between jurisdictions.

It is the responsibility of the assigned child protection practitioner or manager to consult with ACSASS. As an additional safeguard, child protection inter-state liaison officers (ILOs) will also confirm with the allocated practitioner that, where an interstate transfer is being considered, ACSASS is consulted prior to the decision being made.

Where an interstate transfer is being considered for an Aboriginal child, ACSASS will provide advice to child protection in relation to:

- the decision to transfer a child interstate or to New Zealand and any cultural support needs that should be considered by the receiving states.
- suitable placement and cultural support options for Aboriginal children on protection orders coming to Victoria.

Where an interstate transfer is being considered for an Aboriginal child, child protection will:

- seek ACSASS' input into the decision to transfer court orders or proceedings in relation to an Aboriginal child to another Australian state or territory or to New Zealand
- where it is planned to transfer the protection order, or Children's Court proceedings, for an Aboriginal child interstate or to New Zealand, include the views of ACSASS on the proposed transfer in the report provided to the receiving state or New Zealand
- consult with ACSASS about any risk issues and cultural needs for Aboriginal children or young people whose court order or proceedings are being transferred to Victoria.

4.10 Irreconcilable differences application

Where an Aboriginal young person and their parents agree to the involvement of ACSASS for irreconcilable differences applications, child protection will seek consultation with reference to:

- the best interests case practice model
- a suitable approach and service to undertake the conflict resolution process
- the option of support to the young person and family in the counselling process
- possible placement away from the family home through the child protection program
- the preparation by child protection of reports to the court regarding irreconcilable difference applications.

5 Privacy and confidentiality

ACSASS providers are bound by the provisions of the Privacy and Data Protection Act and the Health Records Act, as a result of providing services to government under a state contract (see Privacy and Data Protection Act section 13(1)(j) and Health Records Act section 10). From February 2018, this includes sharing information to prevent a serious threat to an individual's life, health, safety or welfare – the previous requirement for imminence has been removed.

ACSASS, in recognition of the sensitive nature of information that is received from child protection and the potentially harmful effects to the child and family of disclosure and dissemination of this information, must maintain the security of confidential information.

5.1 Child and family violence information sharing schemes

In response to the findings of the 2016 Royal Commission into Family Violence, the 2017 Royal Commission into Institutional Responses to Child Sexual Abuse as well as a range of Coroner's Court and other child death inquires, new information sharing schemes were introduced in 2018. Part 5A was inserted into *Family Violence Protection Act 2008* and Part 6A into the *Child Wellbeing and Safety Act 2005* to create these schemes. Amendments to the *Family Violence Protection Act 2008* also require organisations to align policies and practice to a new family violence risk assessment tool, the Multi Agency Risk Assessment and Management (MARAM) Framework.

The information sharing schemes authorise a select group of prescribed information sharing entities (ISEs) to share information between themselves for family violence risk assessment and management purposes and to promote the wellbeing and safety of a child or group of children. The schemes are complementary and build on the information sharing provisions in other legislation.

ACSASS providers, as registered community service organisations providing child and family services, are prescribed as ISEs under both schemes. Information about the operation of the schemes and how ISEs may share information is contained in the *Family Violence Information Sharing Ministerial Guidelines* and *Child Information Sharing Ministerial Guidelines*. These guidelines, as well as other useful resources about the information sharing schemes, can be accessed at <https://www.vic.gov.au/infosharing/resources.html>.

A range of organisations, including community based child and family services, Child FIRST, child protection, The Orange Doors, state funded alcohol and other drug services, maternal and child health services and sexual assault services are ISEs. The complete list of ISEs can be accessed at <https://www.vic.gov.au/infosharing/resources.html>.

Under the schemes, ISEs can voluntarily share information, request information and respond to requests for information from other ISEs.

When requesting information, the requesting ISE should provide sufficient detail to enable the responding ISE to make a decision about whether information should be shared, that is, whether the information:

- would promote the wellbeing or safety of a child or group of children
- may assist with planning, delivering a service, assessing or managing any risk to a child
- would assist in assessing and/or managing a family violence risk to a child and/or adult (note: if sharing information to manage family violence risk [i.e. for a 'protection purpose'] ISEs must form a reasonable belief that there is a risk of family violence. A subset of ISEs [known as Risk Assessment Entities or RAEs] are authorised to assess the presence of risk in the first instance).

If one of these purposes are satisfied, and the requested information is not excluded information (see below), information can be shared between ISEs.

ACSASS providers must respond to requests made under the information sharing schemes, either by providing relevant information, or by providing a reason in writing why they cannot respond (for example, if the information is excluded under the legislation as outlined below). When providing information, ACSASS must consider whether the information is relevant to the purpose of the request. Before sharing information to promote the wellbeing or safety of children, ACSASS should form the view that the information may assist the recipient ISE to carry out one or more of the following professional activities:

- making a decision, an assessment or a plan relating to a child or group of children
- initiating or conducting an investigation relating to a child or group of children
- providing a service relating to a child or group of children
- managing any risk to a child or group of children.

Before releasing information under the information sharing schemes, ACSASS should verify that the requester is a prescribed ISE. As required under the scheme, the information should be provided in a timely manner.

When a request has been received, the following must be recorded:

- the name of the requesting ISE
- the information that was requested
- the date on which the ISE made the request.

When disclosing information in response to a request, the following must be recorded:

- the name of the ISE to which the information was provided
- the date the information was disclosed
- the information that was disclosed
- whether the views of the child and/or their relevant family members were sought and obtained in relation to the information that was disclosed
- whether the child and/or their parent was informed that their information was or would be disclosed.

The views of the child and/or relevant family members should be sought if appropriate, safe and reasonable. Typically, this would not be reasonable in relation to a closed ACSASS case or where contacting a child or family member may delay sharing time sensitive information. If it is not considered appropriate, safe or reasonable to seek and obtain the views of either the child or the relevant family members for any reason, this must be recorded. Where family violence is suspected or confirmed, care should be taken to not alert the alleged perpetrator that their information is being shared. If an ACSASS is sharing information to assess or manage family violence risk to an adult, and there are no children involved, consent must be sought from the adult victim survivor or third party to whom the information relates, unless there is a serious threat present. More information on consent requirements in this circumstance can be found in the *Family Violence Information Sharing Ministerial Guidelines*.

Generally, requests for information regarding ACSASS clients are best responded to by child protection, as child protection is responsible for collecting and recording all information relevant to child protection intervention. However, there may be information held by ACSASS that is relevant to another ISE that, provided the above requirements are met, must be provided. This may include information held by ACSASS that was collected during intake or investigation. Further, during ACSASS' contact with the child or family, an ACSASS provider may discover information that could contribute to one of the purposes listed above. In this case, the information can be voluntarily shared with another ISE.

While the information sharing schemes override some secrecy and confidentiality provisions in other laws, any that are not specifically overridden continue to apply. The following CYFA restrictions continue to apply:

- protect the identity of reporters

- protect the identity of people providing information in confidence during an investigation
- limit access to reports to the Children's Court
- prohibit disclosing details of a conciliation conference
- restrict publication of identifying details in relation to Children's Court proceedings and orders
- restrict disclosure of information regarding a registrable sex offender.

The information sharing schemes also restrict excluded information from being shared. Excluded information is any information that, if shared, could be reasonably expected to:

- endanger a person's life or result in physical injury
- prejudice an investigation or the enforcement or proper administration of the law
- prejudice a coronial inquest or inquiry
- prejudice the fair trial of a person or the impartial adjudication of a particular case
- breach legal professional privilege or client legal privilege
- identify of a confidential source of information in relation to the enforcement or administration of the law
- contravene a court order or law that prohibits or restricts the publication or disclosure of information about or closes a court proceeding to the public
- be contrary to the public interest.

Workers are protected from liability if they share information in good faith and with reasonable care. Any decision to not release information must be recorded and communicated to the requesting party in writing.

5.3 Auspice agency warranty

The auspice agency warrants that it will not communicate, publish or release, or permit the communication, publication or release of any confidential information except:

- as is necessary for ACSASS to perform its obligations as specified under ACSASS Agreement and herein or
- as permitted or required by law or by agreement between the parties.

Specific obligations of the auspice agency

The auspice agency warrants that:

- it will ensure that each person employed or engaged by the auspice agency to undertake duties in relation to ACSASS will, prior to being given access to confidential information, provide a warranty that they will not communicate, publish or release confidential information unless permitted by law
- it will instruct each person employed or engaged by the auspice agency in their obligations under legislation, including but not limited to, the provisions of the Privacy and Data Protection Act and the Health Records Act
- it will ensure that only those staff employed or engaged to undertake duties specifically related to performance of ACSASS obligations under this agreement are given access to confidential information
- it will take specific administrative and organisational measures to ensure that confidential information is not disclosed in any manner to any staff or officers of the auspice agency not specifically employed or engaged to undertake duties in relation to ACSASS unless permitted by law.

5.4 Record keeping and storing information

ACSASS providers will ensure Aboriginal children's records are maintained and stored in accordance with provisions in the service agreement about records and information management.

ACSASS providers will have a client record system that is up to date and used consistently by staff. Use of records by staff is monitored and file audits are undertaken to ensure files are complete, up-to-date, and procedures are being followed.

5.4.1 Case recording

The following principles apply:

- all contact with child protection, Aboriginal children and their families, and/or any other services should be recorded on the child's individual file
- case notes should be recorded in accordance with privacy and freedom of information guidelines
- only relevant information should be recorded
- personal information should be stored securely
- release of information should be determined on a need to know basis in accordance with the CYFA, the Child Wellbeing and Safety Act and privacy laws.

Further information about recording a consultation is outlined in section 4.1.3 of these requirements.

5.3.2 Storing client records

ACSASS providers must have processes in place to ensure records containing client information are securely stored when not in use and when the organisation is closed.

ACSASS must retain case records for a period of seven years after which they may be securely destroyed, in accordance with the provisions of the *Public Records Act 1973*. A record of the consultation with ACSASS, documented by child protection, will be permanently stored on the child's child protection CRIS file. ACSASS providers may choose to store case records for longer, particularly as some children may be involved with child protection as infants and years later as adolescents.

5.3.3 Access to the Client Relationship Information System (CRIS)

At the time of writing these requirements, work had commenced to explore options to enable ACSASS providers to view client information on CRIS. This follows an agreement between the department and ACSASS providers that there is merit in exploring the feasibility of providing CRIS access to ACSASS in order to improve the timeliness and quality of information available to ACSASS. The progress of this work will be subject to technical feasibility, the identification of what CRIS information may be useful to ACSASS providers and the exploration of any unintended risks. This work does not remove the requirement for ACSASS providers to maintain their own client record system.

6 Variation to level of service

ACSASS must provide the level of service, as determined within the entirety of these program requirements and the service agreement. Any variation to the level of service provided must be with the written consent of each party.

7 Funding

ACSASS is block funded based on the number of Aboriginal children in the catchment area involved with child protection.

The department will periodically review any changes to demand and may, with notice, amend the proportion of funding each ACSASS provider receives.

Service targets are established through negotiation between the department and ACSASS providers. Delivering services in accordance with the ACSASS target is a key performance measure. Additional performance criteria are discussed in section 8 of this document.

8 Reporting requirements and performance criteria

Reporting requirements and performance criteria are specified in the *Human Services Policy and Funding Plan 2015-19*.

Data collection information and performance measures will be reviewed in 2018-19 and revised to provide more useful and detailed information about the ACSASS program and to better inform policy and service design decisions.

To inform the review, the feasibility of reporting the following data on a quarterly basis will be trialled in 2018-19:

'Event' data:

- the number of consultations provided to child protection at the intake phase by the ACSASS business hours service (inclusive of telephone and email consultations)
- the number of consultations provided to the Central After Hours Service (CAHS) by the ACSASS after hours on-call service
- the number of open cases
- the number of closed cases.

Intensity of service provision:

ACSASS providers will report on the intensity of the service provided to clients by assigning one of the following numbers to each client over a one month period:

- 1 – 10 hours or more
- 2 – Between five and 10 hours
- 3 – Between one and five hours
- 4 – Zero hours (i.e. no time spent)

The hour count includes all time ACSASS staff spent in regards to the client including travel to visits or meetings, case recording and consultation with child protection or other ACSASS or program staff. It includes all business hours and after hours contacts.

It is recognised that for some cases where the time spent is recorded as 'zero hours' this may be due to consultations not being requested or program capacity requiring that some consultations be given priority according to urgency and need.

ACSASS providers will be required to submit data on a quarterly basis to the relevant departmental Agency Performance and System Support Officer using a standard template. It is recommended that ACSASS providers consider collecting data monthly to support this process.

Any ongoing changes to data collection and performance measures, as documented in the service agreement, will be reached through negotiation with ACSASS providers.

9 Dispute resolution

Child protection and each ACSASS provider will, in all instances where disputes arise, act in good faith and use their best endeavours to cooperatively resolve the dispute.

9.1 Disputes in relation to breach of obligations

All disputes in relation to either party's belief that the other party is not meeting, or is unable to meet, its obligations in relation to ACSASS must be managed in accordance with formal dispute resolution processes outlined in the funding and service agreement.

9.2 General dispute resolution

In all other instances, the procedure for handling complaints by one service in relation to the case practice of another will be as follows:

- in the first instance, the child protection practitioner and ACSASS case advisor directly involved in the disputed matter should manage concerns through open and good faith discussion. The respective workers will attempt to deal with the dispute or complaint by clarifying the problems/issues, and endeavouring to identify/develop solutions that are satisfactory to both parties.
- if the issue is not resolved at this level it should be referred to the child protection team manager and ACSASS team leader for further discussion.
- if the issue remains unresolved and the matter requires an immediate response, the matter should be referred to the ACSASS Program Manager or equivalent position and the Child Protection Operations Manager or Assistant Director Child Protection, if in relation to the after-hours service, the AHCPEs on call manager.
- where the issue continues to be unresolved, the matter may be referred on the business day immediately following, either verbally or in writing, to the CEO of the auspice agency and the Area Director, or, if in relation to the after-hours service, the Operations Manager, AHCPEs.

10 Staff positions and roles

ACSASS providers are responsible for recruitment, the configuration of roles and responsibilities and determining key competencies. The information provided below is intended as a guide only.

ACSASS case advisors and managers must have the knowledge, values, personal skills, attributes and cultural competence to work alongside child protection to enable culturally attuned input into risk assessment and connection to culture to be forefront in child protection decision making.

Consistent with the commitment to Aboriginal self-determination, ACSASS service providers should aim for ACSASS positions to be held by Aboriginal people wherever possible.

10.1 Key competencies

Qualifications relevant to human services are desirable but not mandatory. ACSASS case advisors and managers must be able to demonstrate key competencies. Key competencies include but are not limited to:

- sound knowledge of Aboriginal culture and values, local issues and the needs of the Aboriginal community
- an understanding of child protection legislation, systems and processes, including the client incident management system
- knowledge of child and adolescent development and the impact of trauma
- knowledge of family violence and its relationship to risk and child development
- ability to undertake case work tasks including risk assessments, safety planning, providing input into case planning, providing advice to the Children's Court and identifying appropriate referral pathways
- ability to work effectively alongside, and in partnership with, child protection and to support the conduct of child protection investigations and interventions
- ability to work effectively with Aboriginal organisations and other community service organisations
- well-developed interpersonal and communication skills, including the ability to engage and communicate clearly with Aboriginal children and families
- experience in preparing written reports, recording accurate case notes and recording work activities and statistics
- ability to work independently and as part of a team.

Appendix 1: Significant decisions

What is a significant decision?

A significant decision is a decision that is likely to have a significant impact on a child's life. There may be additional matters that are significant for an individual child.

Justice O'Brien in the Supreme Court, Buckley vs CSV 1992 identified significant as:

- 'more than trivial or insignificant, but need not be as high as serious...and
- (is) important or of consequence, to the child's development'...
- 'It is irrelevant that the evidence may not prove some lasting permanent effect or that the condition could be treated'.

The significance must be demonstrated in a way that is specific to the case. For harm to be regarded as significant it must be 'of consequence' or be of 'considerable amount, or effect, or importance'.

Which decisions are significant?

Child protection practitioners must take into account personal, cultural and family issues specific to each child's family and community and use professional judgment to determine which decision should be responded to as significant decisions.

The table below lists the key decisions that child protection **must**, at a minimum, consult with ACSASS about. The list is not intended to be exhaustive and there may be additional decisions that are significant to an individual child. It is also important to note, the role of ACSASS is not limited to providing input into significant decisions. While the list is broken down by the phase of child protection involvement, decisions marked with an * may occur across multiple phases.

Phase	Decision
Intake	Whether an investigation is required or the report should be classified as a child wellbeing report
	Which, if any, support services may be appropriate for the child and/or family*
	Assessment of an unborn report and determining the most appropriate support for the mother (subject to the mother's agreement for consultation to take place)
Investigation	Process for conducting the investigation, including wherever possible, first visit planning and investigation planning
	Investigation outcome and whether to substantiate risk
	Issuing of a protection application by notice or by emergency care
	Removal of a child from the care of a parent(s)*
	Placement of a child following removal from parental care
	Assessment of new information about risk or wellbeing*
	Determining the appropriate intervention following investigation into a Therapeutic Treatment Report
	Changing the status of a child from Aboriginal (de-identification)*

Phase	Decision
	Holding a child at a Police station, following apprehension on a safe custody warrant
Protective intervention	Whether continued child protection intervention is required and/or a protection application should be made
	Input into the case planning process and case planning decisions including AFLDM meetings and determining the permanency objective *
	Input into the management and response of critical incidents*
	Response to, and planning for, the management of any serious health, education or wellbeing concerns that arise for the child*
Protection order	Breach, variation, revocation or extension of a Children's Court order
	Changes to a child's case plan and/or permanency objective*
	Contact arrangements for a child with their parents and other family members, including changes to these arrangements*
	Review of a child's case plan*
	Returning a child to the care of a parent*
	Placement planning and placement change, including responses to placement breakdown
	How consultation with ACSASS is reflected in a Children's Court report
	Contracting case management to an Aboriginal Community Controlled Organisation or a community service organisation
	Making an application for a permanent care order
	Quality of Care investigations
	Placing a child on the high risk infant or high risk youth schedule*
	Entry or exit at a secure welfare service*
	Transfer of an order or proceedings interstate*
Transfer of an order or proceedings to a different child protection area office*	
Authorisation to an Aboriginal agency under section 18	
Closure	Whether to close a case*
	The development of a support and safety plan, including referrals, to support the child and family following case closure

Appendix 2: Overview of the phases of child protection involvement

Intake

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

Intake involves receiving reports and determining the appropriate response, providing advice to reporters, helping children and families access support services and, where appropriate, making referrals.

Intake receives the following reports under the CYFA:

- report of significant concern about the wellbeing of a child (s.28)
- report of a child in need of protection (s.183)
- report about an unborn child (s.29)
- report of a child in need of therapeutic treatment (s.185)

At intake, child protection also receives reports and requests for assessments from interstate and New Zealand child protection services (Schedule 1), the Family Court regarding children in need of protection and, very rarely, applications for conciliation counselling (s.260).

All reports are recorded on CRIS. Intake assessment is limited to reaching a reasonable determination on report classification. Reports have an outcome based on an assessment informed by the Best interests case practice model.

Intake outcome

Each report to child protection is given a classification. Wherever practicable this will occur within three days of the report being received. Report classifications include:

- protective intervention report and/or therapeutic treatment report. These can be either:
 - investigation required within two days of the report (urgent investigation)
 - investigation required within 14 days of the report
- child wellbeing report (matter will be closed at intake with advice provided to the reporter or referrals made on behalf of the child and/or family)
- inappropriate/insufficient (matter will be closed at intake).

Investigation and assessment

An investigation starts when a report is classified as a protective intervention report and concludes when a decision is made on whether the report is substantiated. The purpose of an investigation is to establish if the child is in need of protection as defined by section 162 of the CYFA.

An investigation determines:

- the extent and nature of the reported concerns, or any other concerns
- whether the child has suffered or is likely to suffer significant harm
- whether the parents have protected or are likely to protect the child from harm
- whether statutory intervention is needed to meet the best interests of the child
- whether other interventions are needed to assist the family.

Investigation and assessment outcome

Child protection must make a decision about substantiation as early as possible, and no later than 28 days after the date of the report. A case is substantiated if a protective intervener is satisfied on reasonable grounds, based on one or more of the grounds defined in s.162 of the CYFA that the child is in need of protection. The substantiation decision is based on current (including the risk of future) and past harm. The substantiation and risk level decisions will determine the type of service responses required to address the concerns identified for the child's safety, development and wellbeing.

Protective intervention

Protective intervention is the period of intervention with a child and family following the substantiation of a report and ending when a protection order is made or the case is closed without a protection order. This includes the period following a protection application before a final protection order is made.

Assessment, service engagement and case management in this phase focuses on establishing ongoing protection and supporting the best interests of the child without seeking a protection order where possible.

Assessment and intervention is based on the Best interests case practice model and should be concluded within 90 days of the date of the report, wherever possible (unless reason exists to extend this period for a further 60 days).

Protective intervention outcomes

There are three possible outcomes in the protective intervention order phase:

1. Child protection intervention is no longer required and the case is moved to the closure phase; **or**
2. A protection order is made following a protection application being found proven and the case is moved to the protection order phase; **or**
3. A protection application does not result in a protection order and the case is moved to the closure phase.

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 proven. This means that the child has been found to be in need of protection in accordance with the provisions of the CFYA and that the Court has determined a protection order is required to ensure the child's safety and ongoing wellbeing.

Protection order types

- *Family preservation order* - gives the Secretary responsibility for the supervision of the child. It does not affect a person's parental responsibility for the child. It provides for the child to be placed in the day-to-day care of one or both parents.
- *Family reunification order* - confers parental responsibility for, and sole care of, the child on the Secretary (s. 287). The Secretary must seek the parent's agreement for decisions about major long-term issues, except as provided for under the CYFA or by order of the Court and, where possible, engage the parents to the fullest extent possible in case planning decisions.
- *Care by Secretary order* - confers parental responsibility for the child on the Secretary to the exclusion of all others. Section 172 of the CYFA outlines the responsibilities of the Secretary when the Secretary has parental responsibility for a child. Subsection (1) states the Secretary, in relation to a child for whom the Secretary has sole parental responsibility:

- (a) is the guardian of the person and estate of the child to the exclusion of all other persons; and
 - (b) has the same rights, powers, duties, obligation and liabilities as a natural parent of the child would have.
- *Long term care order* - places the child with a specified carer until the child reaches 18 years of age, or marries, whichever occurs first. It confers parental responsibility for the child on the Secretary to the exclusion of all others.

Appendix 3: Definitions and additional information

Aboriginal Children's Forum

The Aboriginal Children's Forum is a representative forum of ACCOs, the community sector, and government convened quarterly. The forum was established in 2015 to drive initiatives to improve the safety and wellbeing of Aboriginal children and young people in, or at risk of entering, care. The Aboriginal Children's Forum is co-chaired by the Minister for Children and Families and the Chief Executive Officer of an ACCO.

After hours interim accommodation orders

The process to obtain an order after hours is through a bail justice hearing, the outcome of which is an interim accommodation order (IAO). The IAO returns to court on the next working day. An outreach visit by the AHCPEs or regional child protection area office is required for the bail justice hearings. In cases that involve Aboriginal children and young people, ACSASS must be consulted as soon as possible.

Care team

A care team is required for every child in care. The purpose of a care team is to manage the day-to-day care and best interests of the child in accordance with the overall case plan.

A care team is defined as the group of people who jointly care for a child while the child is in care. The composition of a care team will vary depending on the specific issues and needs of the child and family. The care team shares responsibility for assessment, planning and action process. For an Aboriginal child or young person, a care team should include at least one person from their Aboriginal community, wherever possible. Amongst other responsibilities, the care team should work towards establishing and maintaining the child's connections to their Aboriginal community and culture.

Case contracting

A case contract is a formal written agreement between the Department of Health and Human Services and an Aboriginal Community Controlled Organisation (ACCO) or community service organisation (CSO) regarding the case management of an individual child protection client by the ACCO or CSO. Contracting arrangements are designed to enable the most appropriate agency to support implementation of the case plan. Child protection may contract a community service to undertake total case management or specified functions only. It most often applies to children subject to protection orders, such as care by Secretary orders.

When cases are contracted, child protection retains responsibility for specific functions that cannot be contracted. No functions can be contracted in the child protection intake phase. During the investigation and assessment phase, child protection retains case management responsibility. During the protection order phase, child protection is able to contract all case management functions except for case planning decisions and other significant decisions which require action outside the parameters of the case plan.

Case plan

The case plan is the formal plan that guides assessment, planning and action by child protection practitioners, and contracted case managers, for a child subject to a protective intervention. Child protection must prepare, endorse and provide a case plan to the child and the child's parents within 21 days of the substantiation decision being made.

The case plan is a succinct, high level plan. It sets out the protective concerns for the child, the permanency objective and significant decisions for the child including current care arrangements; contact; cultural support; education, employment or child care; health care and developmental support.

Case planning

Case planning is the collaborative decision-making and planning process undertaken for a child who is the subject of a protective intervention. It sets goals, responsibilities and review processes to implement the best interests and decision-making principles of the CYFA. In determining what decision to make or action to take in the best interests of the child, consideration must be given to the provisions set out in section 10 of the CYFA. All planning processes must comply with the decision-making principles set out in section 11 of the CYFA. For Aboriginal children, planning processes must also comply with the additional decision making principles set out in sections 12, 13 and 14 of the CYFA.

Child FIRST and integrated family services

Child FIRST (Child and Family Information Referral and Support Teams) provide a community based referral point into family services. This is the entry point into integrated family services in a service area. While Child Protection receives and responds to reports regarding significant concerns for a child's wellbeing or the wellbeing of an unborn child after that child's birth, the CYFA also enables Child FIRST to receive and respond to referrals regarding significant concerns for a child's wellbeing or the wellbeing of an unborn child after that child's birth. Child FIRST will assess the risk to and needs of the child and the family and prioritise accepted referrals on the basis of need, then allocate to family services.

In the coming years, as part of the Roadmap for Reform, the functions of Child FIRST will be transferred to The Orange Door, with The Orange Door replacing Child FIRST as the referral point into an integrated family and community support system.

Child protection case management

Child protection case management is the coordination and delivery of services provided as part of a case plan. The role almost always includes a direct service role with children, young people and their families. Under the CYFA, child protection is responsible for undertaking the functions assigned to the Secretary to the Department of Health and Human Services.

Children's Court (Family Division) Orders

Protective Intervention

- Temporary Assessment Orders
- Therapeutic Treatment Order
- Interim Accommodation Order

Protection Orders

- Undertaking (s.278)
- Family preservation order
- Family reunification order
- Care by Secretary order
- Long term care order

The Court may also make a Permanent Care Order.

Conciliation counselling and irreconcilable differences applications

Conciliation counselling is initiated in response to an Irreconcilable Differences Application request or where a child/young person or parent contacts child protection directly for assistance as a result of family conflict having reached crisis point. The conciliation counselling process is not undertaken in situations where the young person is at significant risk of harm. This provision remains in the CYFA but no such order has been made in recent years.

Cultural plan

Each Aboriginal child in care must have a cultural plan that aligns with their case plan. The purpose of the cultural plan is to help to maintain and develop the child's Aboriginal identity and encourage their connection to their Aboriginal community and culture. Cultural plans are developed by the care team supporting the child. ACCOs, funded by the department for the provision of cultural planning, are responsible for supporting care teams to develop the plan. Cultural plans are endorsed by the Aboriginal agency CEO and approved by the child protection case planner.

Leaving care planning

Each young person who leaves a care placement should do so in a planned and supported manner to enable a successful and sustainable transition. Members of the young person's care team share responsibility for the preparation of the young person for independent living. Planning should ideally commence two years prior to a young person's transition from care to independent living.

Secure Welfare

Secure welfare services (SWS) provide a secure short-term placement option for children or young people aged 10 to 17 years who are at substantial and immediate risk of harm. The aim is to keep them safe while plans are developed or revised to reduce the risk of harm and return them to the community as soon as possible. A young person may be placed (via an interim accommodation order) in a secure welfare service by the children's court. A child protection operations manager or the Children's Court, depending upon the legal status of the young person, may make a decision to place them at a secure welfare service (SWS). Child protection must consult with ACSASS where placement at a secure welfare service is being considered for an Aboriginal child or young person.

In exceptional circumstances children under the age of 10 years may be admitted to a SWS subject to the approval of the Director, Child Protection in the child's division.

Placement in SWS is only one response within the statutory protection and care system for children or young people who need a highly structured setting during a significant crisis. 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 a secure welfare service is a secure facility, placement at a secure welfare service is the most extreme form of protective intervention and all other options must be explored first and relevant human rights considered.

Sexual Offences and Child Investigation Teams (SOCIT)

Sexual Offences and Child Abuse Investigation Teams are staffed by experienced and qualified Victoria Police detectives specially trained to respond to and investigate sexual assault and child abuse. Joint investigations between child protection and Victoria Police regarding physical and sexual abuse primarily involve SOCIT teams. SOCITs operate in each departmental division.

Streetwork Outreach Service

Streetwork provides a distinctive child protection service to young people who are frequenting the inner city or St Kilda areas and are engaging in high risk activities. The service is based on an assertive, mobile and proactive approach to outreach work in areas where young people are known to congregate and high risk activities are likely to occur. All Streetwork staff are protective intervenors and are able to utilise the CYFA when a child or young person is in need of protection.

The Streetwork service has active involvement with many Aboriginal young people, many of whom are current child protection clients. Streetwork will seek consultation with ACSASS about planning, decision making and intervention concerning Aboriginal children and young people.

Warrants

Warrants are obtained by child protection and the AHCPEs to locate a missing child or young person. The police execute the warrant. A Family Division Children's Court search warrant authorises Victoria Police to:

- enter and search any place where the child named or described in the warrant is suspected to be; **and**
- place the child in emergency care, and either:
 - bring the child before a bail justice or the court as soon as practicable, **or**
 - release the child on an interim accommodation order (IAO) in accordance with the endorsement on the warrant, **or**
 - take the child to the place specified in the warrant or nominated by child protection (s. 598), **or**
 - bring the child to the Secretary to enable the Secretary to exercise his or her powers under the temporary assessment order (s. 237).

Therapeutic Treatment Report

The CYFA makes provisions for reports about children aged 10 years or over and less than 15 years who exhibit sexually abusive behaviours and are believed to need therapeutic treatment. A child may exhibit sexually abusive behaviours by using their power, authority or status to engage another party in sexual activity that is unwanted or where, due to the nature of the situation, the other party is not capable of giving informed consent. A therapeutic treatment report (TTR) can be made by any community member, the Victoria Police or the Criminal Division of the Children's Court.

TTRs cannot be closed at intake as the CYFA requires child protection to investigate all therapeutic treatment reports to determine the nature and extent of the sexually abusive behaviours and the appropriateness of a therapeutic treatment order.

Following the investigation of a TTR, the options for further action are:

- an application to the court for a therapeutic treatment order and therapeutic treatment placement order
- referral to a therapeutic service for voluntary access to treatment
- no therapeutic treatment is required.

Appendix 4: Service establishment

Prior to the CYFA, the *Children and Young Persons Act 1989* described required processes for decision making in regard to Aboriginal children and young people. Section 119 of the old Act required participation in decision making by Aboriginal people from the community to which the child belonged, or if that was not possible, participation by persons appointed by an Aboriginal agency and approved by the Secretary. ACSASS was established in response to the need for child protection to consult with a suitable person from an Aboriginal agency.

ACSASS was established in three phases:

Phase One: 14 October 2002–14 October 2003

In the first year of operation, ACSASS teams were established in the South and East Metropolitan regions, the Northern and Western Metropolitan Region, Hume Region and the Loddon Mallee Region, including the Mildura Local Government Area. The remaining regions of Barwon South Western, Gippsland and the Grampians had access to a secondary service only for the first year of ACSASS.

During this period, ACSASS was time limited in its involvement with individual clients. ACSASS was involved from point of notification until finalisation of the first statutory case plan. ACSASS involvement ceased when child protection closed the case or if child protection involvement continued after finalisation of the statutory case plan.

Phase Two: 14 October 2003–December 2004

In the second year of operation, ACSASS teams operated in all regions across Victoria. ACSASS continued to be time limited in its involvement, providing a service from point of notification until finalisation of the first statutory case plan. ACSASS involvement will cease when child protection closes the case or if child protection's involvement continues through to the making of a court order and after finalisation of the statutory case plan.

Phase Three: 1 February 2005

The third phase of ACSASS commenced on 1 February 2005 involving specialist advice and case consultation regarding all significant actions and decisions in relation to all Aboriginal children and young people from intake through all phases of child protection involvement. As in previous phases, an exception occurs when following the completion of an investigation the child, young person or their family do not wish ACSASS to be involved. In this case, child protection will seek secondary consultation with ACSASS only concerning the principles of case planning and placement of Aboriginal children. The ACSASS After Hours Service provides consultation, via telephone, to the After Hours Child Protection Emergency Service.

Service providers

VACCA has delivered ACSASS, named Lakidjeka ACSASS at VACCA, across most of Victoria since 2002. Prior to 2002, VACCA delivered a more limited ACSASS service across the state. At the time of establishing ACSASS, the Mildura Aboriginal Cooperative was appointed to provide ACSASS in Mildura. The Mildura Aboriginal Cooperative has since grown and changed its name to Mallee District Aboriginal Services (MDAS) and since October 2016, has also provided ACSASS Swan Hill. VACCA's Lakidjeka ACSASS service continued to service the rest of the state.

In 2017 the Victorian Government endorsed a decision to open up ACSASS for provision by other ACCOs from the 2018-19 financial year. This was a recommendation of the Commission for Children and Young People's 2016 inquiry, *In the child's best interests: A Systemic review of the Victorian Child Protection system's compliance with the Aboriginal Child Placement Principle*. Following a Call for Submissions process, a partnership between Njernda Aboriginal Corporation and Bendigo and District Aboriginal Cooperative commenced providing ACSASS in Loddon Area from February 2019.

Appendix 5: Supporting documents

Relevant legislative requirements

- <http://www.legislation.vic.gov.au/>
 - *Children, Youth and Families Act 2005*
 - *Child Wellbeing and Safety Act 2005*
 - *Health Records Act 2001*
 - *Privacy and Data Protection Act 2014*
 - *Occupational Health and Safety Act 2004*
 - *United Nations Convention on the Rights of the Child 1990*
 - *United Nations Declaration on the Rights of Indigenous People 2010*
 - *Victorian Charter of Human Rights and Responsibilities Act 2006*
 - *Working with Children Act 2005*

Policy resources

- [Client incident management guide](#)
- [Department of Health and Human Services Client Services Charter](#)
- [Department of Health and Human Services privacy policy](#)
- [Department of Health and Human Services Standards](#)
- [Korin Korin Balit-Djak Aboriginal health, wellbeing and safety strategic plan 2017-2027](#)
- [Language services policy and guidelines](#)
- [Roadmap for Reform: strong families: safe children](#)
- [Service agreement information kit \(2017\)](#)
- [Wungurilwil Gappagduir Aboriginal Children and Families Agreement](#)

Practice resources

- [Child protection practice manual](#)
- [Best interests specialist practice resources](#)
 - *Adolescents and their families 2012*
 - *Adolescents with sexually abusive behaviours 2012*
 - *Best interests case practice model summary guide 2010*
 - *Child development and trauma*
 - *Child sexual exploitation practice guide 2017*
 - *Children with problem sexual behaviours and their families 2012*
 - *Cumulative harm 2012*
 - *Families with multiple and complex needs 2012*
 - *Infants and their families 2012*
 - *Working with families where an adult is violent 2012*
- [CRISSP guidelines](#)