

# Protecting children

Protocol between the Secretary of the Department of Families,  
Fairness and Housing, Aboriginal Children in Aboriginal Care  
providers and Victoria Police

January 2023

**OFFICIAL**



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In this document, 'Aboriginal' refers to both Aboriginal and Torres Strait Islander people. 'Indigenous' or 'Koori/Koorie' is retained when part of the title of a report, program or quotation.

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## Introduction

This is a protocol between the Secretary of the Department of Families, Fairness and Housing, Aboriginal Children in Aboriginal Care providers and Victoria Police.

The protocol provides guidance for child protection practitioners, Aboriginal Children in Aboriginal Care (ACAC) staff and Victoria Police to enable effective and collaborative responses to child abuse and neglect to children who have suffered, or are likely to suffer, significant harm due to physical, sexual, emotional or psychological abuse or neglect.

The protocol sets out the statutory and non-statutory responsibilities of the Secretary, Department of Families, Fairness and Housing, ACAC providers and Victoria Police. However, it does not replace the requirements for open and collaborative relationships between the parties to the protocol. The parties to this protocol are committed to working together cooperatively and flexibly to manage the protection and safety of vulnerable children. This collaborative work will deliver continued professional, sensitive and well targeted responses to children involved in these services.

This protocol is an update of the 2012 *Protecting children: protocol between Department of Health and Human Services – Child Protection and Victoria Police* and the 2014 *Addendum to protecting children protocol: preventing sexual exploitation of children and young people in out-of-home care*.

In addition, the Department of Families Fairness and Housing and Victoria Police are signatories to the *Overarching relationship principles: memorandum of understanding between Department of Human Services and Victoria Police* (June 2014).

## Endorsement



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On behalf of the Secretary of the Department  
of Families, Fairness and Housing

# 1. Purpose of the protocol

The purpose of the protocol between the parties is to:

- agree on matters of mutual interest
- in those matters, agree to work collaboratively to improve service responses and outcomes for children and their families.

## 2. Guiding principles

### 2.1. Best interests of the child

This protocol is underpinned by s. 10 of the Children, Youth and Families Act (CYFA) best interest principles. The best interests of the child must always be paramount.

### 2.2. Early identification and effective intervention

Early identification and effective intervention by Child Protection, ACAC providers and Victoria Police can reduce the effects of child abuse and neglect and promote recovery of the children and families concerned. Intervention is most effective when there is open and respectful communication, clearly identified procedures and prioritisation of the child's needs.

### 2.3. High-quality services

Child Protection, Victoria Police and ACAC providers are committed to the development of high-quality services to vulnerable children in their communities. The parties will engage in actions that support the continued strengthening of their partnerships.

### 2.4. Aboriginal and Torres Strait Islander children

With respect to Aboriginal children, the intent of the CYFA is for Aboriginal children and young people to remain in the care of their families and communities where possible (s. 13). If they need to be placed out of parental care (alternative care), Aboriginal children and young people need to remain connected to their family, Aboriginal community and culture.

Culturally respectful approaches and considerations are to be adopted when working with Aboriginal and Torres Strait Islander children and families.

Built on the foundation of Aboriginal self-determination, *Dhelk Dja* is the key Aboriginal-led Victorian agreement that commits the Aboriginal communities, Aboriginal services and government to work together and be accountable for ensuring Aboriginal people, families and communities are stronger, safer, thriving and living free from family violence.

*Wungurilwil Gapgapduir: Aboriginal children and families agreement and strategic action plan (Wungurilwil Gapgapduir)* outlines a strategic direction to reduce the number of Aboriginal children in out-of-home care by building their connection to culture, Country and community. *Wungurilwil Gapgapduir* has been developed in consultation with the Aboriginal community, as well as with the

input of Aboriginal services and key mainstream child service organisations. The *Strategic action plan* details the steps that the sector needs to take to address the over-representation of Aboriginal children and young people in the child protection and out-of-home care systems.

Access [Wungurilwil Gapgapduir](https://www.dffh.vic.gov.au/publications/wungurilwil-gapgapduir-aboriginal-children-and-families-agreement) on the department's website <<https://www.dffh.vic.gov.au/publications/wungurilwil-gapgapduir-aboriginal-children-and-families-agreement>>.

### 3. Legislative context

This protocol is underpinned by the following legislation:

#### Victorian:

- *Children, Youth and Families Act 2005 (CYFA)*
- *Victoria Police Act 2013*
- *Charter of Human Rights and Responsibilities Act 2006*
- *Health Records Act 2001*
- *Privacy and Data Protection Act 2014 (PDPA)*
- *Sex Offenders Registration Act 2004 (SORA)*
- *Child, Wellbeing and Safety Act 2005*
- *Family Violence Protection Act 2008*
- *Surveillance Devices Act 1999*
- *Criminal Procedure Act 2009*
- *Status of Children Act 1974*
- *Victims' Charter Act 2006*

#### Commonwealth:

- *Commonwealth Family Law Act 1975*
- *Commonwealth Service and Execution of Process Act 1992*

### 4. Developing shared practice

The parties will continue to develop increased understanding and linkages to contribute to the development and refinement of quality service enhancements. Liaison between the parties is an ongoing and critical aspect of the professional relationship between these organisations. Liaison activities must occur on a divisional/local level and centrally.

Developing shared understandings between the parties requires an ongoing commitment to shared opportunities for professional development. The parties agree to cooperate in relation to training to facilitate their staff and services gaining mutual understanding of their philosophies, policies and methods of operation.

Cooperation between the organisations may involve:

- participating in and developing joint training initiatives
- presentations by the parties at their respective training forums



- providing professional development opportunities for individuals and groups of staff.

Details of such exchanges and other relevant mutual training sessions will be negotiated at the local level between the Sexual Offences and Child Abuse Investigation Team (SOCIT) or Family Violence Investigation Unit officer-in-charge, child protection manager and ACAC team leader or ACAC program manager.

## 5. Roles and responsibilities

### 5.1. Victoria Police

The role of Victoria Police is to service the Victorian community and uphold the law to promote a safe, secure, and orderly society.

Victoria Police is the organisation responsible for dealing with alleged criminal offences in child abuse and neglect cases whether the setting of that offending is at home, at school, in out-of-home care, or in the general community. Victoria Police also undertakes family violence risk assessment and risk management where the child abuse or neglect occurs in the context of family pursuant to the definition within the *Family Violence Protection Act 2008* (Family Violence Protection Act).

All reports of child abuse and neglect involving criminal conduct are recorded in Victoria Police systems and appropriately acted upon. This includes reports made by the child victim themselves, or by a witness or an interested party with or without the child's willingness to make a statement.

Not all cases of child abuse and neglect lead to a criminal investigation by Victoria Police. On occasion, a victim-centric response may result in recording reports as intelligence for use in disrupting and preventing the sexual exploitation of children and young people. However, in all cases of physical abuse, sexual abuse and serious neglect where Child Protection or ACAC provider (where a child has been authorised) are investigating, Victoria Police must work with Child Protection or ACAC provider for the duration of the investigation. This means that Victoria Police and Child Protection or ACAC provider will conduct joint interviews with the child, alleged non-offending and offending parents and any other persons relevant to the investigation to determine whether criminal charges will be laid.

Victoria Police works continuously and collaboratively with Child Protection or ACAC providers (where a child has been authorised) on matters concerning at risk children. Most joint work with Child Protection and ACAC providers intersects through the Sexual Offences and Child Abuse Investigation Team, Family Violence Investigation Units, Police members and in the Courts.

#### 5.1.1. Sexual Offences and Child Abuse Investigation Team (SOCIT)

A Victoria Police SOCIT is staffed by qualified, experienced specialist detectives trained in responding to and investigating sexual offences and child abuse by perpetrators that are known to the victim or readily identifiable. The SOCIT response prioritises the needs of victims without further traumatisation.

SOCIT works in partnership with other services to ensure an empathetic, professional and comprehensive response to victims of sexual assault and child abuse and to implement risk management strategies. SOCIT also has responsibility for the supervision and compliance management of registered sex offenders (See Appendices A and B of this protocol).

SOCITs remain the primary recipient of child protection intake reports relating to allegations of the physical or sexual abuse of children. SOCIT will assess the reports to determine the need for a police response and the level/specialty required before assigning any required investigation to an appropriate Victoria Police unit. SOCITs undertake joint investigations with Child Protection or the ACAC provider (where a child has been authorised) and other stakeholders in respect to child abuse.

If a SOCIT unit is not available, contact should be made with the local Victoria Police station for assistance.

If the matter is urgent and immediate assistance is required, request police attendance by calling Triple Zero (000).

### 5.1.2. Family Violence Investigation Unit (FVIU)

Victoria Police's FVIU addresses physical and mental harm/abuse committed in the context of family violence.

Each police division provides a specialist family violence response, which may include FVIU investigator services. In many areas, the FVIU is co-located with the SOCIT. FVIUs are responsible for:

- investigating serious and complex family violence cases
- managing high-risk complex and repeat cases
- supporting and advising general duties members and other specialist units.

Where family violence is primarily experienced by an adult carer of a child and the child is also impacted, the FVIU has primacy of the investigation role, rather than SOCIT. FVIU investigators have also completed SOCIT-VARE training. Underpinned by the Multi-Agency Risk Assessment and Management (MARAM) principles, FVIU will work with Child Protection or ACAC provider, and work collaboratively with many agencies to address child abuse, neglect and harm, including engagement with the Risk Assessment Management Panel (RAMP) (refer to section 5.5).

### 5.1.3. Uniform (frontline) police

Where children are the victim of crime, including harm/abuse committed in the context of family violence, the investigation will generally be conducted by a SOCIT or FVIU. However, in the case of minor assaults where the offender is identified and resides locally (to the site of the offence), the frontline or uniformed police may be assigned non-complex investigations.

### 5.1.4. Sex Offender Registry

The Victoria Police Sex Offenders Registry (SOR) supports the application of the Sex Offenders Registration Act (SORA). The aim of the register is to ensure certain offenders who commit sexual offences against children (and other serious sexual offences) keep police informed of their whereabouts and other personal details for a period of time to:

- reduce the likelihood of reoffending
- facilitate the investigation and prosecution of any future offences that they may commit
- prevent registered sex offenders working in child-related employment.

Offenders are required to report their personal details once they have served their sentence. The term 'sentence' is broadly defined to include custodial and non-custodial sentences.

See Appendix B of this protocol for Child Protection and Victoria Police practices for children in contact with registered sex offenders (RSOs).

### 5.1.5. Sexual Crimes Squad

The Sexual Crimes Squad (SCS) will provide a response and primary investigation for category 1 sexual offences, which include where a child was raped, or abducted for the purposes of being raped, by a stranger. The SCS also provides secondary support and assistance to other Victoria Police investigators of category 2 sexual offences which includes the rape of a child where the suspect is known, and some other sexual offences perpetrated by a stranger.

## 5.2. Child Protection

Child Protection services are based on the legal framework set out in the CYFA. The underpinning principle of the CYFA is the best interests of the child must always be the paramount consideration. In determining whether any decision or action is in the best interests of the child, the need to protect the child from harm, to protect the child's rights, and to promote the child's development must always be considered.

Child Protection intervention is child centred and family focused and is limited to that necessary to secure the safety and wellbeing of the child.

Child Protection intervention generally occurs when it is assessed that the child has suffered or is likely to suffer from significant harm and that the parent is unable or unwilling to protect the child from that harm. The harm may be a single incident or cumulative in nature.

### 5.2.1. Sexual Exploitation Practice Leaders (SEPL)

SEPLs are child protection practitioners who are located in each operational division and play a critical role in the protection of children and young people from sexual exploitation. SEPLs provide expert practice advice and leadership to support and develop child protection practitioners, ACAC staff and key partners, including community service organisations and Aboriginal-community controlled organisations (ACCOs), to bring about the changes necessary to ensure the safety, stability and development of children and young people. SEPLs work closely with Victoria Police to prevent, identify and support children at risk of sexual exploitation, and detect and deter persons of interest who are believed or confirmed to be sexually exploiting a child.

See Appendix A for Child Protection and Victoria Police responses to children at risk of sexual exploitation.

### 5.2.2. Divisional Child Protection service delivery

Child Protection service delivery is organised via a structure of four divisions with 17 areas that cover metropolitan and rural Victoria.

Each division has an intake team (West division has two intake teams) situated at a designated office to accept and act upon reports from 8.45 am to 5.00 pm Monday to Friday (for divisional intake contact details, refer to Appendix J).

### 5.2.3. After-Hours Child Protection Emergency Services and Rural After Hours

The After-Hours Child Protection Emergency Service (AHCPEs) operates outside core business hours, on weekends and public holidays. AHCPEs is a crisis service that responds to matters, for all children, including those authorised to an ACAC provider, that cannot wait until the next working day. It is not an extension of the daytime activities of Child Protection provided in normal office hours.

During AHCPEs operating hours, Victoria Police are to notify AHCPEs where a child is considered to be at significant and immediate risk of harm. AHCPEs and Victoria Police will discuss the presenting issues and plan a response that may include direct intervention from the AHCPEs.

The AHCPEs contact number is **131 278**, noting Victoria Police have a priority access number to call.

Matters requiring an outreach in rural areas are undertaken by Divisional Rural After-Hours Service (RAHS) and outreach visits are activated, coordinated and supervised by AHCPEs.

Where police are contacted by AHCPEs prior to an outreach, AHCPEs will be guided by the safety information provided by the police.

The RAHS team should also make direct contact with police, prior to leaving for an outreach, to receive any additional up-to-date or more detailed information.

Arrangements will be made for police to attend outreach with AHCPEs and RAHS practitioners as required.

## 5.3. Aboriginal Children in Aboriginal Care providers

Aboriginal Children in Aboriginal Care (ACAC) is a program for Aboriginal children subject to a protection order under the CYFA. Section 18 of the CYFA enables the Secretary to authorise the principal officer of an ACCO to undertake specified functions and powers in relation to a protection order for an Aboriginal child or young person.

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

The Victorian Aboriginal Child Care Agency (VACCA) Nugel program and the Bendigo and District Aboriginal Cooperative (BDAC) Mutjang bupuwingarrak mukman program are authorised providers of the ACAC program in Victoria and are parties to this protocol. In future, additional authorised providers of the ACAC program and will become signatories to this protocol.

## 5.4. Multidisciplinary Centres

Multidisciplinary Centres (MDCs) have been developed to improve responses to sexual offences and child abuse.

MDCs provide a specialised, integrated and holistic response to victim/survivors of sexual assault and child sexual abuse through the co-location of specialist police investigators, child protection practitioners and sexual assault counsellor/advocates who also have strong links to forensic medical personnel.

Police and sexual assault counsellors/advocates will usually be involved with all adults, children and young people who attend the MDC. Child Protection only becomes involved when an investigation is required to determine if a child is in need of protection.

While the primary focus of MDCs is sexual assault and child sexual abuse, some MDCs, with approval, may respond to physical abuse of children and significant family violence. Victoria Police, Child Protection, and sexual assault counsellors/advocates also provide responses outside of the MDC setting.

MDCs are currently located in:

<b>Multidisciplinary Centres</b>	<b>Department area</b>
Seaford (Frankston SOCIT)	Bayside Peninsula DFFH Area
Dandenong (Dandenong SOCIT & FVIU)	Southern Melbourne DFFH Area
Morwell (Central Gippsland SOCIT)	Inner Gippsland DFFH Area
Geelong (Geelong SOCIT & FVIU)	Barwon DFFH Area
Werribee (Westgate SOCIT & FVIU)	Western Melbourne DFFH Area
Mildura (Mildura SOCIT)	Loddon Mallee DFFH Area
Bendigo (Central Victoria SOCIT)	Loddon Mallee DFFH Area

## 5.5. Risk Assessment Management Panels

A Risk Assessment Management Panel (RAMP) is a formally convened meeting, held at an area level, of nine key agencies and organisations that contribute to the safety of children and women experiencing serious and imminent threat from family violence.

The aim of RAMPs is to improve collaborative responses and information sharing across agencies to minimise or prevent serious threats to the life, safety and welfare of children and women as a result of family violence.

Each RAMP is jointly chaired by a senior staff member of Victoria Police and a senior manager from a specialist family violence agency. Child Protection is a core member of RAMPs.

RAMPs are convened regularly (usually monthly) to:

- comprehensively assess the safety of individual women and children experiencing a serious and imminent threat from family violence
- to develop coordinated action plans across participating agencies to minimise or prevent serious and imminent threat to an individual's life, health, safety or welfare.

A RAMP referral is typically made by specialist family violence agencies and Victoria Police but can be made by Child Protection, ACAC providers or another service.

## 6. Protective interveners

A protective intervener is defined under the CYFA and must, as soon as practicable after receiving a protective intervention report, investigate, or cause another protective intervener to investigate, the subject-matter of the report in a way that will be in the best interests of the child (s. 205 CYFA).

While both Child Protection and Victoria Police members are protective intervenors, in practice, Child Protection takes primary responsibility for making a protection application and taking a child into emergency care. However, when an emergency response is required or where a protective intervenor is satisfied on reasonable grounds that a child is in need of protection and it is not possible for Child Protection to take immediate action, police are authorised under s. 241 CYFA, to take a child into emergency care, with or without a warrant.

## 7. Reducing the criminalisation of young people in residential care

A significant proportion of young people in residential care may have experienced extensive abuse and neglect. The impact of this trauma may lead to behaviours of concern that present as challenging, complex or offending behaviour. Children and young people in care services experience a higher incidence of mental health, disability, emotional and behavioural difficulties than other children and are at greater risk of contact with services such as police and the youth justice system.

Furthermore, young people in residential care are more likely to present with risk-taking behaviours such as self-harm, aggressive or sexualised behaviours, substance abuse and other activities that place them, or others, at high risk as a manifestation of the trauma they have experienced.

For Aboriginal young people, there is the added impact of discrimination, intergenerational trauma and disconnection from culture that concurrently adds to the complexity of supporting them in residential care. Recent reports and inquiries, as outlined in the *Framework to reduce criminalisation of young people in residential care*, have highlighted the criminalisation and over-representation of young people from a care services background in the criminal justice system. This presents an opportunity to develop a proactive coordinated approach to disrupt this trajectory.

The parties to this protocol will work to reduce the unnecessary and inappropriate contact of young people in residential care with the criminal justice system.

The [Framework to reduce criminalisation of young people in residential care](https://providers.dffh.vic.gov.au/framework-reduce-criminalisation-young-people-residential-care) is the overarching guide to support this intent <<https://providers.dffh.vic.gov.au/framework-reduce-criminalisation-young-people-residential-care>>.

## 8. Information sharing (overview)

Information sharing will occur regularly between Victoria Police and Child Protection or ACAC providers, at different levels of formality. For example, if a joint interview has occurred and notes were recorded by one party, then the notes must be considered the property of both.

Similarly, one agency may contact the other to ascertain if there has been any prior contact by that agency, which then informs their decision-making processes. All information sharing must consider:

- the best interests of the child
- the privacy of clients
- security issues regarding the transmission of confidential documents beyond issues of physical and sexual abuse.



The responsibilities of Child Protection and ACAC providers are the same as those of the general public in respect of reporting of offences to Victoria Police.

The CYFA authorises collection, use and disclosure of personal information for the performance or exercise of a protective intervener's statutory duties and functions as per s. 192 CYFA.

Victoria police are both protective interveners and information holders under the CYFA, which enables the free exchange of information in Child Protection matters with Child Protection and ACAC providers.

The *Child, Wellbeing and Safety Act 2005* establishes the Child Information Sharing Scheme (CISS). The CISS enables professionals in organisations and services, which include Child Protection, ACAC providers and Victoria Police, prescribed to be information sharing entities (ISEs), to share information to promote the wellbeing and safety of children.

The Family Violence Information Sharing Scheme (FVISS) enables the sharing of information between authorised organisations to assess and manage family violence risk. This scheme has been created under Part 5A of the Family Violence Protection Act and allows Information Sharing Entities prescribed for the purposes of that Act (key organisations and services) to share information related to assessing or managing family violence risk.

The CISS and the FVISS are in addition to other legislative or legal authorities for information sharing in relation to Child Protection clients. Where information can be shared under the CYFA, Child Protection and ACAC providers should share as appropriate, and record this in CRIS as usual, irrespective of being prescribed under this scheme.

The CISS and FVISS enables Victoria Police, Child Protection and ACAC providers to refer and share information with specialist family services, which includes The Orange Door, regardless of whether informed consent has been obtained from the victim or the perpetrator when managing risk to a child.

(Refer to Appendix I: Information sharing).

## 9. Dispute resolution

It is essential that any differences experienced by parties to this protocol are addressed as soon as possible. Differences may relate to roles, professional and organisational philosophies or priorities, systems issues, status and perceived power, and communication difficulties. These factors have the potential to damage the joint working relationship and negatively affect the client concerned.

The resolution of difference should be addressed at an individual and agency level. Professional conduct is critical in dispute resolution. A model for resolving differences is:

- early and clear identification by both parties of the problem or issue
- acknowledgment of relevant goals and interests
- generation of practical options to address the problem
- seeking agreement on a preferred option
- negotiation when the preferred option is not agreed
- agreement on an outcome and its implementation.

## 10. Unresolved disputes procedure

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

### Level 1

- In the first instance, the concern should be dealt with at the divisional level between the child protection practitioner or ACAC case manager and the Victoria Police member involved and their respective supervisors. This may involve a Child Protection team manager or ACAC Program Manager and relevant Victoria Police manager (i.e., SOCIT or CIU officer in charge, general duties Senior Sergeant).
- The aim of the contact will be resolution of the case-specific problems.
- If the problem cannot be resolved at this level, it should be referred to level 2.

### Level 2

The dispute should be addressed and resolved by the Child Protection Operations Manager or Director, ACAC Director of client services or Chief Executive Officer (CEO) and the Victoria Police local area commander.

## 10.1. Policy and practice implications

### Between Child Protection and Victoria Police

Any issues arising that impact on policy or have state-wide significance shall be directed to the Child Protection manager, Child Protection Policy, Children, Families, Communities and Disability Division and the Superintendent, Operations Division, Family Violence Command. Joint discussions will be held between these parties to address policy differences or deficits.

### Between ACAC providers and Victoria Police

Any issues arising that impact on policy or have statewide significance shall be directed to the CEO of ACAC Provider and the Superintendent, Operations Division, Family Violence Command. Joint discussions will be held between these parties to address policy differences or deficits. If the issue is still unable to be resolved the department will (where appropriate) support the ACAC provider to resolve the dispute. Requests for assistance in dispute resolution should be directed to the divisional Child Protection Director from the ACAC CEO.

The Victorian Aboriginal Child Care Agency (VACCA) Nugel program: (03) 9287 8800

Bendigo and District Aboriginal Co-operative (BDAC) Mutjang Bupuwingarrak Mukman program: (03) 5442 4947

## 11. Definitions and acronyms

For this protocol the following definitions and acronyms apply:

Word or phrase	Definition
Aboriginal	Refers to both Aboriginal and Torres Strait Islander people



<b>Word or phrase</b>	<b>Definition</b>
ACAC provider	Aboriginal Children in Aboriginal Care providers authorised under s.18 of the Children, Youth and Families Act
ACAC case managers	Staff engaged by ACAC provider to undertake specified functions and powers conferred on the Secretary in relation to an Aboriginal child, or the sibling of an authorised Aboriginal child, on a protection order.
ACCO	Aboriginal community-controlled organisation – community service as defined under s. 3 of the CYFA.
AHCPES	After-Hours Child Protection Emergency Service – DFFH
BWC	Body worn camera – Victoria Police
Child	Refers to a child or young person aged between 0–17 years, or if subject to a protection order, under the age of 18 years. With exception where an order relates to an ‘adolescent’ then the term adolescent is used.
Child's best interests	s.10 Children, Youth and Families Act
Child Protection	The Department of Families, Fairness and Housing has a statutory responsibility under the CYFA to provide child protection services for children and young people in Victoria under the age of 17 years in need of protection or, when a protection order is in place, children under the age of 18 years. Child Protection provides services to children, young people and their families aimed at protecting children and young people from significant harm.
Child Protection Practitioners	Staff engaged by the Victorian Child Protection Program
CSO	Community service organisation – community service as defined under s. 3 of the CYFA.
Criminal matters	Where a child is a person who at the time of the alleged offence was aged between 10–18 years but does not include any person who is aged 19 years or older when a proceeding commences in court.
CYFA	<i>Children, Youth and Families Act 2005</i>
DFFH	Department of Families, Fairness and Housing (the department)
DREC	Digitally Recorded Evidence in Chief
FVIU	Family Violence Investigation Units – Victoria Police
FVSN	Family Violence Safety Notice
L17	Victoria Police Risk Assessment and Risk Management Report
LEAP	Law Enforcement Assistance Program – the Victoria Police incident tracking and crime reporting database
MARAM	The Family Violence Risk Assessment and Risk Management Framework established under Part 11 of the Family Violence Protection Act and known as the Multi-Agency Risk Assessment and Management
MPR	Missing persons report
OIC	Officer in charge

Word or phrase	Definition
Parent	As defined in s. 3 of the Children, Youth and Families Act as a father, mother, spouse or domestic partner of the father or mother, a person who has parental responsibility for the child other than the secretary, a person whose name is entered as the father of the child in the register of births in the Register maintained by the Register of Births, Deaths and Marriages, a person who acknowledges that he is the father of a child subject to the <i>Status of Children Act 1974</i> s. 8(2), a person in respect of whom the court has made a declaration of finding or order that the person is the father of the child.
RAHS	Rural After Hours Service – DFFH
RAMP	Risk Assessment Management Panel
RCS	Reportable Conduct Scheme
Secretary	Secretary of the Department of Families, Fairness and Housing
SABTS	Sexually Abusive Behaviours Treatment Services – DFFH
SEPL	Sexual Exploitation Practice Leader – DFFH
SOCIT	Sexual Offences and Child Abuse Investigation Team – Victoria Police
TOD	The Orange Door
TTO	Therapeutic Treatment Order. Also note reference to Therapeutic Treatment Board – DFFH
VARE	Visual and Audio Recorded Evidence – Victoria Police
Victorian Child Protection Program	Services and activities delivered or undertaken by the Secretary or her delegates under the CYFA.
Victoria Police or police	Refers to Victoria Police members

## 12. List of appendices

Each of the appendices to this protocol detail specific roles, functions and legislative requirements to facilitate continued collaborative working relationships.

- A. Child sexual exploitation
- B. Children in contact with registered sex offenders
- C. Children absent or missing from care
- D. Reports to Child Protection
- E. Investigations
- F. Family violence
- G. Therapeutic treatment orders and Therapeutic Treatment Board
- H. Search warrants

- I. Information sharing
- J. Contact details
- K. Definitions of abuse types

## Appendix A: Child sexual exploitation

Child Sexual Exploitation (CSE) is a form of child abuse where an individual or group exploits a vulnerability and creates an imbalance of power to coerce, manipulate or deceive a child under the age of 18 into sexual activity in exchange for something the victim needs or wants. The 'something' can be anything such as a place to stay, drugs, gifts or money. It can also be an intangible reward such as perceived affection, protection, status, a sense of value or love, as well as fear of what might happen if they don't comply with the offender or if they disclose what is happening to them to someone else.

Persons of interest (POI) come into contact with children in many ways including online, approaching them in public, through other children or through associates.

CSE is often hidden, unreported or misunderstood. Victims can be male, female, transgender, intersex or non-binary. It is critical to understand that even if a child appears to consent, and willingly engages with a POI, the child is not making a lifestyle choice, but rather, is the victim of exploitation. Responsibility for CSE should always be placed entirely on the actions of the adult POI and never on the decision making of children.

### A.1. Indicators of child sexual assault

Victims of CSE will often not tell anyone they are experiencing abuse, which makes it critical to spot the signs. They include, but are not isolated to, a child who:

- has repeatedly been missing from home, residential care or staying out all night
- has unexplained money or new belongings such as clothes, jewellery, mobile phones
- appears to be under the influence, or in possession, of alcohol or drugs
- is in contact with other children being sexually exploited
- shows signs of sexual activity with one or more adults (or older children)
- is suddenly involved in criminal behaviour or has an increase in instances of offending
- is picked up or dropped off in cars by unknown adults
- has an older 'adult friend, boyfriend or girlfriend'
- reports sexual, emotional and/or physical health problems
- increasingly uses their phone and is secretive when using it.

### A.2. Responding to child sexual exploitation

#### A.2.1. Action by Child Protection, ACAC providers and funded agencies

When there is an indication that a child has been sexually exploited, consult a SEPL both initially and at critical points where new information is obtained. The SEPL will assist in outlining processes,

formulating risk assessments, consulting with managers and care teams, liaising with police and establishing and reviewing safety plans.

Consistency in approach to any child at risk of sexual exploitation is paramount. ACAC providers, community service organisations and Aboriginal community-controlled organisations have access to consultation and support from DFFH's SEPLs.

### A.2.2. Action by Victoria Police

When Victoria Police is notified that a child is a victim or a suspected victim of CSE, members should gather and submit all relevant information in an Information Report. Where the information is critical, the most appropriate Sexual Offences and Child Investigation Unit must be notified immediately, and steps taken to ensure the immediate protection of the child.

### A.2.3. Collaborative actions by Child Protection or ACAC provider and Victoria Police

Collaboration is essential to effectively identify and disrupt CSE. This includes combining efforts between Victoria Police, Child Protection or ACAC provider and any other relevant agencies to develop a collaborative plan, establish lines of contact and exchange information.

Regular and well-structured multiagency meetings, including care team meetings enable relationship building and enhance co-ordination of responses. They promote a shared understanding of issues and risks, determine actions to address them and enable agreement on next steps.

### A.2.4. Child victim engagement

Many victims of CSE may not engage with police or other professionals due to fear of the POI, not understanding that they have been exploited, or a lack of trust in police or adults in general.

A child who has experienced CSE may have been groomed by the POI, sometimes over a long period of time. As part of the grooming process, the POI establishes power, control and authority over their victims and establish themselves as respectable, trustworthy and credible to the victim. It is therefore likely to take time for police and other professionals to build a relationship with the child.

It is also important to note that if a child makes a statement they later retract, this does not mean they lied or that CSE is not occurring. Rather, it may mean the child is scared something bad will happen to them (for having disclosed the abuse) and are trying to 'fix' the situation by retracting.

### A.2.5. Application of disruption tactics

Critical to the application of disruption tactics is knowing the identity of the POI and particulars of the believed or confirmed CSE. This frequently requires the collaboration of Victoria Police, Child Protection or ACAC provider and other critical stakeholders to share information and intelligence.

Effective disruption raises the visibility of the child, separates the victim from the offender and demonstrates to the child that police, Child Protection and carers are concerned about them and are taking action.

Disruption tactics provide police with opportunities to progressively take more serious action if the POI does not cease contact with the victim. Similarly, disruption tactics often lead to new information that can be used for more effective action.

In addition to identifying new information, overt monitoring and making the police (and child protection or ACAC provider) presence known can itself discourage a POI from further engagement with the victim.

Available intelligence and severity of identified risk should inform the development and implementation of an appropriate disruption strategy. Victim age will inform the type of interventions pursued by Victoria Police but must not determine if interventions are pursued.

For further information on disruption and response practices, refer to the *Child Protection manual: Advice number 2405* <<https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/children-specific-circumstances/sexual-exploitation-advice>> and *CSE practice guide for child protection*, <<https://www.cpmanual.vic.gov.au/advice-and-protocols/specialist-resources/child-sexual-exploitation/child-sexual-exploitation>>. Victoria Police's *CSE disruption guide* echoes the principles in these documents.

## Appendix B: Children in contact with registered sex offenders

Victoria Police maintains a register of sex offenders under the Sex Offender Registration Act (SORA). An individual can be placed on the register for a period of eight or 15 years, or for life. A registered sex offender (RSO) will be required to report to Victoria Police for that defined period of time, referred to as their reporting period. The reporting period is determined by the type and severity of the offence/s (s. 34, SORA).

Persons under the age of 18 years, convicted for sexually abusive behaviours, are referred to in the Sex Offender Registration Act as a registrable juvenile offender and are not automatically made subject to the SORA. A registrable juvenile offender can only be placed on the register following an application from the prosecution and where the court is '... satisfied, beyond reasonable doubt, that the person poses a risk to the sexual safety of one or more persons or of the community...' (s. 11, SORA). If the registration order is granted, a juvenile offender will have a reporting period of either four years or seven and a half years.

If an offender moves from another jurisdiction to Victoria, the Victorian Registry will maintain the other jurisdiction's reporting period.

### B.1. Offender reporting obligations under the SORA 2004

The SORA imposes reporting obligations on registered sex offenders (RSOs) including a requirement they report the name, age, address and phone details of children they are in contact with to a Victoria Police compliance manager. If the child's age, address or phone number is not known to the RSO, they must provide the details of the contact and/or the location of the contact.

The SORA defines child contact as occurring when the RSO:

- is residing with the child or stays overnight at a place where the child resides or is staying overnight

- is caring for or supervises a child
- has provided their contact details to a child or receives contact details from a child
- is having any form of physical contact for the purpose of forming a personal relationship with the child
- is having any form of oral communication (whether face-to-face, telephone or internet) for the purpose of forming a personal relationship with the child
- is engaging in any form of written communication (whether electronic or otherwise) for the purpose of forming a personal relationship with the child.

## B.2. Reporting protective concerns to Child Protection

All Victoria Police members must, as a matter of priority, report to Child Protection any contact between a registered sex offender and a child.

To make a report to Child Protection, Victoria Police must document child contact particulars and key child, parent and RSO contact details in the Child Report Template and forward via email to the DFFH intake office covering the child's residential address. (Victoria Police members see VPM Registered Sex Offender Management section 5.6).

## B.3. Information sharing between Child Protection and SOR

Additional Victoria Police information in relation to the report is often critical in formulating an assessment of risk and needs, and in planning the Child Protection investigation. This information may include, but not be isolated to, the offender's summary of charges.

To obtain such information from the SOR, Child Protection must initiate all requests in writing. For general RSO enquiries, Child Protection may contact the SOR or the offenders Victoria Police compliance manager. Inquiries for convicted, but unregistered, child sex offenders must be directed to Victoria Police SOCITs.

Refer to the *Child Protection manual*: '[Children in contact with sex offenders – advice](https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/children-specific-circumstances/children-contact-sex-offenders-advice)' <<https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/children-specific-circumstances/children-contact-sex-offenders-advice>>.

## B.4. (Registered Sex Offender) Disclosure provisions

Under s. 42C of the CYFA, Victoria Police may disclose to the Secretary any information contained in a report (received under Part 3 of the SORA) from a registrable offender who indicates they have or have had contact with a child. Child Protection can disclose to Victoria Police information received while performing a function under the CYFA in relation to a child who has or has had contact with a registrable offender.

Under s. 42D(2) of the CYFA, the Secretary or an authorised person may disclose prescribed information about a registrable offender to any person if they believe on reasonable grounds that disclosure of the information is in the interests of the safety and wellbeing of the reported child. This includes parents who are separated and where the non-primary care parent maintains an active and ongoing role in the child's life.

Before disclosing the information, Child Protection or an authorised person must take reasonable steps to notify the registrable offender of the intention to disclose the information, unless telling the

offender would endanger the life or safety of any person. Penalties apply to unauthorised disclosure.

As it is the associated sex offending behaviour that is directly pertinent to the safety of the child, consideration should be given to whether disclosing the history of sex offending is sufficient, or whether it is essential in the particular case to disclose that the person is a registered sex offender.

The above disclosure provisions under s. 42(D) do not apply to reports about an unborn child under s. 29 of the CYFA.

## **B.5. Sex offender monitoring**

It is essential for Child Protection to maintain dialogue with the Victoria Police compliance manager or the SOR whenever a report is received regarding an RSOs contact with children. Upon initiating contact, it is critical to maintain an information sharing feedback loop with the compliance manager or the SOR regarding investigation outcomes and other significant developments.

If during the investigation Child Protection becomes aware that an RSO is having contact with children who were not the subject of the initial report, contact must be recorded as a report by Child Protection and reported to the compliance manager or the SOR.

## **Appendix C: Children absent or missing from care**

Children known to Child Protection, ACAC providers, community service organisations or Aboriginal community-controlled organisations may engage in high-risk behaviours including periods of being absent or missing from care. These behaviours, along with their personal histories of trauma can place children at increased risk of further harm. Children can have chronic episodes of absenteeism that vary in duration. It should never be assumed that a child who has had repeated episodes of absenteeism or being missing, but has always returned to placement, is at a decreased level of risk.

There is a very strong link between sexual exploitation and children and young people who are absent or missing. The following practice considerations are relevant for Child Protection, ACAC providers, Victoria Police and Care Service providers:

- Absent and missing children and young people are considered to be at a greater risk of sexual exploitation and consideration for being reported to Victoria Police as a Missing Person must be given at the earliest opportunity.
- Locating an absent or missing child or young person and returning them to a safe placement should become a priority.
- Consideration must be given to convening a care team meeting as soon as possible following a child or young person being absent or missing.
- Once a child or young person is located, it is important that they are properly debriefed to identify any risks to which they have been exposed.
- The parties will work together to monitor children and young people who go missing or are absent.



## C.1. Missing persons report

A missing persons report (MPR) should only be made to Victoria Police by Child Protection, ACAC provider, community service organisation or Aboriginal community-controlled organisation when the missing persons criteria are met. An MPR is the mechanism through which a Victoria Police investigation is initiated in relation to concerns for a person who is missing. Victoria Police must conduct an investigation into any report of a missing person that meets the criteria below.

A missing person is considered by Victoria Police to be:

- any person reported to Victoria Police whose whereabouts are unknown
- there are fears for the safety or concern for the welfare of that person.

A child's age or vulnerability may put a child into this category.

In the case of a child absent or missing from care, the existence of a Children's Court search warrant does not replace the requirement for Victoria Police to record an MPR where the reporting criteria are met.

The decision to report a child missing to Victoria Police is based on the risk assessment undertaken by Child Protection, ACAC provider, community service organisation or Aboriginal community-controlled organisation in relation to the child concerned. Victoria Police must conduct an investigation into any report of a missing person.

The MPR may be lodged by the parent or caregiver if the child is in their care. If the parent or caregiver does not make the MPR, the Child Protection or ACAC provider must make it by:

- contacting the local police station (by phone or in person) to initiate the Missing Person reporting process
- assisting police with their inquiries and providing a description of the child and the circumstances
- providing the police with a contact name and phone number as well as an after-hours contact
- asking police to inform Child Protection or the ACAC provider when the child is located
- advising police of the Child Protection or ACAC provider's proposed plan and placement for the child when found.

Child Protection or ACAC providers should consider the need for a Children's Court search warrant and the need for police to search premises or to take a child into emergency care when located.

Child Protection or ACAC providers should notify the police immediately if the child is located and provide written confirmation to the police to withdraw the MPR and follow the correct procedure to withdraw a search warrant.

Child Protection or the ACAC provider will liaise with Victoria Police to consider whether to issue a missing persons media release – refer to the *Child Protection manual: 'Missing persons report'* <<https://www.cpmanual.vic.gov.au/policies-and-procedures/critical-incidents/missing-persons-report>>.

Once a decision has been made to issue a media release, information about the child and a photograph is to be provided to the police.



## C.2. Decision to make a missing persons report

The decision to make a missing persons report (MPR) to Victoria Police must be based on a contemporaneous risk assessment of the circumstances of each individual case. The responsibility for conducting the risk assessment lies with Child Protection or ACAC provider.

A concurrent children's court search warrant may also be required if police intervention will be or is needed once the child is found.

When an MPR is taken and a child is located or returns without Victoria Police involvement, Child Protection, ACAC provider, community service organisation or Aboriginal community-controlled organisation must immediately notify the local Victoria Police station or, if unattended, the nearest 24-hour Victoria Police station.

A missing person should only be classified as 'located' after they have been sighted and spoken to by a police member, or there is clear evidence that they are safe, and information has been provided by a person in a position of authority, such as a child protection or ACAC provider or professional involved in the care and protection of the child.

## C.3. Breach of court order

Where a child is absent or missing from a care placement in breach of a court order, but does not meet the missing persons criteria, Child Protection or ACAC provider may provide the following to Victoria Police:

- a warrant empowering Victoria Police to take the child into care
- a copy of the court order and other relevant documents relating to the breach of the order
- a statement relating to the breach of the order.

# Appendix D: Reports to Child Protection

## D.1. Mandatory reporting

Victoria Police are mandatory reporters s. 182(1)(e) CYFA. Mandatory reporters must make a report to Child Protection as soon as practicable after forming a belief on reasonable grounds that a child has suffered or is likely to suffer significant harm as a result of physical injury or sexual abuse, and the child's parents are unable or unwilling to protect the child s. 184 CYFA.

If any doubt exists about whether a mandatory report should be made to Child Protection, Victoria Police members should contact Child Protection intake and seek advice via:

- North Intake            1300 664 977
- South intake            1300 655 795
- East intake              1300 360 391
- West (metro)            1300 664 977
- West (regional)        1800 075 599
- ACHPES                 13 12 78

Failure by mandatory reporters to report a reasonable belief that a child is in need of protection due to physical injury or sexual abuse, is an offence under section s. 184(1) CYFA and may lead to a conviction and a fine being imposed by a court.

## D.2. Non-mandated abuse types

In all situations where Victoria Police members form a belief on reasonable grounds that a child is in need of protection (s. 162 CYFA) they must consider making a report to Child Protection.

A report to Child Protection should be considered in any of the following circumstances:

- emotional abuse and ill treatment of a child impacting on the child's stability and healthy development
- chronic neglect, poor care, or lack of appropriate supervision, where there is a likelihood of significant harm to the child, or the child's stability and development
- chronic family violence or parental substance misuse, psychiatric illness or intellectual disability – where there is a likelihood of significant harm to the child or the child's stability and development
- where a child's actions or behaviour may place them at risk of significant harm and the parents are unwilling or unable to protect the child
- where a child appears to have been abandoned, or where the child's parents are dead or incapacitated, and no other person is caring properly for the child.

Noting s. 162(2) the harm may be constituted by a single act, omission or circumstance or accumulate through a series of acts, omissions or circumstances.

This may include situations where a primary carer of dependent children is in custody and incapable of caring for their child during this period and there is no other suitable person willing or able to care for the child.

If any doubt exists about whether a report should be made to Child Protection, Victoria Police members should contact Child Protection intake to seek advice via:

- North Intake            1300 664 977
- South intake            1300 655 795
- East intake              1300 360 391
- West (metro)            1300 664 977
- West (regional)        1800 075 599
- ACHPES                 13 12 78

## D.3. Report when a child is an alleged offender

Where Victoria Police becomes aware of an alleged offender of physical or sexual abuse is a Child Protection or ACAC client, they must notify Child Protection or the ACAC provider without delay so that appropriate action can be taken.

Victoria Police are advised to refer to the [Framework to reduce criminalisation of young people in residential care \(February 2020\)](https://providers.dffh.vic.gov.au/framework-reduce-criminalisation-young-people-residential-care) <https://providers.dffh.vic.gov.au/framework-reduce-criminalisation-young-people-residential-care>. While this document is specifically in relation residential care, any young person who has been impacted by trauma may present with risk-taking behaviours, such as self-harm, aggressive or sexualised behaviours, substance abuse and other activities that place them, or others, at high risk.

Where possible, police should use their discretionary powers as an alternative to criminal charges. This includes consideration of issuing a warning, a child caution or supporting an application for diversion, unless the behaviour will lead to immediate and substantial risk of harm to the child or others.

The most effective interventions for young people displaying behaviours of concern are therapeutic.

## D.4. Report on forced marriage

Child Protection may receive a report relating to the forced marriage of a child or may identify forced marriage as a protective concern during their involvement. Unless there is compelling evidence of safety, the report will be classified as a protective intervention report and will be investigated.

The Australian Federal Police (AFP) typically investigate complaints of forced marriage, or they request the assistance of Victoria Police to lead investigations or assume responsibility for certain tasks.

When Child Protection receives a report regarding allegations of forced marriage or becomes aware of this during their involvement, they will contact Victoria Police to establish whether the AFP or Victoria Police will lead the police investigation and then liaise with that agency.

Refer to the *Child Protection manual*: '[Forced marriage – advice](#)'

<<https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/children-specific-circumstances/forced-marriage-advice>>.

## D.5. Report when the child is an existing Child Protection or ACAC client

When Victoria Police interview a child who is a client of Child Protection or an ACAC provider, and they require the child to appear in court as a victim or witness, Victoria Police must advise Child Protection or the ACAC provider.

Where an ACAC provider has the authorisation in relation to a child, Victoria Police can contact the provider directly. If in doubt, contact Child Protection who will advise if there is an open case in relation to the child with Child Protection and/or if an ACAC provider is involved.

## D.6. Reports of alleged offending members or employees

### D.6.1. Child Protection practitioner

In circumstances where Victoria Police receives information that a child is likely to or has been placed at risk due to abuse or neglect and the alleged offender is a child protection practitioner (employed by the department), Victoria Police must report the matter by [emailing the Office of the Principal Practitioner](#) <[officeofprofessionalpractice@dffh.vic.gov.au](mailto:officeofprofessionalpractice@dffh.vic.gov.au)>.

### D.6.2. ACAC case manager

In circumstances where Victoria Police receives information that a child is likely to or has been placed at risk due to abuse or neglect and the alleged offender is an employee of the ACAC

program, Victoria Police must report the matter to the Chief Executive Officer of the ACAC provider listed below.

- VACCA (Nugel program): 03 9287 8800
- BDAC (Mutjang Bupuwingarrak Mukman program): 03 5442 4947.

### D.6.3. Victoria Police member or employee

In circumstances in which Child Protection or ACAC providers receives information that a child is likely to or has been placed at risk due to abuse or neglect and the alleged offender is an employee of Victoria Police, the matter must be reported to Professional Standards Command.

The Police Conduct Unit, within Professional Standards Command, receives reports of police corruption, misconduct or improper conduct and is located at Level 36, 311 Spencer Street, Docklands, 3008. Contact or reports can be made by:

- using the online [complaint form](https://www.police.vic.gov.au/complaint-form) <<https://www.police.vic.gov.au/complaint-form>>
- telephoning 03 8335 6001
- emailing [Professional Standards Command](mailto:PSC-Policeconductunitcomplaintsandcompliments@police.vic.gov.au) <[PSC-Policeconductunitcomplaintsandcompliments@police.vic.gov.au](mailto:PSC-Policeconductunitcomplaintsandcompliments@police.vic.gov.au)>.

Professional Standards Command also has a Sexual Offences and Family Violence Unit (SOFVU) which investigates allegations of family violence, sexual offences, serious sexual harassment or predatory behaviour made against Victoria Police employees. For advice or information, SOFVU can be contacted via:

- emailing [SOFVU](mailto:PSC-SOFVU-OIC@police.vic.gov.au) <[PSC-SOFVU-OIC@police.vic.gov.au](mailto:PSC-SOFVU-OIC@police.vic.gov.au)>
- telephoning 03 8335 6700
- ordinary mail at Victoria Police Centre, GPO Box 913, Melbourne, VIC 3001.

Additionally, a report can be made at any police station and the Victoria Police member is required to ensure that the matter is referred to Professional Standards Command.

### D.6.4. Foster, kinship or residential care

Care services, including foster care, kinship care or residential care, are provided to children subject to Child Protection intervention who are unable to reside with their immediate family. These services are provided by accredited foster carers, approved kinship cares or paid residential staff through DFFH, ACAC providers, community service organisations or Aboriginal community-controlled organisations.

Where allegations of possible physical abuse, sexual abuse or serious neglect have been made about a carer, Victoria Police must be advised, regardless of whether the child victim wants to make a statement or not and the report must be recorded in CRIS. Victoria Police will determine if they will take further action in response to the allegation. It is expected the service provider's investigation will be put on hold until police advise it is appropriate to proceed.

All powers and functions relating to quality-of-care concerns remain with the Secretary.

## D.7. Reporting criminal offences to Victoria Police

Child Protection or ACAC providers must inform the police, at the point of intake or if a new report is received, that a child has been physically or sexually abused or is suffering from serious neglect for the purpose of undertaking joint planning of an appropriate response. Police must be notified prior to Child Protection visiting any parties or directly commencing or continuing their investigation.

In cases where the details of the extent of the abuse is unclear, Victoria Police supervisor will consider whether their attendance is required. Victoria Police may request that Child Protection or the ACAC provider visit the family to conduct the investigation and then re-contact the police to discuss the concerns in greater detail to establish whether a criminal investigation is required.

Information sharing should continue in these circumstances. While conducting the initial investigation, if Child Protection or the ACAC provider receives additional information (for example, a disclosure is made by a child that indicates a possible criminal act has occurred) consideration must be given by the child protection practitioner or ACAC case manager to whether they continue with the interview or contact the police immediately, to allow them to participate in the interview.

The decision is based on the child's best interests. If it is likely the child will not disclose further information if the interview is terminated, the interview and seeking information should continue, and the police should be advised as soon as possible afterward.

Victoria Police is responsible for determining an appropriate response to an alleged criminal offence. In all cases, Victoria Police must ensure compliance with the Victims' Charter Act.

Child Protection or ACAC providers and Victoria Police must take care to ensure that they do not make commitments, agreements or arrangements about the likely actions or role of the other agency.

## D.8. Requesting assistance from Victoria Police

Requests via Triple Zero (000) should only be made when matters are urgent or have the potential to escalate and require an immediate police response.

Where there is a risk of physical violence, or other circumstances that dictate the need for Victoria Police presence, Child Protection or ACAC providers (where a child has been authorised) may request Victoria Police assistance. The timing and level of Victoria Police assistance required will be assessed by a supervisor (sergeant or above) and provided where appropriate.

A criminal records check and L17 Portal Search may be conducted prior to client contact to assist in information gathering to determine whether any worker safety issues need to be considered prior to an outreach visit.

Child protection or the ACAC provider can also ask police (including the local uniformed general duties police) if they are aware of any safety issues for Child Protection or ACAC providers attending a client's home, for example recent police attendance at the house, warnings about firearms, warrants and intervention orders.

In cases where the risks are deemed to be a level where the client cannot or will not attend the office, but there is a statutory requirement to visit the client, police assistance might be required. To request police assistance for a planned home visit, Child Protection practitioners or ACAC providers should first contact their local SOCIT or general duties police, unless otherwise arranged by police.

The timing and level of assistance required will be assessed by the police and provided where appropriate.

The police may elect to conduct a joint visit or other arrangements may be made, such as police presence outside the home or office as a safety measure, agreements to call Triple Zero (000) or the local general duties or SOCIT for an immediate response.

When Child Protection or the ACAC provider require the assistance of Victoria Police to transport a child to or from a secure welfare service, Victoria Police to ensure:

- the child's safety when there is concern the child may go missing
- the worker's safety.

Child Protection or the ACAC provider should consult with the local police to discuss transport arrangements and any possible assistance. Early notification is imperative to allow Victoria Police to arrange transportation.

The CYFA provides that when a child is removed from secure welfare service by a member of the police force to be brought before the court in compliance with an order under s. 530(5) the child is, during the time of removal, deemed to be in the legal custody of the member of the police force.

For any disputes see section 9 'Dispute resolution' or section 10 'Unresolved disputes procedure'.

## Appendix E: Investigations

### E.1. Joint investigations

A joint investigation occurs when Child Protection or the ACAC provider and Victoria Police are engaged simultaneously in discharging their respective responsibilities.

Where a child has been authorised to an ACAC provider, the ACAC provider can investigate any new familial or non-familial allegation requiring a joint investigation with Victoria Police.

Timelines for conducting criminal investigations and protective investigations are often lengthy due to the complexity involved in undertaking such investigations. However, the parties should endeavour to conduct their respective investigations in a timely manner, taking into consideration the safety and wellbeing of the child and the parents' right to a timely resolution of the matter.

It is important to seek and share information relevant to the protection of the child or the investigation of criminal proceedings or family violence risk management. Each agency is to keep the other informed of their current and proposed actions.

If, after a joint investigation, there is insufficient evidence of criminal acts or behaviour, police involvement will usually cease. In some cases, the particular circumstances of an investigation may necessitate Victoria Police remaining involved in some capacity, even if only advisory.

Specialist investigators from SOCIT or FVIU should be involved in any joint investigation in the first instance. If the matter is urgent, Victoria Police general duties members may be involved in a joint investigation, with uniform policing supervisor involvement in planning the response.

If at any point during the investigation process Victoria Police decides not to proceed with further enquires/interviews this intent must be communicated to Child Protection or ACAC provider and the decision recorded by both parties.

## E1.1. Investigation planning

Child Protection and Victoria Police or the ACAC provider and Victoria Police must have contact with each other to plan the joint investigation. Such planning ensures a quality criminal and protective response takes into account the best interests of the child and the collection and presentation of the best available evidence.

The effectiveness of the joint response between the parties is critical in ensuring the best interests of the child are met. The importance of co-ordinating, planning and information sharing in relation to a joint investigation cannot be understated and should occur promptly.

Joint planning for the investigation and interviewing of the child should be based on the principles of:

- maximising the child's safety and wellbeing
- maximising the opportunities for collection of evidence
- minimising the number of times a child is interviewed.

Planning should occur throughout the investigative process. Planning requires flexibility to meet the changing developments during the investigation. It can be undertaken over the phone or via a meeting, depending on the urgency and complexity of the situation. It is important for both agencies to take into account relevant protocols with other agencies when planning an investigation. As part of joint investigation planning, Child Protection or ACAC provider and Victoria Police must give consideration to any third parties and relevant service agencies (schools and childcare agencies) that may need to be interviewed.

A record of the outcome of the planning process and decisions made must be recorded on the relevant case file or investigation management systems of Child Protection or ACAC provider and Victoria Police.

## E.1.2. Matters to consider for joint investigations

### Interview

- Who will be interviewed and in what order.
- Who will lead the interviews. To reduce the need for the child to experience multiple interviews and interviewers, interviews should involve only one police member and one child protection practitioner or ACAC case manager.
- Person(s) to be interviewed.
- When the alleged offending parent /non-offending parent should be interviewed.
- Whether parents or caregivers will be interviewed separately – for example where family violence is an issue.
- Whether the non-offending parent will be informed prior to the interview of the child or after the interview of the child. Children should not be interviewed without the prior knowledge of the parents except in exceptional circumstances. Where an interview occurs without the parent's prior knowledge, the parents should be informed as soon as possible.
- Aspects each agency will cover in the interview.
- What method will be used to document the interview.
- Who will take the record of interview.
- Agreement at termination of interview (to prevent either party jeopardising the other's role).



- Appropriateness of uniform or plain clothes for Victoria Police.

### **Reported concern**

- Nature of abuse/maltreatment reported, including the effects of cumulative harm.
- Previous Child Protection, ACAC or Victoria Police involvement with the family as it relates to the reported concerns and cumulative harm considerations.
- Previous risk assessments.
- What information is required and from whom can it be obtained.
- Previous MARAM assessments and safety plans from partner agencies.
- Previous Family violence (L17) reports.
- Police checks revealing previous adverse history.

### **The child**

- The child's chronological age and developmental stage the child has reached, considering the child's cognitive, linguistic, emotional, social, sexual, physical and other development. Whether the child has a disability or mental health need and what this means in context of an interview and support during or post the interview by other professionals.
- Child's current state of mind.
- Presence of special factors arising from the child's cultural, religious background or a language other than English (a child should be interviewed their first language except in the most exceptional circumstances with an independent interpreter).
- Support person for the child during the interview.

### **The venue**

- Interviews may occur in the family home, or other location, such as a school, childcare centre, hospital or police station
- Where a child must be interviewed at a school or childcare/early education centre, the school principal or childcare/early education manager should be contacted by the child protection practitioner or ACAC case manager to arrange the interview. A member of the staff may be present during the interview to support the child.
- The interview should be conducted in a child-friendly and safe environment.

### **Timing**

- The time of day that will promote the best outcome, taking into account the child's normal routine and length of interviews (i.e., a number of parties requiring interview may lead you to decide that the interviews need to occur early in the morning).
- Negotiation between Child Protection or the ACAC provider and the police regarding the timing of the investigation should be based on the principle that the child's best interests are paramount. If the matter requires urgent attention, and one agency is unable to attend within the arranged time frame, subject to further negotiation either service can attend without the other.
- Where the police request the joint investigation be deferred, the child protection practitioner or ACAC case manager has a responsibility to assess the likely impact of a delay on the child and to advise the police accordingly. In cases where the child protection practitioner or ACAC case manager decides immediate protective intervention is required, and a delay is not acceptable, they must inform the police of this decision and of the nature of the protective intervention considered urgent.



- If a dispute arises regarding the timing of an investigation, refer to the dispute resolution model in section 9.

### Further evidence gathering

- Visual and audio recorded evidence (VARE) is an electronic recoding of a statement taken from a child witness to/victim of a serious offence. It involves a qualified investigator and appropriate facilities or equipment being available, replacing the need to take a written statement. It may not be suitable to take a VARE statement at the time of the initial disclosure interview, therefore planning for taking a VARE needs to be included in Child Protection or ACAC provider response actions.
- Assessment of need and timing of a forensic medical examination or medical examination.
- For Child Protection or ACAC providers there is a requirement to conduct a visual examination of the child if injuries are apparent.

Note: This list does not necessarily cover every aspect that may arise with an investigation and investigators should not limit themselves only to the matters on this list. Child protection practitioners and ACAC case manager should refer to the *Child Protection manual*:

- '[Investigation planning – advice](https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/investigation/investigation-planning-advice)' <<https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/investigation/investigation-planning-advice>>
- '[Joint visits with police – advice](https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/investigation/joint-visits-police-advice)' <<https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/investigation/joint-visits-police-advice>>.

## E.2. Interviews

### E.2.1. Interviewing the child

The lead for the interview is most often based on which agency will have investigation primacy, an ongoing relationship with the child or some other influencing factor. Where the child protection practitioner or ACAC case manager is deemed to have a better chance of engaging with a child and eliciting a disclosure, then they should be afforded every opportunity to do so and lead the interview process. However, if that disclosure related to a criminal investigation that will lead to a VARE statement being taken from the child, then Victoria Police members must be introduced into the relationship with the child at the earliest opportunity. It is preferable to have a disclosure that can be investigated by Victoria Police, regardless of who obtains it, rather than no disclosure at all.

There are three main stages when interviewing a child:

- introduction and rapport building
- free narrative opportunity and questioning
- termination and closure.

The interview should be accurately and fully recorded in writing by one party and the accuracy of record confirmed by both parties. The notes are then considered common and must be made available to both Victoria Police and Child Protection or ACAC provider and can be used, by either party, in any subsequent legal proceedings.

In some circumstances a child may not wish to be the subject of a Victoria Police interview and investigation. Information obtained by a reporter, who may be the child, may provide compelling information to support that the child has been the subject of abuse. Child Protection or the ACAC

provider must report this information to Victoria Police as soon as possible and Victoria Police must undertake further investigation, despite the lack of a formal statement by the child.

As part of a criminal investigation, Victoria Police will obtain a formal statement of complaint from the child. This will generally be in VARE format but may be in writing and may occur during the initial joint interview or separately at another time. If a written statement of complaint is being taken and the child protection practitioner or ACAC case manager is present, they should not question the child or initiate discussion with the child while the statement of complaint is being taken, unless requested to do so by Victoria Police. While counselling and support should be offered to the child, disruption to the flow of the interview should be avoided.

## E.2.2. Interview of non-offending parent or caregiver

In cases where child safety risks arise in the context of a police response to family violence, uniform (frontline) police are likely to be first responders and will be completing the family violence risk assessment reports (L17) and making a notification to Child Protection. The uniform police response will generally be recorded using body worn camera (BWC) and adult parties impacted by family violence are likely to have their statement recorded on a BWC, pursuant to digitally recorded evidence in chief (DREC).

It is important not to make pre-emptive assumptions about a non-offending parent. Where a parent is not subject to investigation by Victoria Police, an assessment of their capacity to protect and support the child is required. In cases where the offender is also a family member, police will complete a family violence risk assessment (L17) and ensure child safety is considered for each child in the family.

The role of the non-offending parent should be the subject of discussion between Victoria Police and Child Protection or ACAC provider in open cases, as part of the joint investigation plan to determine whether they should be advised prior to the interview of their child, be asked to attend the interview with their child, or be advised following the interview of their child. Information around family violence risk for the non-offending parent is also to be incorporated into the family violence risk assessment and safety planning.

Prior to interviewing the child, the non-offending parent should be informed of the proposed interview except in circumstances where:

- it is not possible to identify a non-offending parent
- there are reasonable grounds for believing that the non-offending parent may notify or collude with the alleged offender and compromise the interview process
- it would be detrimental to the criminal or protective investigation.

If the non-offending parent has not been present for the interview with their child and a joint investigation is to continue, Child Protection or the ACAC provider and Victoria Police should both interview the non-offending parent where practicable. The interview should be recorded by Victoria Police as a signed statement, if appropriate.

If Victoria Police is not present during this interview Child Protection or the ACAC provider should brief Victoria Police on the outcome. Additional information subsequently obtained by Child Protection or the ACAC provider concerning alleged abuse of a criminal nature is to be immediately reported to Victoria Police and documented. A signed statement by the relevant child protection practitioner or ACAC case manager is to be provided within seven days, if requested by Victoria Police.

Additional information subsequently obtained by Victoria Police concerning the child's safety or wellbeing is to be immediately reported to Child Protection or the ACAC provider and documented.

### E.2.3. Interviewing siblings or other children in the household

As part of joint investigation planning, consideration must be given to interviewing other children who reside or regularly stay in the household where the abuse is alleged to have occurred. This may include siblings or other children in the care of either parent or caregiver. Consideration must also be given to other children in the care of the alleged offender or with whom the offender has contact.

Where a sibling or another child makes a disclosure to Victoria Police, the same processes apply to the role of Victoria Police and Child Protection or ACAC provider in relation to taking a statement of complaint and the VARE procedures.

Risk assessments and safety planning must continue to take place as additional and new information is obtained during the interviews of the other household members.

### E.2.4. Interviewing other parties – witness/evidence

An investigation may identify other information holders relevant to the alleged abuse.

Discussion needs to occur between Child Protection or ACAC provider and Victoria Police regarding who will take the lead in pursuing further information. For example, if the investigation indicates that a third party may have witnessed the assault or have evidence of the assault (for example, photos), it would be appropriate for Victoria Police to pursue this. If the investigation indicates that a third party may have information on a parent's behaviours such as consumption of alcohol that relates to the reported concerns not in relation to criminal concerns, it would be appropriate for Child Protection or ACAC provider to pursue this.

### E.2.5. Interview of the alleged offender

Child Protection or the ACAC provider will have contact with the alleged offender as part of their protective investigation. Contact with the alleged offender should be included in the joint investigation plan.

Discussions with Victoria Police must occur regarding how contact by Child Protection or ACAC the provider with the alleged offender can be managed without jeopardising the criminal investigation and with consideration to worker safety.

The Victoria Police interview of the alleged offender as part of a criminal investigation, will not ordinarily involve Child Protection or ACAC providers.

Victoria Police should keep Child Protection or the ACAC provider informed regarding the progress of the criminal investigation, including compliance with bail conditions where this has an impact on the protective investigation. If information is required to progress their protective investigation, Child Protection may request that Victoria Police provide an update on the progress of the criminal investigation.

### E.3. Child witness service

The Child Witness Service (CWS) is a specialist service that supports any child or young person under the age of 18, who is a victim or a witness that is required to give evidence in court in a matter involving a crime against a person (generally assault related). The service is available to child witnesses that may be called by either the prosecution or the defence in indictable and summary matters.

Priority assistance may be provided where a client:

- is under 11 years of age
- has little or no familial or professional support
- is extraordinarily anxious, or has an extremely anxious parent or carer
- has significant mental health issues
- is Aboriginal, from a CALD background, cognitively or physically impaired, or is homeless or at risk of homelessness, or
- is a witness or complainant in proceedings:
  - related to sexual assault or family violence
  - for crimes involving a high level of violence
  - that are heavily dependent on the young person's testimony, or where testifying may be humiliating, distressing, or deeply embarrassing for the child or young person.

Referrals to the CWS can be received from government agencies, legal professionals, community service agencies or through self-referrals. Most referrals come from Victoria Police or the Office of Public Prosecutions Victoria. The protocol between CWS and Victoria Police includes a timeframe for referral (within seven days of charges being laid). CWS supports child/young witnesses throughout the court process and timely referrals are important to allow adequate preparation time.

Victoria Police should advise Child Protection or ACAC provider if a child who is subject to Child Protection involvement is required to appear before a court as a victim or witness in a criminal case and whether a referral to the CWS has been made.

### E.4. Visual and audio recorded evidence

Visual and audio recorded evidence (VARE) recordings are made pursuant to Division 5, Part 8.2 of the Criminal Procedure Act. In arranging the timing of a VARE interview, the safety and wellbeing of the child should be given due consideration by both parties.

Child protection practitioners or ACAC case managers should be present during the VARE interview process and take notes from the monitoring room. Under current legislation, child protection practitioners or ACAC case managers are not permitted to view the VARE recording after the interview is completed.

The legislation does not allow a Child Protection practitioner to ask any questions during the recording of a VARE statement.

Child Protection practitioners should be encouraged to raise any matters with the interviewing Victoria Police members during breaks in the interview.

Any questions put to the witness by a Child Protection practitioner must be at the conclusion of the formal interview and off camera. These questions should be fully documented.

If Victoria Police charges a person, a transcript of the recording will be made. Child Protection may request a copy of the transcript for the purpose of the Child Protection investigation and any subsequent court proceedings. Where Child Protection establishes a need for such information, Victoria Police may provide Child Protection with a copy of any transcript made for criminal proceedings.

VARE recordings may be admitted into evidence in Children's Court proceedings at the discretion of the presiding magistrate, pursuant to s. 215(1)(d) CYFA, which permits the court to 'inform itself on a matter in such manner as it thinks fit, despite any rules of evidence to the contrary'. Courts (and tribunals) can issue subpoenas and orders that require Victoria Police to make a copy of the VARE recording available for its use in a protection application or other related matters.

### E.4.1. Requests for information from body-worn cameras and tablet computers

Child Protection or ACAC providers can request information obtained from body-worn cameras and tablet computers used by police officers under the Surveillance Devices Regulations 2016. These Regulations are made under s. 37A of the Surveillance Devices Act.

Victoria Police can share this information with Child Protection or ACAC providers for two purposes:

- disclosure to the Secretary DFFH for the purpose of investigating whether a child is in need of protection as described in s. 162 CYFA
- mandatory reporting under s. 184 CYFA.

The regulations also allow for access to information obtained from body-worn cameras and tablet computers used by police officers at the point of protection applications and for other court hearings.

These regulations may be used in the following situations:

- police intervention that leads to a protection application or the breach of an order and the information caught by police on BWC or tablet computer is relevant evidence to the case
- if police attend an incident with or without Child Protection or ACAC provider regarding a matter before the court and the information caught by police on BWC or tablet computer is relevant evidence to the case.

To access information caught by BWC or tablet computer, a request must be placed with the attending officer.

## E.5. Forensic and medical evaluations

The welfare of the child or young person is paramount when planning either a medical or forensic examination. Child Protection or the ACAC provider and Victoria Police must liaise regarding the type of assessment required to ensure that the examination undertaken is appropriate and to avoid multiple examinations of the child.

There is a difference between a forensic examination and a medical examination.

### **Medical assessment**

A medical examination is performed to identify and meet the general medical requirements of the child. Most doctors are able to perform medical examinations. The medical assessment is arranged by Child Protection or the ACAC provider.

### **Forensic assessment**

A forensic examination is performed to gather information and evidence for criminal or other court proceedings, including a protection application in the Children's Court. Most paediatricians and doctors who are trained and skilled in evaluating child abuse are able to perform combined forensic and medical examinations. All Victorian Forensic Paediatric Medical Service doctors can provide forensic medical evaluations.

A forensic examination may assist in identifying type and nature of injury, medical opinion as to whether the injury is accidental or non-accidental, possible cause of injury and evidence collection. The timing and the need for a forensic examination needs to consider a range of factors including:

- child's age, stage of development
- the alleged abuse
- disclosure by the child, or other party
- any observable injury to the child of unknown or questionable origin
- frequency and recentness of the abuse.
- the likelihood of an injury (not observable) or evidence being present based on the investigation process
- role of the parent(s).

It is important to ensure that the absence of a disclosure or visible injury does not preclude a forensic assessment being required. This is of particular consideration for concerns regarding sexual abuse and physical abuse where injury and or evidence may be unable to be observed.

### E.5.1. Cases where the type of assessment is unclear

Child Protection or ACAC providers and Victoria Police should consult with the Victorian Forensic Paediatric Medical Service (see below) to assist in determining the type of assessment required and arrangements for a forensic assessment. In cases where there are no clear criminal concerns present, but protective concerns exist, Child Protection or ACAC providers, following consultation with the Victorian Forensic Paediatric Medical Service, may still pursue a forensic assessment.

Child Protection or ACAC providers should inform Victoria Police of the outcome of any consultation, and any information arising from the forensic or medical assessment.

### E.5.2. Victorian Forensic Paediatric Medical Service

The Victorian Forensic Paediatric Medical Service is a statewide coordinated medical service providing assessments and care for abused, assaulted and neglected children.

The service provides:

- 24-hour access to medical expertise for the evaluation of all types of suspected child abuse including physical injuries, neglect, child sexual abuse and paediatric evaluation of children at risk of child abuse and neglect
- 24-hour telephone advice and consultation.

Where Victoria Police, Child Protection or an ACAC provider require a forensic medical examination between Monday and Friday during business hours, requests for service should be directed to the Victorian Forensic Paediatric Medical Service in Metropolitan Melbourne on **1300 66 11 42**.

Advice and consultation as to the timing, location and need for a forensic examination is available 24/7 on the above number. There are local doctors authorised to provide a service to the Victorian



Forensic Paediatric Medical Service in rural areas. Practitioners should ring the hospital switchboard in the rural area and ask for the paediatrician on call.

Alternatively, direct contact may be made with the nurse unit managers during business hours at:

- Royal Children's Hospital: 03 9345 4299
- Monash Medical Centre: 03 8572 3215

Where a Victorian Forensic Paediatric Medical Service medical practitioner is not available for a service, the Victorian Forensic Paediatric Medical Service will arrange for advice to be given by an appropriate medical practitioner and recommend a suitable local practitioner to provide the service required.

Visit the [Victorian Forensic Paediatric Medical Service website](https://www.rch.org.au/vfpms/) <https://www.rch.org.au/vfpms/> for more information.

Requests for copies of photographs may be made via this site.

### E.5.3 Consent for examination

Prior to a medical or forensic examination of a child being conducted, written consent should be provided by the child's parents wherever possible. If the child is of an age and level of maturity to do so, the consent may be provided by the child. All decisions and actions being made for children must be made in the child's best interests. Whenever a child requires a medical examination, treatment, surgery or admission to hospital, parents should be informed, consulted and involved as appropriate and required by the law.

In the case of a medical or forensic examination of a child who has been taken into emergency care or is subject to an interim accommodation order placing them out of parental care, a family reunification order, a care by Secretary order, a long-term care order, or a therapeutic treatment (placement) order, consent can be provided by a child protection practitioner or ACAC case manager with case planning responsibility.

The child's doctor will obtain legal and informed consent by discussing the procedure with, and obtaining consent directly from, the child's parent or guardian, or from Child Protection or the ACAC provider.

The medical examination report must be made available to Victoria Police and Child Protection or ACAC providers.

## E.6. Actions arising from a joint investigation

Child Protection or the ACAC provider and Victoria Police must consult following the completion of a criminal and protective investigation to ensure any actions and responses by both organisations are fully understood and are considered in future planning for the child. If any concerns are held regarding an organisation regarding the actions taken or not taken by the other, normal dispute resolution mechanisms apply (for dispute resolution process refer to section 9 of this protocol).

### E.6.1. Removal of offender

The most important consideration at every stage of any joint investigation must be the safety of the child. Decisions regarding the protection of the child are the responsibility of Child Protection or ACAC provider (where a child has been authorised) but must be made in consultation with Victoria

Police. Action by Victoria Police in relation to criminal matters, particularly bail hearings and responses to family violence, will be relevant to the protection of the child. A collaborative approach to the protection of the child is essential.

Where it is alleged abuse has occurred within a family and separation is needed to ensure safety, every effort should be made to remove the alleged offender from the home rather than the child (Victoria Police Members should refer to the most recent edition of the [Code of Practice for the Investigation of Family Violence](https://www.police.vic.gov.au/code-practice-investigation-family-violence) <<https://www.police.vic.gov.au/code-practice-investigation-family-violence>>).

This may be achieved by:

- an intervention order
- bail conditions
- an interim accommodation order, family preservation order or family reunification order with conditions.

In circumstances where Victoria Police does not have grounds for removing the offender from the home, the safety of the child must be considered. Removal of the child from the home may be appropriate in these circumstances to ensure ongoing safety if the alleged offender does not agree to leave the home.

## E.6.2. Issuing a protection application

Child Protection and Victoria Police are authorised by the CYFA to issue a protection application and take a child into emergency care.

Child Protection has the primary responsibility for making a protection application and taking a child into emergency care. However, when an emergency response is required or where a protective intervener is satisfied on reasonable grounds that a child is in need of protection (s. 240 CYFA) and it is not possible for Child Protection to take immediate action, police are authorised by legislation (s. 241) to take a child into emergency care, with or without a search warrant.

Police will notify Child Protection by telephone as soon as the child is removed from danger. Child Protection then takes responsibility and arranges for the matter to be brought before the court within the statutory timelines.

## E.6.3. Bail justice

When a child is placed into emergency care by a protective intervener and the matter is unable to be brought before the Children's Court within 24 hours, an out of sessions court hearing before a bail justice must occur (s. 242(3) CYFA). Parents must be informed of their right to appear before a bail justice for an interim accommodation order hearing if their child is removed from their care.

If Victoria Police are involved in relation to criminal matters, there is a need for coordination and consultation between Child Protection or the ACAC provider and Victoria Police to ensure relevant evidence is provided to the bail justice. If Victoria Police have concerns about the disclosure of certain evidence to the bail justice by Child Protection or the ACAC provider they should raise those concerns with Child Protection or the ACAC provider and both parties should consider obtaining legal advice, noting that all decisions must be made in the best interests of the child.



## E.6.4. Decisions arising from Victoria Police investigation

The following shall apply in relation to decisions arising from a Victoria Police investigation:

The decision to lay criminal charges is determined by Victoria Police and will depend on the outcome of the criminal investigation.

Victoria Police will inform the parties of the outcome of the Victoria Police investigation (in compliance with the Victims' Charter Act) after consultation with Child Protection or ACAC provider. This will be done in the presence of the child's parent, guardian or independent third person (carer).

Irrespective of the outcome of any criminal investigation by Victoria Police, Child Protection or the ACAC provider will undertake its own protective investigation to determine any further action required.

## E.6.5. Offences under CYFA relating to the protection of a child

### Failure to protect children from harm and leaving a child unattended

Sections 493 and 494 of the CYFA pertain to offences for failing to protect a child from harm and leaving a child unattended. Before proceeding with charges against parents or caregivers, Victoria Police are required to consult with the Secretary under ss. 493(2) and 494(2)(b) of the CYFA.

Child Protection procedures require the case to be referred to the Chief Practitioner, Office of Professional Practice, who will review and provide advice. Upon this being completed, the Secretary's delegate will provide a formal response to Victoria Police.

Refer to *Child Protection manual*: '[Child found unattended at home – advice](https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/critical-incidents/child-found-unattended-home)'

<<https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/critical-incidents/child-found-unattended-home>>.

### Harbouring and no contact provisions

Sections 495 and 497 of the CYFA respectively pertain to offences for harbouring and concealing a child or having contact with a child without lawful authority or excuse.

Though not exclusively, provisions under ss. 495 and 497 are frequently utilised to protect a child from sexual exploitation and/or to prosecute perpetrators for (non-sexual) offences.

Child Protection procedures for s. 497(1)(c) require the Secretary DFFH (Child Protection) to issue a notice of instruction to the person who is not to have contact with the child.

Refer to *Child Protection manual*: '[Sexual exploitation](https://www.cpmanual.vic.gov.au/policies-and-procedures/children-specific-circumstances/sexual-exploitation)' <<https://www.cpmanual.vic.gov.au/policies-and-procedures/children-specific-circumstances/sexual-exploitation>>.

### Counsel or induce a child to be absent

Sections 496 of the CYFA pertains to offences for counselling or inducing a child to be absent without lawful authority.

Before proceeding with charges Victoria Police are required to consult with the Secretary under s. 496(6) of the CYFA. Upon this being completed, the Secretary will subsequently provide a formal response to Victoria Police.

Delegated Secretary functions for s. 496(6) are team manager and above.

When considering laying charges under ss. 495–497, Victoria Police will forward a brief report of the circumstances to the appropriate manager, Child Protection.

The team manager, Child Protection will conduct an investigation of the ramifications for the child and family of the charge and reply in writing to Victoria Police within 14 days indicating their opinion regarding the prosecution. The Victoria Police report is to remain confidential and is not to be copied or reproduced.

The decision to prosecute rests with Victoria Police.

## Appendix F: Family violence

Child Protection and Victoria Police are prescribed organisations under the Multi-Agency Risk Assessment and Management (MARAM) framework and are required to use MARAM as part of their risk assessment to develop a risk rating and risk management plan for families affected by family violence. MARAM requirements are embedded into the SAFER child framework used by child protection practitioners in Victoria.

The Victoria Police response to an investigation of family violence is guided by the Code of Practice for the Investigation of Family Violence, the Family Violence Protection Act and the *Victoria Police manual*. Victoria Police action will be consistent with the Victoria Police Code of Ethics and Code of Conduct.

Victoria Police members will make an assessment of risk for any child or young person who is present, has witnessed or has been affected by an incident of family violence. Action taken may include laying criminal charges, applying for a family violence intervention order, or making formal referrals to specialised family violence services.

The Family Violence Protection Act empowers Victoria Police to issue a Family Violence Safety Notice (FVSN). A FVSN may include similar conditions to an interim family violence intervention order. Section 24(b) Family Violence Protection Act allows the FVSN to be valid for 72 hours.

Where there is an immediate threat to the victim or any children, police issue a FVSN which immediately places temporary conditions on the perpetrator whilst initiating an application for a Family Violence Intervention Order. A FVSN is not a suitable protection for the victim when the perpetrator is:

- under 18 years
- cognitively impaired
- subject to orders made by Child Protection or under the Commonwealth Family Law Act that is inconsistent with the conditions that Victoria Police would impose on the FVSN
- subject to an existing FVSN protecting the same victim.

A FVSN cannot be used when the respondent is a child.

## F.1. Intervention orders

### Physical or sexual abuse

Children's needs may be quite different from those of their parent. Victoria Police will assess the best interests of children independently of those of a parent seeking an intervention order.

When a child has been physically or sexually abused by a family member, Child Protection may file a protection application under the CYFA. If the child is already subject to an interim accommodation order or a protection order, Child Protection or the ACAC provider (where a child has been authorised) will make a decision on whether to apply to vary or breach the order (where this is possible). This application will form part of the overall case management of the child and the family.

Victoria Police may also consider the need to apply for an intervention order on behalf of the child and this decision should be made in consultation with Child Protection. In certain circumstances, Child Protection may also apply for an intervention order on behalf of the child or young person.

### Child sexual exploitation

To prevent a confirmed perpetrator of CSE having further contact with the child victim, Child Protection or Victoria Police may apply for a family violence intervention order (FVIO) or a personal safety intervention order (PSIO) on behalf of the child.

Often complementing a broader and collaborative disruption strategy, victim consent may not be required to obtain the IVO. Refer to *Child Protection manual*: '[Sexual exploitation – advice](https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/children-specific-circumstances/sexual-exploitation-advice)' <<https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/children-specific-circumstances/sexual-exploitation-advice>>.

### Family violence

In family violence cases, where the parent who is the adult victim and the child are not at significant risk of ongoing family violence, Child Protection or ACAC provider (where the child has been authorised) may not file a protection application or other application to the Children's Court. However, in these cases, Victoria Police should still conduct a risk assessment and consider applying for an intervention order on behalf of children, if the children are unable to be included on the application for the parent and there are concerns for their safety and welfare. In this case, Victoria Police members should consult with Child Protection or ACAC provider to ensure that these actions are incorporated in the overall case management of the child and/or family and where appropriate, request that Child Protection or ACAC provider support the Victoria Police application.

Members should refer to the appropriate sections in the most recent edition of the [Code of Practice for the Investigation of Family Violence](https://www.police.vic.gov.au/code-practice-investigation-family-violence) <<https://www.police.vic.gov.au/code-practice-investigation-family-violence>>.

As prescribed Information sharing entities under Part 5A of the FVPA, Child Protection and ACAC providers can request copies of intervention orders under Part 5A of the Family Violence Protection Act via the Melbourne Magistrates Court.

## F.2. Risk assessment and risk management reports – L17

The Victoria Police Family Violence Report, known as an L17 report, serves to report incidents of family violence as well as accurately assess the risk of further family violence and appropriate management of that risk. Victoria Police completes an L17 report that includes an assessment of risk for any child who is present, has witnessed or is affected by the incident.

Once Victoria Police submits the L17 where a child is present, it is forwarded as a referral to The Orange Door for support services (or Child FIRST or family violence services where The Orange Door has not yet been established) and/or a report to Child Protection.

L17 referrals should be sent to The Orange Door (or Child FIRST) where there are significant concerns for the wellbeing of the child or young person.

L17 reports should be sent to Child Protection if there is a significant concern for the safety and welfare of the victim children of the victim of family violence. If there are immediate concerns, Victoria Police should contact Child Protection via telephone as well as providing the L17 report.

If the child is a client of an ACAC provider, Child Protection will forward the L17 report on to the ACAC provider.

When making an L17 report/referral for a victim, Victoria Police must provide details of any children or young people who were present, witnessed or were affected by the incident. If the female victim is pregnant, a report about an unborn child is required or referral should be made.

When the Victoria Police respond to a family violence incident and conduct a risk assessment, they may issue a FVSN or make application for a FVIO on behalf of the victim survivor and their children.

The L17 report will indicate if Victoria Police have issued a FVSN or applied for a FVIO.

Refer to the most recent edition of the [Family violence referral protocol](https://providers.dffh.vic.gov.au/family-violence-referral-protocol-between-dhhs-family-safety-victoria-and-department-justice-and) <<https://providers.dffh.vic.gov.au/family-violence-referral-protocol-between-dhhs-family-safety-victoria-and-department-justice-and>>. Victoria Police, Department of Families Fairness and Housing, Family Safety Victoria Safety Victoria and Department of Justice and Community Safety are parties to this protocol, which sets out referral pathways in relation to L17 reports.

## F.3. Report/referral when an adolescent has allegedly used violence

Under the Family Violence Protection Act, the court has the ability to make a FVIO against an adolescent who has used violence. The court may exclude an adolescent from the family residence, or other place, as a condition of the FVIO if it is satisfied that the adolescent will have appropriate alternative accommodation and care and supervision.

Family violence used by adolescents is a distinct form of family violence and requires a different response to family violence used by adults. This is because of the age and developmental stage of the adolescent and the likelihood that they are or have also been victims of family violence.

Adverse childhood events or trauma are major contributors to the use of violence in the home by adolescents.

There are negative implications of propelling adolescents who use violence in the home into the criminal justice system.

Wherever possible, referrals for a therapeutic response should be made by Victoria Police for adolescents who use violence in the home in recognition that they are often highly vulnerable with a history of trauma.

Victoria Police should consider early intervention options including cautions, diversions and appropriate referrals for support.

To facilitate the most appropriate response to an adolescent, Victoria Police and Child Protection or ACAC provider should liaise to ascertain the suitability of alternative accommodation, care and supervision for the child prior to a Victoria Police member applying for a FVIO. Should the family violence incident involve both an adult offender and a child offender, Victoria Police members will need to consider the best interests principles of CYFA when deciding who should be excluded from the home.

Victoria Police will prioritise the safety of the victim and any other children in the home when considering their response to adolescents who use violence in the home.

## **F.4. Guidelines for exclusion**

Victoria Police determines if it is necessary to apply for a FVIO against an adolescent, with an exclusion condition, to protect an affected family member or other family member(s).

Victoria Police should always liaise with Child Protection or the ACAC provider (where the child is authorised) prior to making decision about an application for a FVIO against an adolescent.

If the adolescent is subject to child protection involvement, decisions in relation to applying for an exclusionary or non-exclusionary order must always involve Child Protection or ACAC provider (where the child is authorised).

Child Protection or ACAC will inform Victoria Police whether the child is known to or is a current client of Child Protection or ACAC. The responsible child protection practitioner or ACAC case manager will provide any relevant information available in relation to the care, supervision and accommodation options for the child.

Victoria Police will make enquiries with the child's family and friends about suitable accommodation options.

Victoria Police will advise the court of the outcomes of any consultation with Child Protection or ACAC provider about proposed accommodation, care and supervision options.

Victoria Police will provide the court with contact details of the Child Protection practitioner or ACAC case manager with whom they have consulted, to enable the magistrate to seek further information or advice if required.

## **Victoria Police responsibilities**

Victoria Police will contact Child Protection or ACAC provider (where the child has been authorised) by phone for all applications for a family violence intervention order with an exclusion clause against an adolescent respondent. The Family Violence Risk Assessment and Management Report (L17) will be submitted by Victoria Police via the L17 portal to the divisional Child Protection intake service.

All decisions to apply for a family violence intervention order against an adolescent including any request for an exclusion condition will rest with Victoria Police.

If agreement cannot be reached between Victoria Police and Child Protection or the ACAC provider in relation to the suitability of excluding an adolescent respondent from a family residence, then each party has the right to represent their view to the magistrate who will hear the application.

## Child Protection and ACAC responsibilities

The information provided by Victoria Police by phone will be treated as a report under the CYFA unless it relates to an existing Child Protection case, in which case it will be recorded on the client file as a case note or a new report.

Child Protection or ACAC provider will assist Victoria Police by providing all relevant information to aid the identification of suitable arrangements for the care, supervision and accommodation of the adolescent respondent.

Child Protection or ACAC provider will inform Victoria Police of any existing Children's Court order or placement, so that Victoria Police can consider this as part of their risk assessment.

Child Protection or ACAC provider will identify any risk and protective factors and decide if the adolescent respondent or any other child in the residence is in need of protection or whether other intervention is required to ensure the adolescent's wellbeing.

If the adolescent is a current client of Child Protection or ACAC provider, the responsible agency will review the status of any protection orders or court ordered placements. Child Protection or ACAC provider will be responsible for any subsequent legal action, including the possibility of having to return the matter to the Children's Court if any current order is inconsistent with the exclusion condition.

Under s. 173 Family Violence Protection Act, a FVIO applies despite a Child Protection order. As such, when there are inconsistent orders, Child Protection may be required to breach the Children's Court order. In this situation legal advice should be sought.

Victoria Police will be informed of the outcome of the report by Child Protection or ACAC provider.

## F.5. The Orange Door

The Orange Door network provides an integrated intake and assessment service for family violence related needs and in response to wellbeing concerns for children, young people and families. This includes support for victim survivors, perpetrators and families. Victoria Police refers families to The Orange Door in situations where the responding police officers are concerned for the wellbeing of an unborn child or child but do not have immediate concerns for their safety and welfare.

Victoria Police can refer L17 reports in relation to family violence and concern for the wellbeing of a child or unborn child where families exhibit any of the following factors:

- significant parenting problems that may be affecting the child's development
- family conflict, including family breakdown
- families under pressure due to a family member's physical or mental illness, substance abuse, disability, or bereavement
- young, isolated, or unsupported families
- significant social or economic disadvantage that may adversely impact on a child's care or development.



Community-based child protection practitioners are located at all The Orange Door sites and can be consulted by The Orange Door staff if there are concerns regarding families with children, they are providing support to.

For further information about the referral process, Victoria Police can refer to the [Interim operational guidance between The Orange Door and Victoria Police October 2018](https://www.vic.gov.au/sites/default/files/2019-05/Interface-between-The-Orange-Door-and-Victoria-Police.pdf)  
<<https://www.vic.gov.au/sites/default/files/2019-05/Interface-between-The-Orange-Door-and-Victoria-Police.pdf>>.

## Appendix G: Therapeutic treatment orders and Therapeutic Treatment Board

### G.1. Report regarding a child in need of therapeutic treatment

Where Victoria Police receives information about a child aged between 10 and 18 years (inclusive) who is exhibiting sexually abusive behaviour,<sup>1</sup> Victoria Police may make a report to Child protection under section s. 185 CYFA.

Physical force or threats are sometimes involved in sexual abuse, but this is not a required feature. Sexual activity includes exposure, peeping, fondling, masturbation, oral sex, penetration of a vagina or anus using a penis, finger or object, or exposure to pornography. This list is not exhaustive.

Sexually abusive behaviours are to be considered in the context of age, development, family and broader ecological systems such as the child's interaction with their peer group, school community and the communities in which they live.

Whether or not a related criminal prosecution is being considered or conducted should not have any bearing on the making of a s. 185 report by Victoria Police.

When Victoria Police makes a s. 185 report, a written report outlining the circumstances, together with any relevant material (that is, brief of evidence) should be provided to Child Protection. This will assist Child Protection and the Therapeutic Treatment Board to assess the sexually abusive behaviour to reduce the risk that other children will be victimised and to make certain the child engaged in the behaviours is afforded treatment via either a voluntary or statutory pathway to treatment.

Child Protection and Victoria Police must at all times be acting in the best interest of the child who has engaged in the behaviours and a therapeutic treatment order assessment by Child Protection can occur regardless of the stage of a criminal investigation. A delay in the provision of treatment for the child is not in the best interest of that child, and it is clearly preferable that the child commences therapeutic treatment as quickly as possible.

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<sup>1</sup> As a guide, a child has exhibited sexually abusive behaviour when they have used their power, authority or status to engage another party in sexual activity that is either unwanted or where, due to the nature of the situation, the other party is not capable of giving informed consent (this may include sexual behaviour involving another child who is younger or who has a cognitive impairment or sexual behaviour with a family pet or other animal).



Where a report originates from the police, and they have yet to investigate the matter, a joint investigation should be planned, this should be done through a joint planning meeting (refer to appendix E.2 in this protocol).

If a criminal investigation has commenced or will be conducted separately, Child Protection will continue with their investigation to ensure that the child's behaviours are assessed; no children remain at risk; timely treatment can be arranged, and legislative obligations are met.

During the Child Protection investigation, Child Protection can ask for and receive relevant information from police such as witness statements or summary of charges.

Any statement made by a child when participating in therapeutic treatment through a Sexually Abusive Behaviours Treatment Services (SABTS) either voluntarily or while subject to a therapeutic treatment order (TTO) is not admissible in any criminal proceedings in relation to charges against the child associated with the sexually abusive behaviour (s. 251 CYFA). Evidence obtained from other sources may still form a basis for criminal charges.

Victoria Police should not make a direct referral to a SABTS provider for voluntary treatment of a child.

Following the satisfactory completion of a TTO, when Child Protection or the ACAC provider are closing, for matters that have been referred to child protection via Victoria Police or the Criminal Division of the Children's Court, Child Protection or the ACAC provider should advise Victoria Police of the outcome of the TTO including the risk level of the child.

Information must include contact details of the relevant Child Protection division for any future contact about that child. Child Protection or the ACAC provider should ask Victoria Police to note the child's satisfactory completion of the TTO and discharge of the criminal charges (if the matter was referred under s. 349(2) CYFA) on their LEAP database once the TTO has formally ended.

## **G.2. Therapeutic treatment report from a source other than Victoria Police**

Where a TTO report originated from a person other than police, the police will be informed at intake. A joint investigation may be required, Child Protection will liaise with police.

Where Child Protection or ACAC provider (where a child is authorised) receives a report or information about a child subject to an interim accommodation order or current protection order from a person other than the police, Victoria Police must be advised of the allegation to enable police to determine a criminal investigation. Victoria Police must advise Child Protection or the ACAC provider within three working days of receipt of the report whether a criminal investigation will commence.

When Child Protection or the ACAC provider has notified police about a report from the community and the police intend to conduct a criminal investigation, Child Protection or the ACAC provider is still obligated to investigate the report. An assessment of the child's sexually abusive behaviours is required to determine the most appropriate therapeutic treatment, while police investigate whether a criminal offence has occurred.

While each investigation is distinct, it is important that both Child Protection and Victoria Police, and the ACAC provider and Victoria Police have a clear understanding of each other's roles and actions through a joint planning meeting.

### G.3. Therapeutic Treatment Board

The Therapeutic Treatment Board (the Board) comprises representatives from the DFFH, Victoria Police, Office of Public Prosecutions and health services. The Board provides advice to Child Protection regarding application for a therapeutic treatment order.

Where Child Protection receives a report from Victoria Police, a report regarding a child subject to current Child Protection involvement, or a referral from the Children's Court under s. 349(2) CYFA, Child Protection or ACAC provider must refer the matter to the Board for advice about whether it is appropriate to seek a TTO in respect of the child. The referral must include police documents: unauthorised or authorised brief of/or, a summary of evidence, police witness statements or summary of charges. In all other cases where Child Protection receives a report under s. 185 CYFA from a source other than Victoria Police, Child Protection may refer the matter to the Board for advice.

Child Protection must consider the advice of the Board in determining what action to take in applying for a TTO.

### G.4. A child subject to a therapeutic treatment order re-offends

If Victoria Police receives a report about a child known to be subject to a TTO, Victoria Police must advise Child Protection or ACAC provider. In some cases, this may result in the TTO order being revoked.

The Secretary DFFH must seek the advice of the TTB before applying to the Court to revoke the TTO (s. 258(2) CYFA). However, any decision to seek a revocation is at child protection's discretion.

## Appendix H: Search warrants

A warrant is appropriate where:

- child protection intervention alone has not been, or would not be, effective in addressing the child's immediate risk situation
- the authorisation for police to enter and search a place or place the named child in emergency care is the only viable option.

Child Protection and ACAC providers should ensure their local SOCIT unit or uniform Victoria Police member are updated as soon as practicable as to the status of a case that may require an application for a search warrant. This will ensure agencies are able to better plan for the issue and execution of such a warrant including risk assessment, timing, resources, threat level and transportation.

Child Protection or ACAC provider should give Victoria Police as much notice as possible of the execution of a search warrant, to enable effective planning of the Victoria Police response.

## H.1. Children's Court search warrants

A magistrate may issue a Family Division Children's Court search warrant. In most instances, the child taken into emergency care via a warrant will be taken for a hearing before a bail justice or magistrate. Section 598 CYFA warrants require the executing member of Victoria Police to take the child to the place specified in the warrant. If no place is specified, Victoria Police should contact Child Protection or the ACAC provider to determine where the child should be taken. If no place is specified and Child Protection or the ACAC provider does not determine where the child should be taken, the police must take the child to a place referred to in s. 173 of the CYFA Act.

It is Child Protection policy that an appropriate address be specified in s. 598 warrants whenever possible to enable Victoria Police to return the child to that address upon execution of the warrant.

In some situations, Child Protection or the ACAC provider may choose not to specify a place for the child to be taken on a warrant when there is uncertainty about what the child's needs will be when located, and assessment will therefore be required prior to a placement being determined.

Child protection practitioners and ACAC providers may refer to Children's Court search warrants advice and procedures in the *Child Protection manual*:

- '[Children's Court search warrants – advice](https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/court/legal-processes/childrens-court-search-warrants)' <<https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/court/legal-processes/childrens-court-search-warrants>>
- '[Warrants](https://www.cpmanual.vic.gov.au/policies-and-procedures/court/warrants/warrants)' <<https://www.cpmanual.vic.gov.au/policies-and-procedures/court/warrants/warrants>>

## H.2. Temporary assessment orders

Child Protection may seek a temporary assessment order under ss. 228 or 229 CYFA. Applications may be made with or without notice, if there are concerns that a family could abscond, or there is information that evidence could be lost if notice were given.

Under s. 237 CYFA, Child Protection may apply for a warrant authorising Victoria Police to use reasonable force to enter any premises where a child to whom the temporary assessment order relates is believed to be located. Victoria Police are authorised to search for and take the child to the Secretary to enable the Secretary to exercise their powers under the temporary assessment order.

Note: The search warrant is executed only when the member of Victoria Police enters the premises where the child is actually located. On executing a search warrant, the member of Victoria Police executing the warrant must announce that they are authorised by the warrant to enter the place, and if the member of Victoria Police has been unable to obtain unforced entry, the member of Victoria Police must give any person at the place an opportunity to allow entry to the place before using force.

A member of Victoria Police need not comply with the above if they believe, on reasonable grounds, that immediate entry to the place is required to ensure the safety of any person or that the effective execution of the search warrant is not frustrated.

Unless executed earlier, a search warrant issued under this section remains in force for the duration of the temporary assessment order.

### H.3. Interstate execution of warrants

The Commonwealth Service and Execution of Process Act enables warrants from one state to be executed in another state. This includes child protection warrants issued under the CYFA. If a warrant is executed interstate, it must be executed in accordance with the Service and Execution of Process Act which addresses issues such as who can execute the warrant, taking the child before the court, and advice on the orders that the court can then make.

A person named in a Child Protection warrant issued in a state may be apprehended in another state if that person is not in prison (s. 82 Service and Execution of Process Act). The warrant can only be executed by the interstate police, who will obtain the warrant from Victoria Police via The Manager, Warrants Unit, Police Enquiry and Data Sharing Department, Victoria Police Centre (PEDSD).

Victoria Police is responsible for ensuring the warrant is provided to the interstate police. Upon execution of the warrant, interstate police must present the child before the Children's Court in their state as soon as practicable. The court in the interstate jurisdiction may adjourn the matter to enable Victoria Child Protection or ACAC provider to travel interstate and a further hearing can occur. The Magistrate in the interstate court can only make an order returning the child to Victoria or dismiss the application.

Child Protection or ACAC provider are responsible for travelling to the state where the child is located and returning the child to Victoria.

Assistance may be needed from Victoria Police to transport the child from Melbourne Airport to Secure Welfare Service or placement upon arrival in Victoria.

If the warrant is not executed by the interstate police and the child returns to Victoria voluntarily, the warrant should be returned to Victoria Police, Police Enquiries and Data Sharing Department by the interstate police or cancelled by child protection.

Child Protection and ACAC providers should refer to the [Interstate child protection warrants protocol 2002](https://www.cpmanual.vic.gov.au/sites/default/files/Interstate%20CP%20Warrants%20Protocol%202002-2821.pdf)

<<https://www.cpmanual.vic.gov.au/sites/default/files/Interstate%20CP%20Warrants%20Protocol%202002-2821.pdf>>.

### H.4. Warrant execution planning

When a warrant is required to be executed, Victoria Police will verify the warrant's existence, either by viewing a hard copy of the warrant or by interrogating the Victoria Police Electronic Warrant Online Knowledgebank (EWOK) prior to its execution.

EWOK is an application that enables warrants to be scanned and stored electronically. EWOK only displays outstanding warrants, not executed or cancelled warrants.

The priority in the planning and execution of warrants is the safety, wellbeing and best interests of the child.

To facilitate planning, Child Protection or ACAC provider will contact the local SOCIT unit or the Victoria Police station nearest the location where the warrant is to be executed.

Before police attend any premises to execute a warrant, Child Protection or the ACAC provider should provide any information they have that may be relevant about:

- protective concerns and reasons for the warrant

- location and position of premises, including any security issues
- firearms or dangerous animals on the property
- number of occupants, including names and dates of birth
- attitude of occupants to Child Protection and Victoria Police
- any history of violence.

Child Protection or ACAC provider will discuss with the respective Victoria Police member the execution of the warrant including:

- procedures to be followed in executing the warrant
- the most appropriate time to execute the warrant
- location to meet after execution of the warrant
- arrangements for court hearing or out of sessions court (bail justice) hearing
- any special requirements regarding placement (s. 598(1)(b) CYFA).

Where possible, Child Protection or ACAC provider and Victoria Police are to reach agreement in relation to the aspects outlined above.

Responsibility for execution of the warrant lies with Victoria Police. All searches conducted by Victoria Police must be approved by an officer, and must be documented, planned and recorded as per the *Victoria Police manual*. The power of entry granted to Victoria Police under the warrant authorises Victoria Police to enter a property, it does not authorise them to invite the Child Protection or ACAC practitioner to enter without the permission of the occupier.

When the whereabouts of a child is unknown by Child Protection or ACAC provider (usually in the case of s. 598(1)(b) warrants, CYFA) and Victoria Police come into contact with or apprehend the child and execute the warrant, they must contact Child Protection or ACAC provider to arrange return of the child to placement.

#### H.4.1. Procedure following execution

After apprehending a child subject of a warrant, Victoria Police is responsible for both endorsing the warrant as executed and returning it to the court of issue, and if applicable, completing the EWOK execution notification requirements.

#### H.4.2. Unexecuted warrants

A Victoria Police member in possession of an unexecuted warrant must comply with current Victoria Police operating procedures.

If a warrant is printed using EWOK, the printed copy becomes the only executable copy of that warrant. If the warrant is not executed, the Police Enquiries and Data Sharing Department must be notified immediately.

The Police Enquiries and Data Sharing Department must be advised by Child Protection or ACAC provider that the warrant is cancelled.

If a child subject to a s. 598 warrant returns to their placement voluntarily, Child Protection or ACAC provider must advise the Police Enquiries and Data Sharing Department in writing as soon as possible to arrange for the warrant to be returned to the court of issue for cancellation.

For information on how to cancel a warrant, refer to the *Child Protection manual: 'Cancelling a warrant or missing persons report'* <<https://www.cpmanual.vic.gov.au/policies-and-procedures/court/warrants/cancelling-warrant-or-missing-persons-report>>.

## Appendix I: Information sharing

### I.1. Disclosure by Victoria Police

Information Victoria Police shares under this protocol is 'public sector data' or 'law enforcement data' (LED) as defined in the Privacy and Data Protection Act. Its use, storage, handling and disposal is subject to the Victorian Protective Data Security Standards (VPDSS) issued under Part 4 of that Act. The conditions set out in the VPDSS apply to the Secretary to the DFFH, Victoria Police, and ACAC providers who are all bound by the standards and who will not act or engage in a practice that would contravene or give rise to a breach of the VPDSS in respect of any data collected, held, used, managed, disclosed or transferred on behalf of the state, under or in connection with this protocol.

### I.2. When Victoria Police makes a report to Child Protection

Victoria Police may disclose information without informing the child or their family when making a report to Child Protection under ss. 28, 29 and 184 of the CYFA (which are general provisions in relation to reports). However, it is preferable, where possible and where informing the family does not place the child or another person at risk, to tell the child or their family that a report will be made.

The decision to report remains that of the reporter and families should not be asked to consent, nor be led to believe that their objection to a report would prevent it from being made.

Information about the identity of the Victoria Police member making a report to Child Protection cannot be disclosed under the CYFA unless the member consents in writing to its disclosure.

### I.3. When Child Protection receives a protective intervention report

Child Protection may request information from Victoria Police as 'information holders', when they are investigating a protective intervention report (s. 192 CYFA). 'Information holders' may respond by providing the information requested by Child Protection.

Victoria Police is protected from negative legal or professional consequences when they disclose information in good faith to Child Protection ss. 208 and 192(3) CYFA.

### I.4. Disclosure by Child Protection

Child Protection may disclose information to Victoria Police pursuant to s. 192 CYFA if a practitioner believes on reasonable grounds that this is required to perform their duties or functions, or exercise powers, under the CYFA.



## I.5. Disclosure to employers of criminal investigation

In certain circumstances, after consultation with Child Protection or an ACAC provider, Victoria Police may consider it appropriate to notify the employer or regulatory authority of a person who has come to their notice. In accordance with Information Privacy Principles 2.1(d) and (e) of the Privacy and Data Protection Act, Victoria Police may disclose personal information if it:

- reasonably believes that the disclosure is necessary to lessen or prevent a serious and imminent threat to an individual's life, health, safety or welfare, or a serious threat to public health, public safety, or public welfare
- suspects that unlawful activity has been, is being or may be engaged in, and discloses personal information as a necessary part of its investigation or in reporting its concerns to relevant persons or authorities
- is required or authorised by or under law.

It is only in exceptional circumstances that consideration should be given to notifying a person's employer or regulatory authority where the person has not been charged.

## I.6. Request for information

In the ordinary course of events, information sharing between Victoria Police and Child Protection or Victoria Police and ACAC providers should occur by encrypted email. Details regarding incidents of information provided and received must be recorded on their respective databases (CRIS and Interpose). The Privacy and Data Protection Act requires that if information is used or disclosed for law enforcement purposes, a written note of the use or disclosure must be made. Recording the disclosure of the information on the relevant databases complies with this provision.

If the urgency or other particular circumstances of the case (such as the best interests of a child) require that information be provided over the telephone, it should occur only in circumstances where the parties are known to each other, or their identities are able to be established. A note should be made of the fact that information has been shared in this manner and, as soon as practicable, the details of the information provided or shared must be recorded on the relevant Child Protection, ACAC provider and Victoria Police databases.

Any requests for information outside the parameters of the CYFA, Privacy and Data Protection Act or as outlined in section 8 of this protocol, should only be made by a search warrant or subpoena. The party holding the information will ensure that the requesting party is informed of the existence of relevant documents prior to the requesting party seeking a search warrant or subpoena, to ensure that any delay in obtaining the information is minimised.

### I.6.1. Public interest immunity

If a member of Victoria Police informs Child Protection or ACAC provider, or either of these agencies believes, that any document provided by Victoria Police to them may be subject to public interest immunity, Child Protection or ACAC provider must not refer to or disclose the document or any of its contents in any court proceeding or to any party, witness or legal representative to the proceeding without the express approval of the Victoria Police informant.

This process is intended to ensure that Victoria Police investigations are not compromised and that information subject to public interest immunity is properly protected. If necessary for a protection application, the Victoria Police informant can make arrangements for documents or information



subject to public interest immunity to be submitted to the court under cover of a confidential affidavit for viewing only by the court. In such cases, Child Protection or ACAC provider must not refer to or disclose the confidential affidavit, or any of its contents, in any court proceeding or to any party, witness or legal representative to the proceeding, without express approval by the Victoria Police informant.

Child protection or ACAC providers should seek legal advice in these situations.

## I.6.2. National police history checks

In the course of performing Child Protection core business, specified fully authorised ACAC providers and officers in Child Protection and head office are authorised to request and receive information regarding relevant criminal records from the Victoria Police Record Services Division (RSD). This is to ensure appropriate planning in respect of the investigation of reported concerns, worker and child safety issues, and the suitability of carers regarding the placement of children.

Requests for national police history checks must be submitted by form. Refer to the Child Protection manual: '[Undertaking a national police history check](https://www.cpmmanual.vic.gov.au/policies-and-procedures/national-police-history-checks/undertaking-national-police-history-check)' <<https://www.cpmmanual.vic.gov.au/policies-and-procedures/national-police-history-checks/undertaking-national-police-history-check>>.

## I.6.3. Subpoena process (for Victoria Police information)

To assist in a partnership approach with Child Protection, the Victoria Police Subpoena Management Unit provides a central management point for all subpoenas directed towards the Chief Commissioner of Victoria Police and Victoria Police members. Subpoenas are not to be sent directly to the Victoria Police member involved.

### I.6.3.1. Urgent matters

An urgent matter is defined as a court hearing returnable within seven days. In such cases, Child Protection must immediately contact the Subpoena Management Unit to make arrangements in relation to witness availability and the service of subpoenas. The Subpoena Management Unit will assist Child Protection by facilitating the attendance of Victoria Police members and the production of information.

### I.6.3.2. Other matters

As soon as practicable after Child Protection is made aware of a court hearing date where witnesses will be called, Child Protection must make a preliminary assessment as to whether or not a Victoria Police witness will be required. Where it is assessed that a Victoria Police member is likely to be required to give evidence or to produce documents, the Subpoena Management Unit should be notified as soon as possible by telephone or email, in order that necessary arrangements can be made. Even if Victoria Police witnesses are not ultimately called, such arrangements will minimise disruption to policing services.

Once a subpoena has been issued, Child Protection must forward the subpoena to the Subpoena Management Unit as soon as possible for service on Victoria Police members.

### I.6.3.3. Production of information

Any Child Protection subpoena that involves the production of documents must be brought to the attention of the Subpoena Management Unit. Where Child Protection requires assistance regarding

the wording of subpoena schedules to identify specific documents, the Subpoena Management Unit will assist.

#### **I.6.3.4. Costs**

Victoria Police reserves the right to claim costs for travel, accommodation and incidental costs that result from a Child Protection subpoena. Any issue related to costs must be negotiated through the Subpoena Management Unit.

#### **I.6.3.5. Contact details**

All subpoenas for the Chief Commissioner of Victoria Police, or other Victoria Police members, regardless of whether the subpoena is directed to an individual member, specialist unit, task force or department should be forwarded to:

Subpoena Management Unit, Level 2, 456 Lonsdale Street, Melbourne, Victoria 3000

Any queries or complaints should be emailed to the [Subpoena Management Unit](mailto:subpoena-service-smu@police.vic.gov.au) <subpoena-service-smu@police.vic.gov.au> or telephone 03 8628 3010.

## **Appendix J: Contact details**

### **J.1. Child Protection**

North Division intake: 1300 644 977

Covering these areas and LGAs:

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

## South Division intake: 1300 655 795

Covering these areas and LGAs:

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

## East Division intake: 1300 360 391

Covering these areas and LGAs:

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

## West Division intake – metropolitan: 1300 664 977

Covering these areas and LGAs:

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

## West Division Intake – rural and regional: 1800 075 599

Covering the following rural and regional areas and LGAs:

- Ararat
- Ballarat
- Colac-Otway
- Corangamite
- Glenelg
- Golden Plains
- Greater Geelong
- Hepburn
- Hindmarsh
- Horsham
- Moorabool
- Moyne
- Northern Grampians
- Pyrenees
- Queenscliff
- Southern Grampians
- Surf Coast
- Warrnambool West Wimmera
- Yarriambiack.

## **J.2. Aboriginal Children in Aboriginal Care (ACAC) providers**

Victorian Aboriginal Child Care Agency (VACCA) provided through the Nugel Program: 03 9287 8800

Nugel operates in the following LGAs:

- Banyule
- Darebin
- Hume

- Moreland
- Nillumbik
- Whittlesea
- Yarra
- Morwell.

## Bendigo and District Aboriginal Cooperative (BDAC) provided through Mutjang Bupuwingarrak Mukman program: 03 5442 4947

Mutjang Bupuwingarrak Mukman operates in Dja Dja Wurrung Country including the following LGAs:

- Central Goldfield
- Greater Bendigo
- Loddon
- Macedon Ranges
- Mount Alexander.

### **J.3. After-Hours Child Protection Emergency Service (AHCPEs)**

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

The AHCPEs contact number: 13 12 78

### **J.4. Interstate Child Protection contact numbers**

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

## Appendix K: Definitions

### **K.1. Definitions of child abuse**

Under s.162(1) of the CYFA, a child is considered to be in need of protection if any of the following grounds exist:

- (a) The child has been abandoned by their parent(s) and after reasonable inquiries: the parent(s) cannot be found; and no other suitable person can be found who is willing and able to care for the child.

- (b) The child's parent(s) are dead or incapacitated and there is no other suitable person willing and able to care for the child.
- (c) The child has suffered, or is likely to suffer, significant harm as a result of physical injury and the child's parent(s) have not protected, or are unlikely to protect, the child from harm of that type.
- (d) The child has suffered, or is likely to suffer, significant harm as a result of sexual abuse and the child's parent(s) have not protected, or are unlikely to protect, the child from harm of that type.
- (e) The child has suffered, or is likely to suffer, emotional or psychological harm of such a kind that the child's emotional or intellectual development is, or is likely to be, significantly damaged and the child's parent(s) have not protected, or are unlikely to protect, the child from harm of that type.
- (f) The child's physical development or health has been or is likely to be significantly harmed and the child's parent(s) have not provided, arranged or allowed the provision of, or are unlikely to provide, arrange or, allow the provision of, basic care or effective medical, surgical or other remedial care.

Child abuse is any action, or lack of action, that significantly harms the child's physical, psychological or emotional health and development.

There is an overwhelming body of evidence to indicate that neglect, abuse and family violence are harmful and have a cumulative and detrimental effect on a child's safety and development.

Although the abuse types are described separately below for the purposes of definition, in reality many of the following forms of harm may occur together.

The following definitions are not all-inclusive and are meant as a guide:

## Physical abuse

Physical abuse consists of any non-accidental form of injury or serious physical harm inflicted on a child by any person. Physical abuse does not mean reasonable discipline though it may result from excessive or inappropriate discipline. Physical abuse can include beating, shaking, burning and assault with weapons. Physical injury and significant harm to a child may also result from neglect by a parent or caregiver or within the context of family violence. The failure of a parent or caregiver to adequately ensure the safety of a child may expose the child to extremely dangerous or life-threatening situations, which result in physical injury and significant harm to the child. Physical abuse also includes fabricated illness syndrome (previously Munchausen's syndrome by proxy).

## Sexual abuse

A child is sexually abused when any person uses their authority or power over the child to engage in sexual activity. Child sexual abuse involves a wide range of sexual activity and may include fondling genitals, masturbation, oral sex, vaginal or anal penetration by finger, penis or any other object, voyeurism and exhibitionism. It can also include exploitation through pornography or sex work. Failure to protect a child from sexual abuse may in part relate to parental impairment or lack of parental competence to protect the child from such abuse.

## Emotional abuse

Emotional abuse occurs when a child is repeatedly rejected, isolated, frightened by threats or is experiencing family violence. It also includes hostility, derogatory name-calling and put-downs, or persistent coldness from a person to the extent where the behaviour of the child is disturbed or their emotional development is at serious risk of being impaired.

## Neglect

Neglect includes failure to provide the child with an adequate standard of nutrition, medical care, clothing, shelter or supervision to the extent where the health or development of the child is significantly impaired or placed at risk. A child is neglected if they are abandoned or left uncared for over unreasonable periods of time that is inconsistent with their age, stage and development.

## Serious neglect

Serious neglect in this context potentially constitutes a criminal offence on the part of a parent and includes situations where a parent fails to meet the child's basic needs for food, shelter, hygiene or adequate supervision to the extent that the child's health and physical safety is jeopardised.

For example: The child's home environment is filthy or hazardous in the extreme and poses a threat to the child's immediate safety or development and is characterised by the presence of animal or human faeces or urine, decomposing food, syringes or other dangerous drug paraphernalia; or where the child is provided with consistently insufficient or inadequate food or nourishment for the child's healthy development; or where a child has a serious medical condition for which the parent has consistently failed to obtain treatment or dispense prescribed medication; or where a parent consistently leaves a child unattended, exposed to or in the care of strangers who may harm the child.

## Medical neglect

Neglect of medical care refers to a situation where a parent's refusal of, or failure to seek treatment or agree to a certain medical procedure leads to an unacceptable deprivation of the child's basic rights to life or health.

## Risk-taking behaviour

While risk-taking behaviour in adolescence is a normal aspect of healthy development, some behaviours require intervention from Child Protection when they carry potentially severe or life-threatening consequences. Examples include severe alcohol or drug use (opiates, amphetamines or benzodiazepines, any intravenous drug use), risk of sexual exploitation, solvent abuse, chroming, and violent or dangerous peer group activity (for example, train surfing).

## K.2. Definitions of criminal offences

A criminal prosecution, at law, is required to meet a higher standard of proof than protection applications. Allegations of crime must be proven 'beyond reasonable doubt' rather than 'on the balance of probabilities'.



The admissibility of evidence to support the prosecution of criminal offences is also bound by more stringent legal guidelines than for protection applications. These guidelines determine the way evidence is to be obtained, handled and finally presented to the court.

The age of the victim and their inability to give evidence often means that corroborating evidence is important to support a criminal prosecution. It is crucial that Victoria Police are involved at the earliest stages of a protective intervention report of sexual abuse, physical abuse and serious neglect.

## Assault

Under s. 31(2) of the Crimes Act, assault means the direct or indirect application of force by a person to the body of, or to clothing or equipment worn by, another person where the application of force is:

- without lawful excuse, and
- with intent to inflict or being reckless as to the infliction of bodily injury, pain, discomfort, damage, insult or deprivation of liberty and results in the infliction of any such consequence (whether or not the consequence inflicted is the consequence intended or foreseen).

## Injury

Under s. 15 of the Crimes Act, injury means physical injury or harm to mental health, whether temporary or permanent.

Serious injury is an injury (including the cumulative effect of more than one injury) that endangers life or is substantial and protracted, or, the destruction of a pregnant woman's foetus, other than in the course of a medical procedure, whether or not the woman suffers any other harm.

## Assault causing injury or serious injury

Any person who, without lawful excuse, intentionally or recklessly causes an injury or serious injury to another person is guilty of an offence. (ss. 16 to 18 Crimes Act)

## Sexual penetration

Under s. 35A of the Crimes Act sexual penetration means:

- a person introducing (to any extent) a part of their body or an object into another person's vagina or anus; or a person introducing (to any extent) their penis into another person's mouth.  
Penetration includes keeping the body part, object or penis in the vagina, anus or mouth after being introduced there as described.

## Sexual touching

Under s. 35B of the Crimes Act sexual touching may be done:

- with any part of the body or anything else or through anything, including clothing worn by the person touching or being touched, where

- the area of the body being touched or used to do the touching is (but not limited to being) the genital or anal region, the buttocks or the breasts of a female or person that identifies as female, or
- the person touching seeks or gets sexual arousal or sexual gratification from the touching, or
- any other aspect of the touching, including the circumstances in which it is done.