

Victoria Police Manual

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Protecting children

Context

Most children are best protected and cared for within their own family. However, when parents, carers or guardians are unable or unwilling to protect the child from significant harm, the protection of the child becomes the responsibility of the wider community and at times, requires statutory child protection intervention.

Victoria Police has a shared responsibility with the Department of Families, Fairness and Housing's (DFFH's) Child Protection and approved Aboriginal Children in Aboriginal Care (ACAC) providers (for authorised cases) to act in the best interests of the child. Each has a legal mandate to intervene when a child who has suffered, or is likely to suffer, significant harm needs protection. Early identification and effective intervention can lessen the effects of child abuse and neglect and, promote recovery of the children and families concerned.

The child protection system recognises, respects and supports the distinct cultural rights of Aboriginal people and their right to self-determination. Authorised ACAC providers act to protect Aboriginal children (including any non-Aboriginal siblings) from abuse while having consideration for Aboriginal cultural issues and needs.

Victoria Police plays a crucial role in protecting children, encompassing responsibilities such as responding to and investigating cases of child physical and sexual abuse, as well as serious neglect. This reflects police responsibilities to report incidents, make referrals to support service providers, identify and disrupt child sexual exploitation, and initiate appropriate legal proceedings against alleged offenders.

Police often see children and their families at crisis point. Police must maintain a focus on child safety and wellbeing in these interactions, always acting in the best interests of the child. Police attending family violence incidents have a unique opportunity to make early identification of child abuse as these can occur together (see **VPM Family violence**).

Policy at a glance

This policy includes guidance on:

- when and how to report information concerning children to Child Protection
- how to report and investigate incidents of child exposure to physical abuse, sexual exploitation and harm caused in the context of family violence
- police obligations as protective interveners and mandatory reporters, and their responsibilities
- processes that support a multi-agency shared responsibility approach to protecting children from harm, including guidance for police on how to share information with those agencies
- how to engage the the DFFH-ACAC authorised program (see definitions) of child protection services that protect Aboriginal children, and their non-Aboriginal siblings
- guidance for when a child may remain on premises that house a sexual service business.

Contents

Context	1
Policy at a glance.....	1
Contents.....	2
Definitions.....	2
Scope and application.....	4
Responsibilities and procedures	4
1. Reporting to Child Protection	4
2. Report about a child in need of protection – conditions.....	5
3. Report of concern for the wellbeing of a child or unborn child	7
4. Report about a child in need of therapeutic treatment	8
5. Family violence.....	9
6. Children and young people living in out of home care	11
7. Investigating allegations of child abuse.....	12
8. Children’s Court search warrants.....	15
9. Sharing information to protect children	16
Related documents	18
Further advice and information.....	18
Update history.....	18

Definitions

Aboriginal Children in Aboriginal Care (ACAC) – the established program of children protection services and facilities which gives ACCOs legal responsibility for Aboriginal children and any non-Aboriginal siblings who have been placed on a Children’s Court protection order. Examples of ACAC providers are the Victorian Aboriginal Child and Community Care Agency’s Nugel program, and the Bendigo and District Aboriginal Cooperative’s Mutjang Bupuwingarrak Mukman program.

References to Child Protection in this policy include ACAC providers acting in authorised cases.

Aboriginal Community Controlled Organisations (ACCOs) – an organisation incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth)* and managed by a board of Aboriginal people for the purpose of serving a local Aboriginal community. ACCOs which have been authorised to provide care and protection to Aboriginal and/or Torres Strait Islander children or children from those families, may exercise specific powers in relation to those children.

The Secretary of the Department of Families, Fairness and Housing (DFFH) approves ACCOs to be ACAC providers.

Best interests of the child – a phrase which summarises the best interest principles set out in s.10 *Children, Youth and Families Act 2005* (CYFA). The best interests of the child must always be the highest priority in decision-making by police officers.

Child – for the purposes of this policy, a child, young person or adolescent who is aged between 0-17 years (inclusive). In certain circumstances, the terms ‘young person’ or adolescent’ is used instead due to their age category. There may be instances where the legal obligations towards these groups differ to other children; this will be specifically identified in the policy. Refer to the **Protecting Children Protocol** available on the intranet for further information.

Child abuse – any action, or lack of action, that significantly harms a child’s physical, psychological, or emotional health and development. A person committing child abuse does not always have an intention to harm or cause injury to a child. Child abuse includes physical abuse, sexual abuse,

emotional abuse, and neglect, including exposure to or witnessing of family violence. Family violence often co-occurs with child abuse.

Child sexual exploitation – a form of child abuse where an individual or group takes advantage of a child's vulnerability and creates an imbalance of power to coerce, manipulate, or deceive the child into sexual activity in exchange for something the child needs or wants, for example, money, gifts or accommodation, or less tangible goods such as affection or status.

Child Protection – the lead agency for the protection of children in Victoria. Child Protection is part of DFFH and works for children and young people who are at risk of harm or where families are unable or unwilling to protect them. References to Child Protection in this policy include ACAC providers acting in authorised cases.

Children's Court Search Warrant – Search warrants, which includes Emergency Care Warrants (previously known as Safe Custody Warrants) that are issued under various provisions of the *Children, Youth and Families Act 2005* (CYFA). Each search warrant authorise police to break, enter and search any place for the child named in the warrant. Depending on the provision under which the warrant (which includes an emergency care warrant) was issued, and any endorsements on the warrant, the child can be:

- placed in emergency care
- apprehended and brought before a Court or bail justice
- released on an Interim Accommodation Order
- transported to DFFH to facilitate an application for a Temporary Assessment Order.

DFFH – the Victorian State Government agency whose responsibilities include child protection and prevention of family violence.

Emergency Care - (previously known as safe custody) means placement in accordance with s. 242(5) or 247A(4), CYFA in an Out of Home Care service, in a secure welfare facility, or in accommodation approved by the Secretary pending an application for an Interim Accommodation Order or a Therapeutic Treatment application.

Mandatory reporter – occupational groups, including police officers under s.182, CYFA that are legally required to make a report to a protective intervener where they form a reasonable belief that a child has suffered, or is likely to suffer, significant harm as a result of physical or sexual abuse, and the child's parents have not protected, or are unlikely to protect, the child from that abuse.

Out of Home Care (OoHC) – provided to children and young people who are unable to reside with their families due to abuse or neglect. OoHC includes:

- kinship care (placement with extended family and/or significant others)
- home-based care (foster care, therapeutic foster care, and young people community placement)
- residential care (facility-based care with paid staff).

Protective intervener – a person who has a legal obligation to intervene when a child needs protection. Police officers are protective interveners under s.181, CYFA.

Protecting Children Protocol – a formalised arrangement between DFFH, ACAC and Victoria Police which sets out how these agencies will undertake and coordinate their work to improve outcomes for children and their families. Refer to the **Protecting Children Protocol** available on the intranet or the Corporate Formal Arrangements Register for further information.

The Orange Door - the primary access point across Victoria to local services for families who need

assistance with the care and wellbeing of children, or who are experiencing family violence. Vulnerable children, young people, and their families (including families with an unborn child) can be referred to The Orange Door by any police officer. Individuals can also self-refer.

Therapeutic Treatment Order (TTO) - an order from the Children's Court that ensures a child has access to, or attendance at, an appropriate therapeutic treatment program for sexually abusive behaviours. The TTO may be issued following a report to Child Protection (s.185, CYFA) that a child needs therapeutic treatment. TTOs are made in the Family Division of the Children's Court when the Court is satisfied that a child has exhibited sexually abusive behaviours.

Scope and application

This policy applies to police officers. Police have specific obligations as protective interveners and mandatory reporters.

Responsibilities and procedures

1. Reporting to Child Protection

1.1 *Types of reports to Child Protection*

The CYFA allows for three distinct types of report to be made to Child Protection. These relate to a:

- child in need of protection (s.162, CYFA; see section 2 of this policy)
- significant concern for the wellbeing of a child or unborn child (ss.28-29, CYFA; see section 3 of this policy)
- child in need of therapeutic treatment for sexually abusive behaviours (s.185, CYFA; see section 4 of this policy)

1.2 *How to make a report to Child Protection*

For urgent cases where immediate intervention is necessary to keep a child safe, police must report to Child Protection via telephone call to the:

- relevant regional Child Protection intake team
 - Monday to Friday 08:45 – 17:00
- after-hours Child Protection Emergency Service
 - Monday to Friday 17:00 – 08:45
 - 24 hrs on weekends and public holidays.

For non-urgent cases, police must make a report to Child Protection via:

- formal or informal referral through e-Referral in LEDR Mk2
- the Family Violence Report (FVR) (L17) where a family violence incident has occurred, in accordance with **VPM Family violence**.

1.3 *Recording reports made to Child Protection*

When making a report to Child Protection, police must record the report in one of the following, at a minimum:

- an official diary

- a patrol duty return
- an Interpose case entry or Information Report (IR, including web-based IRs)
- LEAP reports, usually a FVR (L17) where a family violence incident has occurred, including where children are in the care of the state and experience abuse in an OoHC setting.

2. Report about a child in need of protection – conditions

2.1 *Child in need of protection*

Section 162(1), CYFA deems a child to be in need of protection if any of the following grounds exist:

- The child has been abandoned by their parents and after reasonable inquiries:
 - the parents cannot be found and
 - no other suitable person can be found who is willing and able to care for the child.
- The child's parents are dead or incapacitated and there is no other suitable person willing and able to care for the child.
- The child has suffered, or is likely to suffer, significant harm as a result of physical injury and the child's parents have not protected, or are unlikely to protect, the child from harm of that type. Physical injury includes abuse or non-accidental or unexplained injury.
- The child has suffered, or is likely to suffer, significant harm as a result of sexual abuse and the child's parents have not protected, or are unlikely to protect, the child from harm of that type.
- The child has suffered, or is likely to suffer, emotional or psychological harm of such a kind that their emotional or intellectual development is, or is likely to be, significantly damaged and the child's parents have not protected, or are unlikely to protect, the child from harm of that type.
- The child's physical development or health has been, or is likely to be, significantly harmed and the child's parents 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.

2.2 *Consider cumulative harm*

- Section 10, CYFA recognises harm may be made by a single harmful act, omission or circumstance or can accumulate through a series of acts, omissions or circumstances.
- Police should consider whether a child is developing well and whether there are any longer-term risks to a child's development and wellbeing.

2.3 *Children on premises used for commercial sexual services*

- Under the *Sex Work Decriminalisation Act 2022* (SWDA), it is not illegal to provide sexual services, and sex workers are protected against discrimination on the basis of the services they provide.
- People who provide sexual services or manage a business that provides sexual

services, must not allow a child who is over 18 months old to enter or remain on premises that house a sexual service business, unless the premises are primarily used as residential premises (s.38C(1), *Summary Offences Act 1966*).

- A child's presence in residential premises used to provide sexual services does not necessarily mean the child is in need of protection. Police must make a considered assessment of the circumstances to establish whether child abuse is being committed. This includes any sexual offending against the child, and grooming by any person for sexual conduct with a child under 16 years of age.

2.4 Responsibilities for police as protective interveners

- Police are protective interveners (s.181, CYFA) and may receive reports from any person who has concerns about a child who they reasonably believe to be in need of protection (see section 2.1 of this policy).
- As protective interveners, police must investigate, or cause another protective intervener to investigate the matter causing the concern in a way that is in the best interests of the child (s.205, CYFA).
- Police must make a report to Child Protection as soon as practicable after being notified by a community member that a child needs protection.

2.5 Responsibilities for police as mandatory reporters

- Section 182(1), CYFA provides a list of professional groups who are mandatory reporters. In addition to police, these are:
 - registered medical practitioners
 - nurses
 - midwives
 - registered teachers and school principals
 - people in religious ministry
 - early childhood teachers and other childcare and child minding workers
 - youth and child welfare workers
 - registered psychologists
 - youth justice workers
 - youth parole officers and youth custodial workers
 - school counsellors
 - out of home care workers (excluding voluntary foster and kinship carers).
- As mandatory reporters, police must:
 - make a report to Child Protection if they believe on reasonable grounds that a child needs protection from physical injury or sexual abuse and the parents have not protected, or are unlikely to protect, the child from harm of that type (in accordance with section 2.1 of this policy)
 - make the report as soon as practicable after forming the belief and
 - make a report each time they become aware of any further or new grounds for the belief.
- Reasonable grounds to form the belief that a child needs protection may exist where:
 - a disclosure is made by the child to a mandatory reporter that they have been physically or sexually abused

- a third party such as a police officer, relative, friend, acquaintance, or sibling of the child, tells a mandatory reporter that the child has been abused
- the mandatory reporter's observations of the child's behaviour (including exhibition of concerning behaviours as set out in section 4.1 of this policy) or knowledge of children generally leads them to believe that the child has been abused and/or
- the mandatory reporter observes signs or indicators of the abuse or neglect.
- Failure by mandatory reporters to report a reasonable belief that a child needs protection due to sexual or physical abuse is an offence and may lead to pecuniary penalties (s.184(1) CYFA). Victoria Police may also impose employment sanctions. See **VPM Discipline** for further information.
- Where police make a mandatory report to Child Protection, they should also notify the local Sexual Offences and Child Abuse Investigation Unit (SOCIT).

2.6 *Notifying a Sexual Offence and Child Abuse Investigation Team or a Family Violence Investigation Unit*

- Depending on the circumstances, police attending incidents involving children may request the attendance of a local SOCIT, Family Violence Investigation Unit (FVIU), Crime Investigation (CIU) or Taskforce, or a Crime Squad, for specialised investigative assistance.
- Police must immediately notify the local SOCIT where there is:
 - any disclosure of sexual assault of a child or
 - a disclosure of child abuse or a physical assault of a child except family violence incidents involving an assault on an adult as part of the same incident.
- When attending family violence incidents involving a physical assault on a child and an adult in the same incident, police must consider notifying the local FVIU. This notification is in addition to the system notification the FVIU receive through the submission of properly compiled FVRs (L17s).

2.7 *Critical protective cases*

- Police and Child Protection are protective intervenors under s. 181, CYFA. In practice, Child Protection has the primary responsibility for making a protection application and taking a child into safe custody. However, when an emergency response is required, or a child is at imminent risk of significant harm and it is not possible for Child Protection to take immediate action, police are authorised to place the child in emergency care with or without a warrant (s.241, CYFA).
- Police must notify Child Protection by telephone as soon as the child is removed from danger. Child Protection must take the child into safe custody and arrange for the matter to be brought before the court as soon as practicable.
- Refer to the **Protecting Children Protocol** available on the intranet for further guidance.

3. Report of concern for the wellbeing of a child or unborn child

- Any person, including police, with a significant concern for the wellbeing of a child or unborn child may either:
 - report their significant concern to Child Protection (ss.28-29, CYFA)

- refer their significant concern to a community-based child and family service (ss.31-32, CYFA), such as The Orange Door.
- These services may provide the reporting person with advice, give advice and assistance to the child or family, refer the matter to another community-based child and family service or a relevant service agency, or treat the matter as a protective intervention report (see section 2 of this policy).
- If in doubt about who to report to, police should contact the Child Protection intake service covering the local government area where the child normally resides, or the After-Hours Child Protection Emergency Service (see section 1.2 of this policy).
- Child Protection and community-based child and family services must notify Victoria Police of reports or referrals made in the above circumstances that involve criminality (see section 7 of this policy).

4. Report about a child in need of therapeutic treatment

4.1 *Child in need of therapeutic treatment*

- A child needs therapeutic treatment if the child:
 - is aged of or above 10 and under 18 years and
 - has exhibited sexually abusive behaviours (s. 244, CYFA).
- A child has exhibited sexually abusive behaviours when they have used their power, authority or status to engage another party in sexual activity that is unwanted, or where due to the nature of the situation, the other party is not capable of giving informed consent (e.g. children who are younger or those who have a cognitive impairment). Physical force and/or threats may also sometimes be involved.
- Sexual activity may include exposure, peeping, fondling, masturbation, oral sex, penetration of a vagina or anus using a penis, finger or object, or exposure to pornography. Refer to DFFH's Child Protection Manual for further guidance on concerning sexual behaviours (available on the DFFH internet page).

4.2 *Report to Child Protection*

- Any person, including police, may make a report to Child Protection where they form a belief on reasonable grounds that a child needs therapeutic treatment (s.185, CYFA).
- Police may make a report to Child Protection regardless of whether criminal prosecution is being considered or conducted.
- Police must make a report to Child Protection where either:
 - the parent/s or guardian/s of a child exhibiting sexually abusive behaviours have failed to, or do not agree to, voluntarily engage the child in therapeutic treatment through a Sexually Abusive Behaviour Treatment Service
 - a directly related criminal prosecution is not being pursued.
- Where Child Protection receives a report about a child in need of therapeutic treatment from a source other than Victoria Police, Child Protection must notify Victoria Police to consider a criminal investigation.
- Once notified, police must advise Child Protection or the ACAC provider within three working days of receiving the report as to whether a criminal investigation will be conducted.

4.3 *Child subject to therapeutic treatment order re-offends*

If a police officer receives a crime report about a child re-offending and that child is known to be subject to a TTO, they must advise Child Protection.

5. Family violence

5.1 *Family Violence Report (L17)*

- Police attending a family violence incident must complete and submit an FVR (L17). This report must identify the affected family member/s (AFM).
- There are three ways by which children may be the subject of an FVR (L17):
 - when a child is an AFM in their own right a Family Violence Intervention Order (FVIO) application on behalf of the child is made at the Children's Court)
 - under a guardian (an FVIO application on behalf of an adult that includes children is made in the Magistrates' Court) or
 - when the young person has used family violence (applications for FVIOs against young people who are the respondent are made in the Children's Court).
- Police must obtain answers to all questions on a FVR (L17) even if they are not considered an AFM in their own right. Some questions on the FVR (L17) are scored and intended to assess past and future risk of harm to children in the family. Obtaining all answers helps keep children safe.
- Refer to **VPM Family violence** for more information.

5.2 *Responding to family violence where a child is present*

- Police must make an independent assessment of the level of risk posed to any child that is involved in a family violence incident as:
 - the victim, AFM, or target of the family violence behaviour
 - a protected person due to their presence at or witnessing of family violence against their AFM parent or guardian
 - a protected person of a family unit experiencing family violence
 - the instrument of perpetrating family violence, by a person being withheld from the AFM parent or guardian in an attempt by the person using family violence to cause significant distress and fear.
- Police must record the details of that assessment, including the names of all involved children, on the FVR (L17).
- When police apply for an FVIO (including a Family Violence Safety Notice) on behalf of an adult AFM, they should include any child who has been recorded on the FRV (L17) as exposed to family violence, even if they are not present at the incident.

5.3 *Reporting and referrals*

- If police need to make a notification to Child Protection, they must contact Child Protection by telephone and tick the relevant box on the FVR (L17).
- When children are present and a report to Child Protection is not made, but police have significant concerns for the wellbeing of a child, police should refer them to The Orange Door by selecting the option in the FVR (L17) either on the child's FVR (L17) or on the AFM parent's/guardian's FVR (L17) listing that child.
- Police must record if the AFM is pregnant and if there is a significant concern for

the wellbeing of the child after their birth.

- Police must advise the parent(s) or guardian(s) whenever their child/children will be subject of a referral, and the circumstances of the referral. Advising of the referral does not apply if the notification:
 - places the child or another person at risk or
 - could be detrimental to either a criminal investigation or a protective investigation under the CYFA, for example, possible destruction of evidence.
- Police must assess whether any child involved in a family violence incident is at risk and in need of protective intervention, and:
 - Child Protection must be notified when there is a reasonable belief that a child needs protection (refer to section 2) and
 - a report to Child Protection must be considered where there is persistent family violence and there is a likelihood of significant harm to the child or the child's stability and development.
- When a child has been physically or sexually abused by a family member, Child Protection may make an application for a Child Protection Order under the CYFA. This application will form part of the overall case management of the child and the family. In these circumstances, police may not need to apply for an intervention order as responsibility for the child remains with Child Protection.
- Where Child Protection determines its involvement is not warranted, police must reassess the circumstances to determine whether the level of future protection requires police to apply for an FVIO on behalf of the child or children.

5.4 *Responding to young people who use family violence*

Young people who use family violence require a different police response to adult perpetrated family violence because of their age and the possibility that the young person is also a victim survivor of family violence. Refer to the **Code of Practice for the investigation of family violence** available on the intranet, for further information.

When responding to a young person, police:

- should consider the views and wishes of children when safe, reasonable and appropriate to do so, prioritising the best interests of that child in those circumstances; refer to **VPM Human rights standards** for further guidance
- must identify the predominant aggressor and consider the best interests of the child when deciding appropriate action where an incident involves both an adult offender and a young person who has used family violence
- if considering laying criminal charges against that young person, must also consider the least punitive course of action including cautions, diversions, submitting formal reports to other government agencies, and making referrals to support agencies. Refer to **VPM Disposition**, **VPM Diversion** and **VPM Cautions** which support alternative options
- must advise the parent(s) or guardian(s) of any child or young person whenever a referral is going to be made and the circumstances of the referral
- must use the FVR (L17) to make a Child Protection referral for young people who use family violence. However, police may contact Children Protection by telephone if circumstances require this or the FVR (L17) is not available

- must notify Child Protection prior to applying for the order where an FVIO application involves a respondent who is a young person. A young person cannot be excluded from the home without consultation with Child Protection to have alternative accommodation, care and supervision arranged for that young person
- if intending to seek an interim FVIO via an application and summons that includes exclusion conditions for a respondent under 18 years of age, must confirm emergency accommodation for the duration of the interim order before making the application.

6. Children and young people living in out of home care

6.1 *Out of home care*

Children and young people who have been placed in out of home care are subject to statutory orders or Child Protection investigations.

6.2 *Child sexual exploitation in out of home care*

- Police should always place responsibility for child sexual exploitation on the adult offender for their actions and not the decision making of the child or young person. This is because children and young people living in out of home care are highly vulnerable to sexual exploitation. As a result, they may not understand they have been exploited or may fear repercussions if they disclose the abuse.
- Victoria Police, along with Child Protection and ACAC providers, have a shared responsibility to prevent, detect, and respond to sexual exploitation of children and young people in out of home care through:
 - intervention and disruption
 - strengthening local partnerships and governance arrangements and
 - raising awareness and developing evidence informed practices.
- SOCITs have primary responsibility for investigating allegations and concerns of child sexual abuse and exploitation.
- It is an offence for a person to either:
 - harbour or conceal or assist in harbouring or concealing the child or young person or
 - prevent or assist in preventing the child or young person from returning knowing that the child or young person is absent without lawful authority or excuse from the place in which they have been placed under an interim accommodation order, in out of home care, or from the lawful custody of police or other person (s.495, CYFA).

6.3 *Reports of concern for a child or young person living in out of home care*

- Police must follow the individual safety and criminal investigation requirements set out in the **Protecting Children Protocol** after receiving a report of concern for a child or young person living in out of home care who may be at risk of sexual exploitation.
- In accordance with the **Protecting Children Protocol**, police must:
 - investigate reports received from Child Protection, even when the child or young person does not make a formal statement

- advise Child Protection as soon as practicable of other criminal investigations concerning sexual abuse or exploitation if the child or young person is known to Child Protection and
 - advise Child Protection if they are interviewing a child involved with Child Protection or require the child to appear in court as a witness.
- Refer to the **Protecting Children Protocol** available on the intranet for further guidance.

6.4 *Responding to behaviours of concern by a child or young person living in residential care*

Victoria Police has a shared commitment with DFFH, the Department of Justice and Community Safety residential care service providers and frontline staff, to reduce the unnecessary and inappropriate contact of children and young people in residential care with the criminal justice system due to behaviours of concern. As a result, police:

- if attending a non-crisis incident in a residential care home, must ensure the physical safety of all those present and determine whether a criminal offence has occurred
- when assessing the most suitable response to concerning behaviour, must consult with the residential care worker, victim(s), and the young person
- should consider the use of 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, if applicable. Refer to **VPM Diversion** for further information
- should only pursue criminal charges where alternative approaches are not appropriate and consider the least punitive course of action. Refer to **VPM Disposition** and **VPM Cautions** which support alternative options, if applicable.

Refer to the **Framework to reduce criminalisation of young people in residential care** available on the intranet for further guidance.

7. Investigating allegations of child abuse

7.1 *General principles*

It is a shared principle between Child Protection, ACAC providers and Victoria Police that the best interests of the child are the highest priority. Police planning child abuse investigations and visiting or speaking with children should prioritise:

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

7.2 *Agency roles and the joint response*

- Child Protection is the lead agency for the protection of children. ACAC providers are delegated to acquit those obligations in relation to cases authorised by DFFH.
- Victoria Police is the lead agency in all criminal matters associated with child abuse and neglect cases.

- A joint response or joint investigation occurs when Victoria Police and Child Protection or an ACAC provider are engaged simultaneously in discharging their respective responsibilities.
- Police must consider additional factors relating to criminal matters committed in the context of family violence (refer to section 5 of this policy).

7.3 *Notification requirements*

- To facilitate an appropriate joint response, Child Protection or ACAC providers must notify Victoria Police of any reports they receive that a child needs protection because of sexual or physical abuse or serious neglect. This must occur at the point of their intake, or whenever a new report is received, and prior to visiting any of the parties involved or directly commencing their investigation, as required by the **Protecting Children Protocol**.
- Where criminal offences are alleged, police should notify Child Protection as soon as possible.
- In the course of their duties, if police identify that a report of harm or abuse of a child is 'reportable conduct', as per the *Child Wellbeing and Safety Act 2005* (CWSA) they should consider proactively sharing that information with the Commission for Children and Young People in accordance with **VPM Reportable Conduct Scheme and Child Safe Standards**. Additional information is also available on the Inter-agency Information Sharing Service intranet page.

7.4 *Direct visit to a child*

- Where a child is suspected of having been abused, police, along with Child Protection or the ACAC provider, will generally conduct a joint visit to speak with the child and to address protective and criminal aspects of the investigation.
- A record of the joint planning process, visit, and decisions made must be recorded on the relevant case file by police.
- In cases where the extent of the abuse is unclear, police may request Child Protection or the ACAC provider visit the child to make an initial assessment before discussing their concerns with police to establish whether a criminal investigation is required.

7.5 *Speaking with a child*

- Where possible, police visiting and speaking with a child suspected of having been abused should be jointly conducted by one police officer from SOCIT and one Child Protection Officer or ACAC case manager. A suitable support person for the child may also be present (e.g. a teacher).
- Decisions about how the discussion will be conducted, who will lead the conversation and who will record that discussion should be determined in the pre-visit planning.
- If a joint interview has occurred and notes were recorded by one party, these notes must be made available to both police and Child Protection or the ACAC provider. These notes may be used by either party in any subsequent legal proceedings.
- If criminal offending is disclosed, police must take a formal statement of complaint from the child as soon as practicable.

- For further information and additional guidance about police interaction with a child, see:
 - **VPM Interviews and statements**
 - **VPM Visual Audio Recorded Evidence (VARE)** and
 - **Protecting Children Protocol**.

7.6 *Visual Audio Recorded Evidence statements*

If a VARE format statement is to be taken, the safety and wellbeing of the child must be considered in relation to when the statement is obtained. When obtaining a child's statement:

- Police should encourage Child Protection or the ACAC provider to watch the VARE statement being recorded from the monitoring room and to take notes. The *Criminal Procedure Act 2009* and *Criminal Procedure Regulations 2020*, do not allow for Child Protection or the ACAC provider to ask questions during the recording of the VARE statement or to view a VARE recording once completed.
- Child Protection may ask the child questions after the VARE statement has been taken (i.e. off-camera). Police should fully document these questions to rebut any claims of contamination of the subsequent conversation. See **VPM Visual Audio Recorded Evidence (VARE)** for further information.
- Police are strongly encouraged to engage the Intermediary Program (IP) when taking statements from children who are victim survivors of sexual offences or witnesses to homicide matters.
- The IP program provides skilled trained communication specialists (intermediaries) to be available during police interviews and at court to facilitate communication for vulnerable victims. The IP e-Referral portal can be accessed on the IP page on the DJCS website.

7.7 *Facilitating medical care and forensic examination of a child*

- Child Protection or the ACAC provider and police must agree on the type of assessment required to ensure that the examination undertaken is appropriate and to avoid multiple and/or unnecessary examinations of the child.
- Child Protection or the ACAC provider are responsible for arranging a medical assessment.
- Police must ensure a forensic medical examination is arranged in cases where criminal offence concerns are apparent.
- In cases where it is unclear what type of assessment is required, Child Protection or the ACAC provider and police should consult with the Victorian Forensic Paediatric Medical Service to assist in determining the type of assessment required. Contact details for this service is available on the intranet or via the local SOCIT.

7.8 *Child Protection interview with the alleged offender*

- Child Protection or the ACAC provider may have contact with the alleged offender as part of their protective investigation and should include details of the contact in the joint investigation plan.

- Child Protection or the ACAC provider must consult with Victoria Police regarding how contact with the alleged offender will be managed to ensure the criminal investigation is not jeopardised and worker safety is considered.

7.9 *Alleged offender is a DFFH, ACAC or Victoria Police employee*

When a police officer receives information that a child has been sexually or physically abused, and the alleged offender is an employee of:

- Child Protection -Victoria Police must report the matter to the Office of the Principal Practitioner, DFFH via their PBEA: officeofprofessionalpractice@dffh.vic.gov.au.
- ACAC program - Victoria Police must report the matter to the Chief Executive Officer of the ACAC provider
- Victoria Police - the matter must be reported to Professional Standards Command or the Independent Broad-based Anti-corruption Commission. This includes where an employee of Victoria Police is alleged to have engaged in misconduct in relation to the abuse of a child. Refer to **VPM Complaints** and **VPM Discipline**.

This reporting is required in addition to a police officer's obligations as a mandatory reporter and protective intervenor.

7.10 *Consultation with Child Protection on offences under the CYFA*

The responding police officer must consult with the Child Protection Unit Manager in the relevant region/s before proceeding with any of the following charges against parents under the CYFA:

- fail to protect a child from harm (s.493(1))
- leave a child unattended (s.494(1)) or
- counsel or induce a child to be absent without lawful authority (s.496).

8. Children's Court search warrants

- When a child is at risk of significant harm and removal by Victoria Police is the only viable option to ensure the child is safe, Child Protection is responsible for obtaining a relevant Children's Court search warrant from the Children's Court for police to execute.
- Search warrants (including Emergency Care Warrants) authorise police to enter and search premises for the child named in that warrant. See the table below for additional instructions.

Search warrant	Permitted actions
s. 237, CYFA	• Police are permitted to use reasonable force to enter any premises where they believe that child be located and apprehend the child. • Police must deliver that child, to Child Protection, to enable DFFH to begin their investigation and their application for a Temporary Assessment Order.
ss. 241-243, 247, 247A, 261, 268-270, 313-315, 598, CYFA	• Police are authorised to bring an arrested (apprehended) child before a Bail Justice or Court as soon as practicable, or deliver that child to emergency care with Child Protection.

- If police need to search for exhibits and evidence of offending, then a separate warrant is required. See **VPM Arrests and warrant to arrest** and **VPM Searches of property** for further information.
- These search warrants issued under the CYFA are deemed necessary by the Children's Court to mitigate risk of significant physical or mental harm to a child. Police undertaking warrant execution must always do so in accordance with **VPM Operational safety and use of force** and **VPM Searches of property** as required, with the best interests of the child as the objective.
- Police must:
 - assist Child Protection with the execution of the search warrant
 - deliver that child to the location stipulated on the warrant (if there is a location) and
 - use their body worn camera, in accordance with **VPM Body worn cameras** when executing the search warrant.
- Police may execute a Children's Court search warrant in the course of a joint investigation and visit to a premises, or as the result of an incidental encounter with a child during which the existence of a warrant filed in the Electronic Warrant Online Knowledge-bank (EWOK) becomes apparent.
- Refer to the **Protecting Children Protocol** available on the intranet for further guidance.

9. Sharing information to protect children

9.1 *Information sharing between Victoria Police and Child Protection or ACAC providers*

- Section 192, CYFA requires police and Child Protection or the ACAC provider to share information in the context of child protection practice where they believe, on reasonable grounds, that sharing the information is required to carry out their duties and responsibilities under that section.
- This requirement extends to information requested from, disclosed to, or received from:
 - an information holder
 - a service agency
 - a person in charge of or employed in a registered community service or
 - any other individual.
- Exchange of information should occur regularly between Victoria Police and Child Protection or the ACAC provider, at different levels of formality, considering:
 - the best interests of the child
 - the confidentiality and privacy of clients
 - security issues regarding the method of sharing confidential documents and
 - that beyond issues of physical and sexual abuse, the responsibilities of Child Protection are the same as those of the general public when reporting offences to the police.
- Agencies must keep each other informed of the current and proposed future actions in relation to the protection of the child and investigation of criminal matters. This may include issues such as an offender's compliance or

non-compliance with bail conditions.

- To support information sharing requirements set out in the CYFA and in this section, police must:
 - only share information between Victoria Police and Child Protection using encrypted email whenever possible
 - when the urgency or other circumstances of the case require the information be provided over the telephone, only do so where the parties are known to each other, or their respective identities can be established
 - record any information provided and received by email or phone on a Victoria Police database and
 - not disclose information about a child in need of protection to any person other than another protective intervener who is investigating the subject matter of the protective intervention report. This is to reduce any prejudice to an ongoing investigation (s.207(2), CYFA).

9.2 *Child and family violence information sharing schemes*

- Existing information sharing powers are enabled under the CYFA and the *Privacy and Data Protection Act 2014* (PDPA) and are further supported by the Child Information Sharing Scheme (CISS) and the Family Violence Information Sharing Scheme (FVISS).
- Information may be requested or shared between Victoria Police and Child Protection under either scheme. These requests are categorised as follows:
 - requests under the FVISS are to assess and manage family violence risk.
 - requests under the CISS are to promote the wellbeing or safety of a child or group of children and
 - requests under the CYFA are specific (see section 1 of this policy).
- Refer to the **VPM Family violence and child information sharing** for more information.
- If police are unsure which power (Act, protocol, scheme or policy) the request they have received is being made under, they should seek clarification from the requesting entity. Additional information is also available on the Inter-agency Information Sharing Service intranet page.

9.3 *Information requests requiring a subpoena*

- Any requests for information outside the parameters of the CYFA, PDPA, CISS, or FVISS should only be made by a search warrant or subpoena. The party holding the information must 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.
- Where documents require a subpoena to be issued to allow their release, police should advise Child Protection at the earliest opportunity, to ensure minimal delays.

9.4 *Criminal record checks*

All requests by Child Protection for criminal record checks should be directed to the Police Information Liaison Office via their PBEA (SECURITYUNIT-RSD-MGR@police.vic.gov.au).

9.5 *Request by Child Protection or ACAC providers for police assistance*

- Child Protection or ACAC providers may request the assistance of police to accompany them where there is a threat of physical violence, or other circumstances that dictate the need for police presence.
- A supervisor (police officer of or above the rank of sergeant) must assess the timing and level of assistance required, and provide where appropriate.

9.6 *Dispute resolution*

- It is essential that differences between police and Child Protection or ACAC providers are addressed between the parties as soon as possible.
- Where a local issue arises that cannot be resolved between the individuals involved, the dispute resolution model in the **Protecting Children Protocol** should be followed.

Related documents

- **VPM Family violence and child information sharing**
- **VPM Family violence**
- **VPM Sexual offence investigations**
- **VPM Visual Audio Recorded Evidence (VARE)**
- **VPM Reportable Conduct Scheme and Child Safe Standards**
- **VPM Interviews and statements**
- **VPM Human rights standards**
- Code of Practice for the investigation of family violence
- Protecting children - Protocol between the Secretary of the Department of Families, Fairness and Housing, Aboriginal Children in Aboriginal Care providers and Victoria Police
- Framework to reduce criminalisation of young people in residential care, Department of Health and Human Services, 2020.
- *Children, Youth and Families Act 2005*
- *Family Violence Protection Act 2008*

Further advice and information

For further advice and assistance regarding this policy, contact the work unit manager or local SOCIT.

Update history

DATE UPDATED	SUMMARY OF CHANGE	FORCE FILE NUMBER
19/06/2025	Review and consolidation of VPMP Protecting children and VPMG Protecting children. Updates to clarify child information sharing obligations, Child Protection Protocols, responses to children on premises used for sexual services, and introduce emergency care warrant directions.	FF-197943 1

