

Victoria Police Manual – Policy Rules

Protecting children

Context

Department of Human Services (DHS), specifically Child Protection, is the lead agency for the protection of children in Victoria. However, police also have responsibilities under the *Children, Youth and Families Act, 2005* (CYFA) and **Protecting Children Protocols** between DHS and Victoria Police in relation to the protection of children.

Police are also responsible for the investigation of criminal offences associated with allegations of physical or sexual abuse of a child or serious neglect and play a key role in identifying children in family violence situations and initiating appropriate referrals.

This policy and supporting guidelines provide members with instructions and guidance on how to carry out their roles in protecting children. The following sections detail members' requirements with regards to the three types of reporting and should be read in conjunction with **VPMG Protecting children, Protecting Children Protocols** and the CYFA.

Application

Policy Rules are mandatory and provide the minimum standards that employees must apply. Non-compliance with or a departure from a Policy Rule may be subject to management or disciplinary action. Employees must use the **Professional and ethical standards** to inform the decisions they make to support compliance with Policy Rules.

These Policy Rules apply to:

- Operational members
- Supervisors

Rules and Responsibilities

1. Reporting 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
- significant concern for the wellbeing of a child

- child in need of therapeutic treatment

2. Report regarding a child in need of protection

2.1 *Police as Protective Interveners*

- Where during the course of carrying out their duties a member forms the belief on reasonable grounds that a child is in need of protection, the police member must, as soon as practicable, make a report to Child Protection regarding this belief and the reasonable grounds for it. See **VPMG Protecting children** for a definition of when a child is deemed to be in need of protection and contact details for Child Protection.
- Information concerning a child in need of protection must not be disclosed to any person other than another police member or DHS worker who is investigating the report (s.207(2)).
- Members must direct any person reporting a child in need of protection to Child Protection and advise them that police will also make a report to Child Protection.

2.2 *Mandatory reporting*

- Section 184, CFYA, requires members to report to Child Protection when, during the course of carrying out their duties, they form the belief on reasonable grounds that a child has suffered, or is likely to suffer, significant harm as a result of:
 - physical injury and/or
 - sexual abuse

and the parents have not protected, or are unlikely to protect, the child from harm of that type.

- Members must report their belief and the reasonable grounds for it as soon as practicable:
 - after forming the belief, and
 - after each occasion on which he or she becomes aware of any further reasonable grounds for the belief.
- See **VPMG Protecting children** for information on who are mandated professionals, what is considered to be a belief on reasonable grounds, contact details for DHS, and penalties for a failure to report.

2.3 *Critical protective cases*

- Police are authorised by legislation to issue a protection application and take a child into safe custody. Members must only do so when there is an

emergency response required or the child is at imminent risk of significant harm.

- Child Protection must be informed as soon as the child is removed from danger and be consulted about the protection application.

3. Report regarding the wellbeing of a child or unborn child

- Police must report to Child Protection before the birth of the child, any significant concerns for the wellbeing of a child after his or her birth (s.29, CYFA).
- Where during the course of carrying out their duties, a police member forms the belief on reasonable grounds that there is significant concern for the wellbeing of a child the police member must make a referral to ChildFIRST (s.28, CYFA). Use Child First Referral [Form 1302].

See **VPMG Protecting children** for guidance on deciding whether to report to Child Protection or ChildFIRST.

4. Report regarding a child in need of therapeutic treatment

4.1 Report to Child Protection

- Where during the course of their duties members form a belief on reasonable grounds that a child is in need of therapeutic treatment, that is:
 - the child is aged between 10 and under 15 years,
 - the child has exhibited sexually abusive behaviours,
 - a directly related criminal prosecution is not being pursued,
 - and the child's parent or guardian has not agreed to voluntarily engage the child in therapeutic treatment,

they must make a report to Child Protection. See **VPMG Protecting children** for clarification on sexually abusive behaviours.

- Police must advise Child Protection within three working days of the report as to whether or not a criminal investigation will be conducted.
- Referral to Sexually Abusive Behaviour Treatment Service
- Where a child has exhibited sexually abusive behaviours and a criminal prosecution is not being pursued, police should, with the consent of the parents, initiate referral to the Sexually Abusive Treatment Service; see **VPMG Protecting children**.

5. Family Violence

5.1 *Assessing risk*

- Members must make an independent assessment of the level of risk for any child who has witnessed family violence or was present and make appropriate referrals to Child Protection or ChildFIRST. The Family Violence Risk Assessment and Risk Management Framework (Form L17) must be utilised to guide risk assessment and safety planning (refer to **VPMP Family violence**).
- See **VPMG Protecting children** and **Protecting Children Protocols** regarding intervention orders in cases involving physical or sexual abuse of a child.

6. Investigating allegations of child abuse

6.1 *A collaborative approach*

- Police and DHS, Child Protection must work cooperatively and flexibly to manage both the protection and criminal aspects of child abuse investigations
- To ensure the best outcomes for the child information exchange will occur regularly between police and DHS, Child Protection on different levels of formality.
- See **VPMP Protecting children** for further guidance on the police/DHS investigation and information exchange between Victoria Police and DHS.

6.2 *Children's Court search warrants*

Police must assist DHS, Child Protection with the execution of any search warrant. Comply with **VPMP Searches of property** as required.

6.3 *Offences under the CYFA*

Police are required to consult with the Child Protection Unit Manager (CPW-5) in the regions before proceeding with any charges under ss. 493, 494 or 496(3), CYFA .

7. Breaches of the *Working with Children Act 2005*

Members must investigate any matter where they believe there has been a breach of the *Working with Children Act*. For further information regarding this process refer to **VPMG Protecting Children**.

Quick Links

- VPMP Crime reporting and investigations
- VPMG Protecting children

Further Advice and Information

For further advice and assistance regarding these Policy Rules, contact your supervisor or SOCIT

Update history

Date of first issue	22/2/10	
Date updated	Summary of change	Force File number
27/05/13	Inclusion of breaches of the <i>Working with Children Act 2005</i>	072767/12