

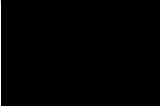
**IN THE MATTER OF THE ROYAL COMMISSION  
INTO FAMILY VIOLENCE**

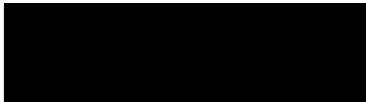
**ATTACHMENT BA-23 TO STATEMENT OF BETH ALLEN**

Date of document: 13 July 2015  
Filed on behalf of: State of Victoria  
Prepared by:  
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This is the attachment marked '**BA-23**' produced and shown to **BETH ALLEN** at the time of signing her Statement on 13 July 2015.

Before me: ...  .....



**An Australian Legal Practitioner within  
the meaning of the Legal Profession Uniform Law (Victoria)**

Attachment BA-23

## Responding to Aboriginal children

Date of Advice: **5 November 2012**

Advice no: **1059**

**This advice is endorsed by the:** Assistant Director, Child Protection Policy, Practice and Planning.

This Advice is current **only** if the date of Advice in this document matches the date of Advice in the online version. Check the date of Advice on line before relying on this printed copy.

### Introduction and purpose

This Advice provides information and practice requirements regarding culturally informed and effective practice to protect Aboriginal children from harm and promote their healthy development. It applies at all phases of Child Protection involvement from intake to case closure, and includes contracted case management and out of home care.

Aboriginal children are significantly over represented in the Child Protection and out of home care populations. Although Aboriginal people constitute approximately one per cent of the total population, they comprise close to twelve per cent of the children in out of home care.

A greater understanding of and commitment to practice approaches, which take account of Aboriginal culture, family relationships and parenting arrangements, is likely to better meet the best interests of Aboriginal children.

The Child Protection practitioner has the responsibility for consulting and considering the views of the Aboriginal Child Specialist and Support Service (ACSASS) and other relevant sources of advice and information and, in the context of all available information, making a decision in the best interests of the child.

This Advice outlines the required practice for Aboriginal children. It does not provide a comprehensive description of intake, investigation or case planning processes, which are provided in the Child Protection practice phases and functions parts of the manual. (see Related links on right of screen).

All relevant requirements in this Advice apply equally to the activities of the After Hours Child Protection Emergency Service (AHCPEs) and the Streetwork Outreach Service (SOS).

### Aboriginal Child Placement Principle (ACPP)

The Children, Youth and Families Act 2005 (CYFA) s.13 Aboriginal Child Placement Principle:

- requires that an Aboriginal agency be consulted and involved in decision making regarding out of home care decisions and arrangements for Aboriginal children (see 'Aboriginal Child Specialist Advice and Support Service (ACSASS)' below).
- specifies the order of priority in which types of placement are to be considered.
- requires that any non-Aboriginal placement must ensure the child's connections to their culture and community (see 'Cultural support plan' below).

### Protocol between Child Protection and VACCA (including MAC)

The 'Protocol between the Department of Human Services Child Protection Service and the Victorian Aboriginal Child Care Agency (VACCA) inclusive of the agreement between Child Protection Service and Mildura Aboriginal Corporation (MAC)'(the protocol) establishes the consultation process necessary for ensuring a culturally informed and effective response to the protection of Aboriginal children from harm. The aims of the protocol are to:

- include an Aboriginal perspective in risk and safety assessments for Aboriginal children
- improve case planning and decision-making for Aboriginal children
- improve the engagement of Aboriginal families with relevant support services and
- improve the involvement of family and community members in providing support for Aboriginal children.

The Protocol sets out the broad roles and responsibilities for the Department of Human Services, VACCA and MAC in responding to children, and provides for the establishment of a specialist consultation service, the Aboriginal Child Specialist Advice and Support Service (ACSASS).

In addition to consultation with Child Protection, a key role of regional ACSASS workers is to facilitate communication and understanding between Aboriginal children and families and Child Protection practitioners.

### Exchange of information between Child Protection and ACSASS

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

Child Protection will consult with ACSASS throughout all phases of involvement.

ACSASS is authorised to have access to the record of investigation of a protective intervention report (CYFA s. 206(2)(f)).

No consent from parents or children is required for this information exchange although best practice is to inform families about the information that is collected and disclosed about them, subject to the child's safety needs.

Where ACSASS have been unable to attend a first visit or the family have refused to have ACSASS directly involved, Child Protection will advise the family that they will continue to consult with ACSASS.

## Legislation

**Note:** Use the Legislation link on toolbar to access full text versions of the legislation.

Any sections of an Act noted in this Advice are partial references only and should not be relied on. Practitioners should refer to the Act for full details.

### Children, Youth and Families Act

The legislation governing the provision of Child Protection services to Aboriginal children and their families is primarily the *Children, Youth and Families Act 2005 (CYFA)*.

Relevant sections include:

- s. 3 Definitions (Aboriginal person, Aboriginal agency)
- s. 10 Best interests principles
- s. 11 Decision-making principles
- s. 12 Additional decision-making principles
- s. 13 Aboriginal Child Placement Principle
- s. 14 Further principles for placement of Aboriginal child
- s. 16 Responsibility of Secretary
- s. 18 Secretary may authorise principal officer of Aboriginal agency to act
- s. 176 Cultural plan for Aboriginal child
- s. 283 Custody to third party order
- s. 284 Supervised custody order
- s. 287 Custody to Secretary order
- s. 321 Permanent care order
- s. 323 Restrictions on the making of a permanent care order in respect of an Aboriginal child

### Victorian Adoption Act

*Victorian Adoption Act 1984*

- s. 50(1)(2e) Adoption of an Aboriginal child

## Standards and procedures

### Consulting ACSASS – an overview

#### Standard

Child Protection is required to consult with the Aboriginal Child Specialist Advice and Support Service (ACSASS) about all reports (including child wellbeing reports) regarding Aboriginal children, and also regarding significant decisions in all phases of Child Protection intervention.

Significant decisions and actions include:

- initial and ongoing assessments
- planning and conducting initial visits
- removal of a child from their parents' care
- applications to the court
- the development and review of the case plan
- placement in out of home care or a secure welfare service
- changes to placements or access arrangements
- breaches, revocations, variations and extensions of orders
- reunification decisions and plans
- case transfers between regions
- case transfers into and out of Victoria.

The outcome of consultations with ACSASS should be ratified by a child protection supervisor.

The value of consultation

A significant outcome of consultation with the ACSASS services is the provision of a cultural context and meaning to the information gathered during Child Protection involvement.

Consultation can provide information about:

- Aboriginal child rearing practices
- extended family and community networks including people to involve in decision making
- cultural norms and beliefs
- trans-generational impacts of trauma from past child welfare practices
- Aboriginal approaches to holistic wellbeing
- the identity and role of Elders in community.

Practitioners and managers should approach the task of consulting with ACSASS having thought about how the shared involvement of ACSASS and Child Protection can assist assessment, decision making, case practice and the best interests of the child. In the context of all available information, the Child Protection practitioner will make a decision in the best interests of the child. That is to say, case planning decision-making responsibility for a child rests with Child Protection.

Consider:

- What is the purpose of consultation in this case?
- What information will contribute to a comprehensive assessment and realistic plan to keep this child safe and promote their development?
- What information will enhance our understanding of this child and family in the context of their culture and wider social network?
- What information does ACSASS require from Child Protection in order to provide realistic suggestions for practice and decision making?

Where appropriate, and subject to the information sharing provisions provided in the CYFA, Child Protection may contact other Aboriginal services such as a local Aboriginal Co-operative for information or referral, however the role of consultant in the investigation and other significant decisions and actions remains with ACSASS.

See Advice number 1090, 'Information sharing in Child Protection practice'

### Objection to ACSASS involvement by a child or parents

A child or their parents are entitled to refuse the direct involvement with ACSASS in for example meetings and home visits. In the case of a child or family objecting to ACSASS involvement, Child Protection will continue to consult with ACSASS. ACSASS will not attend meetings or visits where the parents of an Aboriginal child object to their involvement. However, ACSASS will still be consulted in decision making.

### Intake

Practitioners should also read:

- Advice no. 1154 – Receiving and processing reports
- Advice no. 1144 – Reports regarding unborn children

### Identifying Aboriginal or Torres Strait Islander children

#### Standard

Intake practitioners must ask at the first opportunity whether the child who is the subject of a report is Aboriginal. The Aboriginal status of a child must be established by the completion of an investigation.

The intake practitioner should ask if the reporter knows whether the child is Aboriginal and response or investigation practitioners should confirm or clarify the child's Aboriginality at the first visit with the child's parents, if the report proceeds to investigation.

### Consultation, action and decision-making timelines

Where a child is identified as Aboriginal when the report is first received, contact with ACSASS should be made as soon as possible to assist in determining where possible:

- whether the child or family is known to ACSASS
- known family resources and strengths
- known family supports including extended family
- known carers of the child such as extended family
- known agencies and professionals involved
- the ACSASS assessment of the nature of the concerns and information gathered by Child Protection
- the classification of the report (inappropriate, unborn child, child wellbeing or protective intervention report etc)
- potential issues and resources, which may assist the family
- preliminary arrangements for a joint first visit if the report is classified as a protective intervention report.

Where ACSASS is unable to offer information, advice or respond to a request for a joint visit within the necessary time period, Child Protection should progress the matter appropriate to the circumstances of the case. Child Protection should inform ACSASS regarding the visit and assessment as soon as possible to facilitate consultation on the next step.

Where the report relates to a child are under two years, the intake practitioner must consult with a practice leader and include this information in subsequent planning with ACSASS.

Refer to Advice number 1012, 'High Risk Infants (HRI)–practice requirements' - (see Related links).

### ACSASS intake contact details

During business hours:

- Victoria (except Mildura) ACSASS (Lakidjeka) central intake, phone (03) 9388 2488
- Mildura (MAC) ACSASS, phone (03) 5023 6641

Outside business hours:

- Requests for after hours consultations with ACSASS from rural or metropolitan Child Protection practitioners are made to the Central After Hours Child Protection Emergency Service (CAHCPES) who will liaise with ACSASS (Lakidjeka).
- ACSASS may provide a joint outreach response within the metropolitan area and consultation for rural regions in relation to all reports concerning Aboriginal children.
- CAHCPES will contact ACSASS about all new reports where there is a need to actively respond to a report or where significant decisions must be made. Where the matter is not urgent, consultation with ACSASS should be undertaken by the relevant regional office when the case is transferred the following morning.
- The CAHCPES and Street work services will ensure details of all ACSASS consultations and joint actions are recorded in information forwarded to regions.

### Report outcome

A report outcome could be to provide advice to the reporter, to refer, or to investigate.

### Child wellbeing report

Where a report is classified as a child wellbeing report following a consultation with ACSASS, a referral may be made to an appropriate agency or professional. Professional reporters should be advised of the outcome. (It is good practice where possible to contact all reporters to advise them of the outcome of a report). Child Protection and ACSASS then close the case.

### Protective intervention report

Where a report is classified as a protective intervention report, further consultation with ACSASS is required to assist in planning for the investigation of protective concerns.

Responsibility for ongoing consultation and involvement, in cases which proceed to further action, transfers from ACSASS (Lakidjeka) central intake to the relevant regional ACSASS team. Mildura cases remain with the MAC ACSASS team.

### Investigation and assessment

Practitioners should also read:

- Advice number 1182, 'Investigation – planning and preparation'
- Advice number 1192, 'Conducting the first visit'

See Related content.

### Joint first visit

Child Protection must seek and jointly plan the involvement of ACSASS in a first visit. An exception occurs where the family has objected to ACSASS involvement where they have been contacted by telephone prior to the visit. (See the earlier heading above 'Objection to ACSASS involvement by a child or parents').

If possible a brief face to face or telephone meeting should be held with the ACSASS worker (and supervisor, as appropriate) to determine the role that each of the participants will take in the interview.

Consider:

- if the visit is pre-arranged who may be best to introduce practitioners to the family, and help the family understand the nature of the concerns and the role of Child Protection and ACSASS
- how the presence of the ACSASS worker might better engage the parents or assist them
- the need for police involvement if there are known safety issues.

### Visit planning

In planning for the visit, it is important that practitioners anticipate that the family may have had personal experience of welfare authorities as part of the 'Stolen Generations' or through other negative experience of public authorities. This could mean that engaging the parents may be difficult, and exploration with ACSASS of strategies to achieve this would be useful.

Practice issues for the interview:

- Invite the parent to have a member of the family or friend with them during the interview for support.
- Consider asking if the family have any prior experience with Child Protection
- Clarify any confusion or inaccuracies.
- Acknowledge difficult experiences or painful memories (if they arise) in relation to past experiences with child welfare service practices, move at the parent's pace.

Where Child Protection undertakes a visit to an Aboriginal family and ACSASS is unavailable to attend, practitioners should consult ACSASS when appropriate to do so.

Following the first visit, an opportunity for the ACSASS worker and Child Protection to discuss and analyse the information gathered should be arranged. The outcome of further information gathering and subsequent contacts with the family should be discussed with ACSASS if not party to these contacts.

### Investigation outcome

#### Abuse not substantiated

If, following consultation or investigation with ACSASS, abuse is not substantiated, the case is closed by both Child Protection and ACSASS. Prior to closure, advice may be sought from ACSASS on locating suitable services for referral.

#### Abuse substantiated

Consultation with ACSASS is to be maintained with regard to decision-making and planning for the child's safety, stability and development.

If the case is substantiated, a referral to the Aboriginal Family Decision Making is the preferred planning option.

### Protective intervention

Case consultation should be maintained with ACSASS for Aboriginal children where cases are in protective intervention phase. Consultation should take place regarding:

- new information
- ongoing assessment
- development of the case plan
- placement
- the need to remove a child from their parents' care, and
- any other significant decision or issue.



### Protection applications and court

Child Protection should seek information and cultural advice from ACSASS in relation to protection applications and court proceedings. Any court report provided by Child Protection must set out the views and advice of ACSASS. ACSASS staff should be involved in drafting this section of the report. In the event that the Child Protection assessment varies from the ACSASS assessment, the reason for the variation should be clearly articulated within the court report.

Where appropriate, ACSASS workers may be requested to attend court as a witness. ACSASS workers may also attend court to provide support to the child and family, with regard to process and participation, or to provide information at the court's request.

### Protection orders - consultation responsibilities

Whilst a protection order is in place, consultation with ACSASS is required in relation to all significant decisions, including:

- applications to the court
- breach, revocation, variation or extension of an order
- case planning
- decisions during the protection order phase that are outside the parameters of the case plan include: change of placement type or changes to access arrangements between the child and their family or placement in secure welfare.

In permanent care and custody to third party cases, ACSASS may advise that the Aboriginal organisation or service currently involved with the family or who have particular responsibility and relevant expertise assume the primary working relationship with Child Protection. In this situation, ACSASS will undertake a consultation role on significant decisions.

### Case planning

In accordance with the best interests principles and decision-making principles in the case of an Aboriginal child (ss. 10–14, CYFA), ACSASS will be consulted in relation to all case planning decisions and meetings, including the protective plan, statutory case planning and review meetings, particularly as this relates to facilitating the involvement of relevant members of the child's Aboriginal community.

ACSASS should also be invited to participate in decision-making meetings, placement planning that occur as part of case planning if this is in accordance with the wishes of the child and their family.

See Advice number 1282, 'Planning in best interests case practice' – see Related links .

### Aboriginal child placement

#### Standard

When consideration is being given to the placement of an Aboriginal child in out of home care, practitioners must consult with ACSASS and the placement must reflect the process outlined in the Aboriginal Child Placement Principle. s. 12(c) (CYFA) s. 13(1)(a), CYFA

(see Related links)

### Cultural support plan

A cultural support plan is to be developed for Aboriginal children subject to a guardianship to the Secretary order or a long term guardianship to the Secretary order and placed in out of home care and reviewed with input from ACSASS. This plan should address:

- continuing efforts to locate a suitable placement within the child's family or Aboriginal community where the child is not now in such a placement
- the involvement of family members in placement activities and decisions

- maintenance of contact with family and community
- links to Aboriginal services
- participation in cultural and community events.

Cultural support plans, as part of the case plan should include specific timelines for review.

See Advice number 1282, 'Cultural support plans'

### Secure welfare

#### Standard

Consultation with ACSASS must be sought where placement in secure welfare is being considered for an Aboriginal child. Consultation must occur or be attempted prior to authorisation for admission to secure welfare (administrative admission or Children's Court IAO).

Child Protection should advise ACSASS of the outcome of the admission approval process to secure welfare as soon as practicable.

The region with case management responsibility must ensure that ACSASS is invited to participate in or provide secondary consultation and advice to secure welfare case conferences and review meetings.

### Streetwork Outreach Service

The Streetwork Outreach Service must consult with ACSASS in relation to:

- participation in safety planning for Aboriginal children and young people
- crisis responses where statutory intervention is being considered
- involvement in joint outreach.

### Irreconcilable differences applications

Where the Aboriginal child or young person and their parents agree to the involvement of ACSASS for irreconcilable differences applications, consultation is sought with reference to:

- assessment
- a suitable approach and service to undertake the conflict resolution process
- the option of support to the child or young person and family in the counselling process
- possible placement away from the family home through the Child Protection system
- the preparation of reports to the court regarding an irreconcilable differences application.

### Transfer of orders interstate or to/from New Zealand

Provisions for the transfer of protection orders are contained in Schedule 1 of the CYFA. The 'Protocol for the transfer of Child Protection orders and proceedings and interstate assistance' details the processes for implementation of the CYFA and specific requirements in respect of Aboriginal children.

### Intake transfer to Victoria

Child Protection should seek advice and information from ACSASS (Lakidjeka) or ACSASS Mildura in relation to suitable placement and cultural support options for Aboriginal children on protection orders coming to Victoria.

ACSASS advice does not determine whether the transfer request is to be accepted.

### Protective concerns or proceedings

If an Aboriginal child is being placed in Victoria from another state due to protective concerns or there is a belief that an assessment of a child who has come to Victoria is appropriate, Child Protection must consult with ACSASS.

### Assessment of interstate caregivers

ACSASS advice on the assessment of proposed caregivers interstate is of a secondary consultation nature only with regard to the Aboriginal Child Placement Principle.

### Placement or transfer of Aboriginal children from Victoria to another state or New Zealand

The views regarding the proposed placement as expressed by relevant members of the Aboriginal community to which the child belongs and ACSASS are to be included in the report provided to the receiving state or New Zealand. (See also the general requirements for interstate transfer including the role of regional interstate liaison officers.)

### Considerations for good practice

**Note:** Use the Practice Resources link on the toolbar to access further Practice Guidance and Research.

#### Past actions shape family responses and actions

The forcible removal of Aboriginal children from their families by welfare authorities was widespread in Victoria as late as the 1960s. It is critical we understand Child Protection involvement has the capacity to evoke memories of actual experiences or family stories and a range of reactions, including fear and anger. Anticipating and managing these reactions sensitively can significantly increase the willingness of families to engage with Child Protection and improve outcomes for children.

#### Collaboration

Effective collaboration has the capacity to significantly enhance the protection we can offer to children and their future wellbeing. Working collaboratively with Aboriginal organisations and professionals who may offer different information, perspectives and values.

In working with other professionals and agencies it is critical we adopt an approach, which is respectful of the knowledge and skills of others, which places children's needs first, and which focuses on the best possible outcomes for children and families.

The aim of consultation with Aboriginal organisations and professionals is to ensure our decision making and practice is informed by an Indigenous perspective. Good advice requires us to share all relevant information regarding the nature of the concerns, our assessment and understanding of the situation in an ongoing and dynamic process.

### Contact for further procedural advice

- Supervisor
- Team Manager
- ACSASS coordinator/ team leader from VACCA or MAC
- Aboriginal Children and Families Unit, Child Protection, Placement and Family Services Branch

## Related content and external links

**Note:** Advice, Protocols and Policy Documents directly related to this Advice are listed below. To access the full range of Protocols and Policy documents use the Protocol and Policy links on the Home Page.

### Related Content:

- 1012 - High risk infants (HRI)- practice requirements
- 1042 - Making effective referrals
- 1060 - Cultural support plans
- 1061 - The Aboriginal child and family service system
- 1144 - Reports regarding unborn children
- 1154 - Receiving and processing reports
- 1182 - Investigation - planning and preparation
- 1184 - Joint visits with the police
- 1192 - Conducting the first visit
- 1199 - Circumstances for immediate removal of a child
- 1282 - Planning in best interests case practice
- 1432 - Aboriginal Child Placement Principle
- 1434 - Permanent care for Aboriginal children
- 1525 - Interviewing children without parental permission
- Protocol between DHS Child Protection and the Victorian Aboriginal Child Care Agency 2002 [PDF, 163.8 KB]
- Protocol for Transferring Child Protection Orders Interstate [PDF, 186.0 KB]

### External Links:

- Aboriginal Cultural Competency Framework
- Cultural Support Plan Guide
- Aboriginal Child Placement Principle Guide for Child Protection and Care Workers, August 2002
- Aboriginal Children and Families website
- Registration of community service organisations
- Looking After Children in Victoria (LAC)
- Bringing Them Home: National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families

## Checklist of required standards

**Note:** A checklist of the required standards follows. It can be utilised as a reference point for practitioners and supervisors or printed and utilised in supervision to assist in ensuring required tasks are undertaken.

No.	Standard	Completion due
	Child Protection is required to consult with the Aboriginal Child Specialist Advice and Support Service (ACSASS) about all reports (including child wellbeing reports) regarding Aboriginal children, and also regarding significant decisions in all phases of Child Protection intervention.	
	Intake practitioners must ask at the first opportunity whether the child who is the subject of a report is Aboriginal. The Aboriginal status of a child must be established by the completion of an investigation.	
	When consideration is being given to the placement of an Aboriginal child in out of home care, practitioners must consult with ACSASS and the placement must reflect the process outlined in the Aboriginal Child Placement Principle.	
	Consultation with ACSASS must be sought where placement in secure welfare is being considered for an Aboriginal child. Consultation must occur or be attempted prior to authorisation for admission to secure welfare (administrative admission or Children's Court IAO).	