

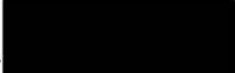
**IN THE MATTER OF THE ROYAL COMMISSION  
INTO FAMILY VIOLENCE**

**ATTACHMENT DM-19 TO STATEMENT OF ASSISTANT COMMISSIONER DEAN  
MCWHIRTER**

Date of document: 27 July 2015  
Filed on behalf of: State of Victoria  
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This is the attachment marked 'DM-19' produced and shown to **DEAN MCWHIRTER** at the time of signing his Statement on 27 July 2015.

Before me: ...  .....



An Australian legal practitioner  
within the meaning of the  
Legal Profession Uniform Law (Victoria)

Attachment DM-19

Family violence referral protocol  
between the Department of Health & Human Services  
and Victoria Police

2015

If you would like to receive this publication in another format, please email [family.violence@dhs.vic.gov.au](mailto:family.violence@dhs.vic.gov.au)

This document is also available on the internet at <http://www.dhs.vic.gov.au/for-service-providers/children,-youth-and-families/family-violence>

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Authorised by the Victorian Government, 50 Lonsdale Street, Melbourne

## Foreword

Family violence is a serious problem that has profound effects on women children, families and communities. Children who are exposed to family violence can experience trauma that may affect their development and well being. Women can fear for their safety and may become homeless. Providing integrated, effective responses to cease family violence is a key priority for the Department of Health & Human Services and for Victoria Police.

This document – the *Family violence referral protocol between the Department of Health & Human Services and Victoria Police 2015* – provides guidance on how Victoria Police, the Department of Health & Human Services and the service agencies it funds can work together to strengthen the collective response to family violence.

Family violence is primarily perpetrated by men against women and children and it is known to be a cyclical problem. Effective strategies must account for this, with systems for monitoring, feedback, prevention and timely intervention. The *Family violence referral protocol* sets out effective referral pathways for Victoria Police and family violence services along with clear and consistent referral practices. It reflects recent improvements to the service system including important improvements to referral pathways for men who use violence and control, to help them change their behaviours. It also specifies procedures for service agencies to notify Victoria Police of safety concerns and to provide feedback on the outcomes of referrals.

The *Family violence referral protocol* is an important part of the overall, state-wide effort to build an integrated system to respond to family violence and it will strengthen existing agreements in this area. Importantly, it requires collaborative arrangements between Victoria Police, the Department and service agencies at the front line to cease family violence, to protect those affected by it, and to bring greater accountability and service options to men who use violence.



Dr Pradeep Philip  
Secretary  
Department of Health & Human Services



Tim Cartwright  
Acting Chief Commissioner  
Victoria Police

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## 1. Introduction

The following protocol has been developed to support the legislative context and the reform agenda of building an integrated system to respond to family violence. This protocol is to be read in conjunction with, and performed in accordance with, the principles detailed in the Overarching Relationship Principles Memorandum of Understanding (dated November, 2014) to which both the Department of Health & Human Services and Victoria Police are signatories.

A key aspect of family violence reforms involves the police, justice and human services working together to develop an integrated system to respond to family violence.

The protocol is strengthened when read in conjunction with The Victoria Police *Code of Practice for the Investigation of Family Violence*.

The *Family Violence Protection Act 2008* is the main legislative instrument covering family violence in Victoria. In addition, related Victorian Acts are the *Children, Youth and Families Act 2005* and the *Child Wellbeing and Safety Act 2005*.

In regard to the *Children, Youth and Families Act 2005*, section 10 provides a unifying set of best interests principles and the concept of 'cumulative harm', which recognises the trauma and impact on the development and safety of children who witness family violence over time.

### 1.1 Objectives of the protocol

The aim of this protocol is to document effective referral pathways *between* Victoria Police and family violence services funded by the Department of Health & Human Services so women and children are better protected and family violence is reduced over time.

It outlines the approaches for:

- formal and informal *referrals by police for victims of family violence to family violence services*
- *assessing the risk to any child or children or young person present at a family violence incident, and referring that child to appropriate support services*
- formal and informal *referrals by police of perpetrators of family violence to services and emergency accommodation if required*
- referral by family violence support agencies for police assistance.

### 1.2 Definition of family violence

For the purpose of this protocol the definition of family violence is located within s.5 of the *Family Violence Protection Act 2008*.

### 1.3 Risk and threats assessment

The Victoria Police Code of Practice for the Investigation of Family Violence states that police will respond to and take action on any family violence incident reported to them. The action taken is based on an assessment of the risks and threats, regardless of whether the affected family member makes a verbal complaint or written statement.

The risk assessment tool used by police is compatible with the Common Risk Assessment and Risk Management Framework (CRAF), used by family violence services funded by DHHS.

## 2. Procedures for referrals by police and DHHS funded services to each other

### 2.1 Referrals by police of victims to family violence services

For victims of family violence, referral by police to family violence services for necessary support and assistance will follow in all cases. Options of criminal charges or civil complaint will be made against perpetrators of family violence where warranted.

Flow chart one indicates the assessment criteria and pathways for:

- formal referral for immediate assistance for female victims to family violence services
- formal referral for non-immediate assistance for female victims to family violence services
- informal referral to family violence services (where the client is provided with contact details and encouraged to seek support from services).

Where a victim of family violence is male, referrals to support services/ or victim assistance counselling can be made at a local level of through the Victims of Crime Helpline via telephone on 1800 819 817.

## Flow chart one: Police referral of female victims of family violence to family violence services

### Police assessment

Police attend a family violence incident or a woman attends the station.

Police assess the situation taking into account:

- risk assessment L17
- code of practice for family violence
- police concerns for the safety and wellbeing of the affected family member, children and/or property.

### 1. Formal referral immediate assistance by service

**Criteria:** If one or more of the following apply:

- Police intend to or have applied for an intervention order (including a safety notice)
  - Police intend to lay charges or
  - are investigating an alleged crime
  - Police assess that the woman is in need of immediate assistance.
  - To address recidivism
  - To enable co-case management

**No consent is required for referral in this case**

### 2. Formal referral non-immediate assistance

Formal referral is appropriate but immediate assistance is not required?

**No consent required.**

### 3. Informal referral

Police provide information brochure or card to woman with contact details for local FV women's support services and other relevant services.

### Action/contact

#### After hours

Police initiate referral to Safe Steps, or per local referral arrangements where they exist for assessment and immediate assistance.

Vic Police to call dedicated Police line to Safe Steps.

#### Business hours

Telephone referral to local support services as per local protocols.

Referral (Fax back) to local outreach services as per local protocols and arrangements.

Referral (Fax back) to local outreach services as per local protocols and local arrangements.

Woman contacts service

### Service/response

Safe Steps conducts assessment and provides required immediate assistance taking into account client need and resource availability.

If immediate support and accommodation is not required Safe Steps refers to local FV outreach services. Safe Steps to inform police of any safety concerns for a woman.

#### Local support service

- Conducts risks and needs assessment
- Develops and implements safety plan
- Provides ongoing support and liaison as required

Service can contact woman and if she chooses not to engage immediately, information and support will be provided by phone as necessary and follow-up appointment negotiated.

Expectation that FV service provider will provide feedback to police on outcomes of referral and contact police regarding any immediate safety concerns. **No consent required.**

#### Service provides client with information and support

Information provided includes:

- details of the organisation
- on-going role with the police
- support services available
- confidentiality provisions
- availability of risk assessment and safety plans.

Further action may include risk and needs assessment; appropriate service system response, e.g. intensive case management; court support; links to other agencies and services, including housing and counselling.

Where child/children are present at an incident the procedures in flow chart two must also be followed. At the time of referral police must advise family violence services about any children, and whether a referral to Child Protection or Child FIRST has been made. **Local and statewide protocols must be adhered to when assisting Indigenous families.**



## 2.2 Where children and young people are present

Police members must make an independent (from the affected family member and perpetrator) **assessment of risk** for any child or young person who is present or has been affected by an incident of family violence. A child or young person is defined in the context of the *Children, Youth and Families Act 2005*. This protocol also applies to unborn children. . Action taken may include a combination of applying for an intervention order, laying criminal charges, reports to Child Protection or formal referrals to other service providers. Flow chart two outlines the referral and contact pathways.

If police believe that a child or young person is in **need of protection** due to **actual or likely** sexual or physical abuse, or concerns of harm or neglect, they must report these concerns to Child Protection, DHHS, as soon as possible; always before the end of a shift.

Also where a report is not made to Child Protection, DHHS, but significant concerns for the **wellbeing** of a child or young person remain, a referral to a community-based child and family support agency (Child FIRST) may be appropriate. There are two pathways for this referral:

1. When police do refer a female victim to a family violence service provider they must provide details of any children who were present at this incident. The family violence service provider will consider the need for any children involved to be referred to Child FIRST and make the referral if appropriate.
2. If police are not referring a female victim to a family violence service provider, but have concerns about a child, children or young person, they may refer the child to the relevant Child FIRST provider.

This protocol must be read in conjunction with any existing protocols between Victoria Police and Child Protection, DHHS.

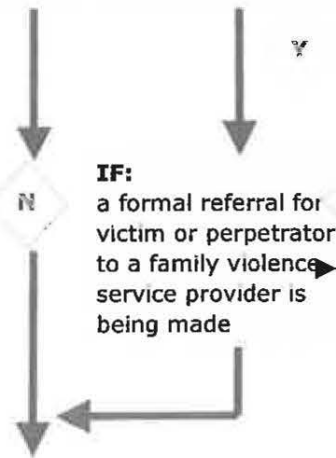
Note: The protocol *Protecting Children: Protocol between the Department of Human Services - Child Protection and Victoria Police 2012* can be located at [http://www.dhs.vic.gov.au/\\_data/assets/pdf\\_file/0019/442603/Protecting-Children-CP-and-VicPol-protocol-2012.pdf](http://www.dhs.vic.gov.au/_data/assets/pdf_file/0019/442603/Protecting-Children-CP-and-VicPol-protocol-2012.pdf)

**Flow chart two: Where a child (including unborn) or young person is present or a witness to a family violence incident**

**Police assessment**

**IF:**

- police have a **reasonable belief** that a child (including unborn) or young person is in **need of protection** due to concerns of sexual or physical abuse (CYFA s.184) or
- Police have a reasonable belief that a child (including unborn) or young person is in need of protection due to concerns of significant harm or neglect, including emotional and intellectual development (CYFA s.183)



**IF:**

police assess that a referral or report to Child Protection or family violence services is not required but **significant concerns for the wellbeing** (Part 3.2 of the CYF Act) of the child remain

**Action/contact**

In all cases report to child protection before end of shift

**Urgent cases:** (where immediate intervention is required) phone, then fax VP Form 17 and L8

**Business hours:** Telephone local DHHS Child Protection intake unit

**After hours:** Contact after hours Child Protection, DHHS, on 131 278 or the priority access line number

**Non-urgent:** Fax VP Form 17 and L8 to local DHHS Child Protection unit

Attending police must also notify the relevant SOCIT for CYFA s.162 (1)(c) and (d) physical and sexual abuse

Referral process as per flowchart one and three, including details of referrals made for children

**Fax form L17 to the relevant Child FIRST fax number**

**Service/response**

**Child Protection, DHHS,** Investigates and takes action to protect the child.

Child Protection, DHHS, will comply with the CYFA for Indigenous children who are reported.

**Family violence services**

Undertake risk assessment for child/children

Develop safety plan

Child is in need of protection?

Significant concerns for the wellbeing of a child?

**Child FIRST/Family Services**

Assess family needs and risks

Connect family with local service network

Child is in need of protection?

Each of the parties in this flowchart may contact the other to gain additional and background information to assist in the assessment of risk to the child. When contacted, parties should provide relevant information as requested. Communications must comply with all laws including the *Children, Youth and Families Act 2005* and the *Privacy and Data Protection Act 2014*.

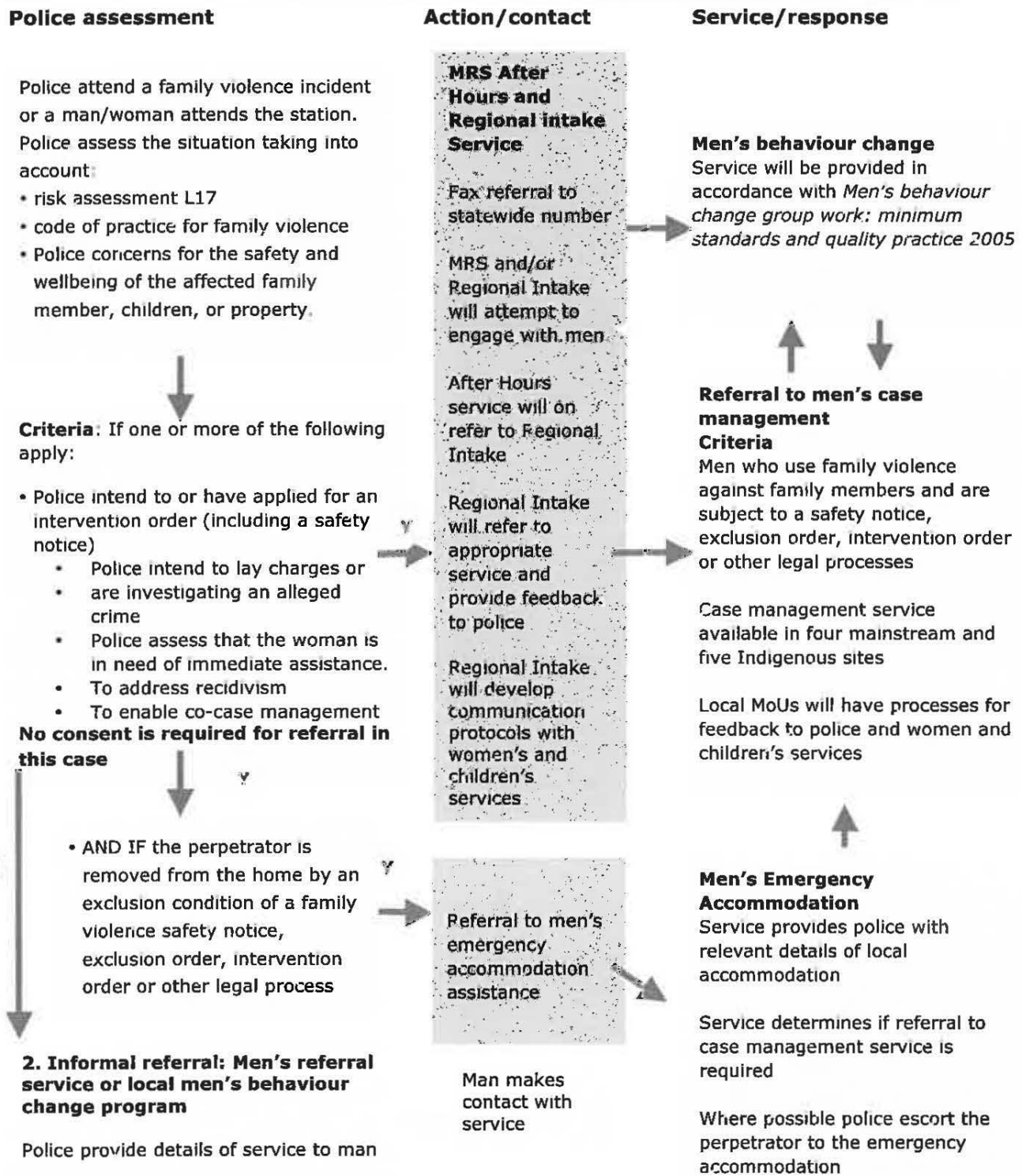
## 2.3 Police referral of perpetrators to DHHS funded services

Police will lay criminal charges or seek civil compliance against perpetrators of violence where warranted. This is consistent with the *Victoria Police Code of Practice for the Investigation of Family Violence*.

Police may also refer male perpetrators of family violence to men's emergency housing assistance and/or to a men's case management (MCM) or men's behaviour change program (MBCP).

Flow chart three outlines the criteria for referral and contact pathways.

**Flow chart three: Police referral for male perpetrators of family violence**

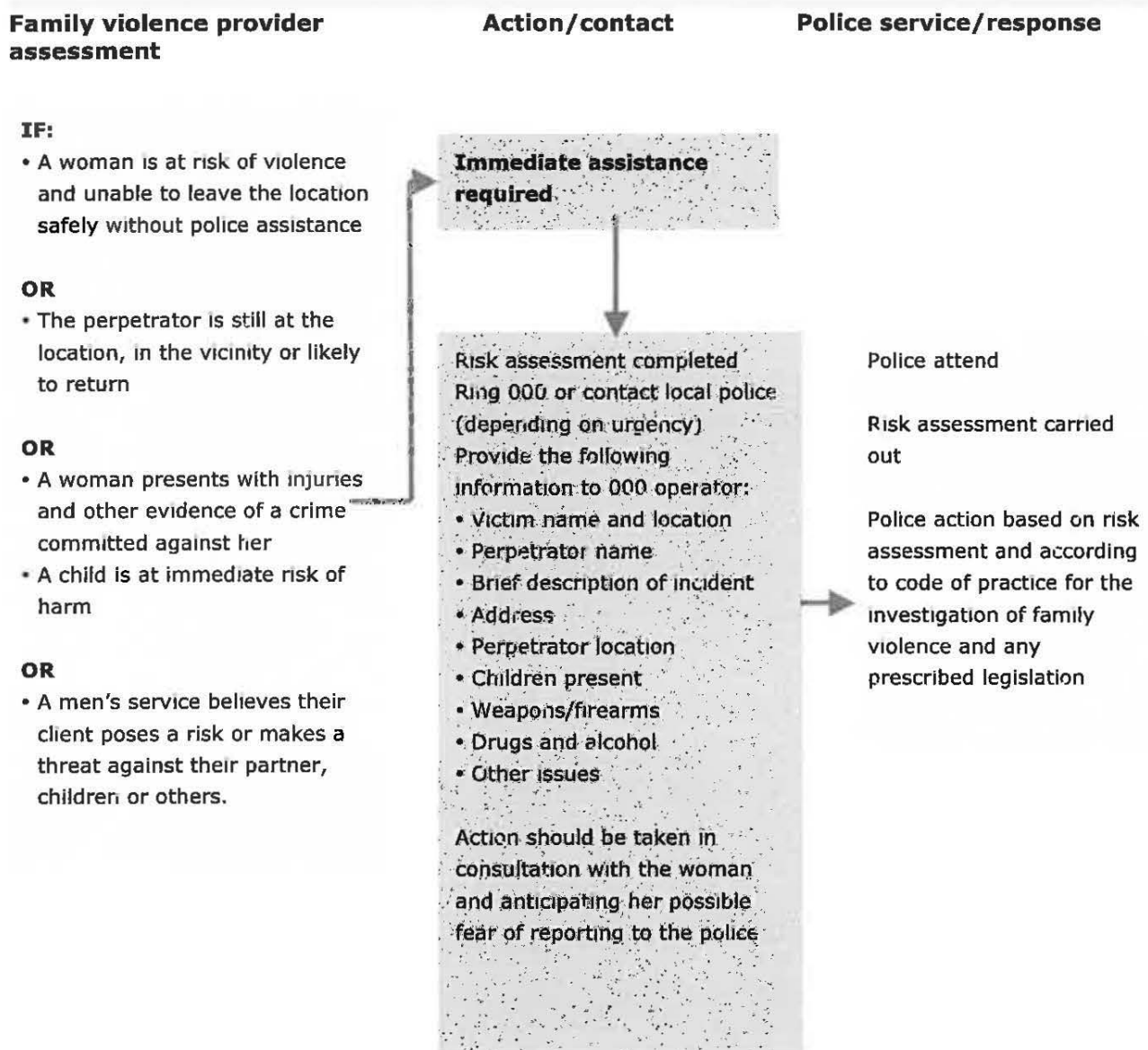


Where child/children are present at an incident the procedures in flow chart two must be followed. At the time of referral police must advise family violence services about any children, and whether a referral to Child Protection, DHHS, or Child FIRST has been made. **Local and statewide protocols must be adhered to when assisting Indigenous families.**

## 2.4 Family violence services referrals to police for assistance and ongoing involvement

Family violence services refer to police for immediate assistance where a person is at immediate risk of violence or further violence.

**Flow chart four: Family violence service referrals for police assistance**



### 3. Review date

Either party may terminate this Protocol by giving 30 (thirty) days' written notice to the other party.

The next joint review of this document will be conducted by December 2015.

### 4. Document owners

There shall be no changes to this document unless approved in writing by:

- Deputy Secretary, Service Design & Operations Department of Health & Human Services
- Assistant Commissioner, Family Violence Command, Victoria Police.

Requests for amendment will be coordinated by:

- Director, Service Development & Operations, Department of Health & Human Services
- Manager, Family Violence Policy and Projects, Family Violence Command, Victoria Police.

### 5. Dispute resolution

Local issues should initially be raised with:

- Managers of the Department of Health & Human Services-funded family violence services
- Family Violence Advisors, Victoria Police/Regional Police Management
- Regional Integrated Family Violence Committee
- Department of Health & Human Services Local Engagement Officers/Local Connection Manager/ Area Director

Statewide issues should be resolved through the process below:

- Issues to be raised with central office of Department of Health & Human Services (Across System Responses Unit) and Victoria Police (Family Violence Command). ).
- If unresolved, issues will be taken to the Violence Against Women and Children Interdepartmental Committee for discussion.

A party to this protocol claiming that a dispute has arisen under this protocol will immediately inform the other party. Upon being informed of a dispute, the parties will enter good faith discussions and use all reasonable endeavours to resolve the dispute through negotiations. The relevant persons to notify of a dispute are:

- **Director, Human Services Design and Development, Department of Health & Human Services (for DHHS); and**
- **Manager Policy and Projects, Family Violence Command , Victoria Police (for Victoria Police)**

If the parties are unable to resolve the dispute within a reasonable time then the dispute shall be referred for resolution to:

- Deputy Secretary, Service Design and Operations, Department of Health & Human Services' Director, Service Development & Operations; and
- Assistant Commissioner, Family Violence Command, Victoria Police.

If the parties are still unable to resolve the dispute within a reasonable time, the dispute shall be referred to the:

- Secretary, Department of Health & Human Services; and
- Chief Commissioner, Victoria Police

as per the final dispute resolution procedures under the overarching Memorandum of Understanding (dated November 2014).

## 6. Disclaimer

This protocol is neither intended to represent a comprehensive analysis of the law nor replace the exercise of professional judgment on a **case-by-case basis**.

Nothing in this protocol should replace the seeking of appropriate legal advice by the parties where it is considered appropriate.

Nothing in this protocol creates, nor is intended to create, any legally binding obligation on any party.

## 7. Definitions

The definition of **family violence** is consistent with the definition as outlined in the *Family Violence Protection Act 2008* s. 50 (1) – (3)

The definition of **child** is consistent with the definition as outlined in the *Children, Youth and Families Act 2005* s. 3(1)

**Victims and perpetrators:** for the purpose of this protocol it is recognised that in the majority of cases victims of family violence are women and children, and that those who perpetrate violence against victims are men. This language is consistent with the Victoria Police Code of Practice for the Investigation of Family Violence. This will not preclude other local and statewide services using alternative language to represent this gender difference (for example, men who use violence).

## 8. Contact details

For further information please contact your local:

- Victoria Police Family Violence Advisors
- Department of Health & Human Services Agency Connection Officers
- Family Violence Regional Integration Coordinators

## 9. Internal guidelines

Family Violence Risk Assessment and Risk Management Framework, 2012

Domestic Violence Victoria: Code of practice for specialist family violence services for women and children 2006

Practice guidelines: Women and children's family violence counselling and support programs 2008

Homelessness Assistance Service Standards, 2006

Men's behaviour change group work: minimum standards and quality practice 2005

Victoria Police Code of Practice for the Investigation of Family Violence, Third Edition 2014

Protecting Children: Protocol between the Department of Human Services - Child Protection and Victoria Police 2012

Assessing children and young people experiencing family violence practice guide, 2013

## 10. Signing of this Protocol

Signed for and on behalf of the **Department of Health & Human Services**



by the Secretary, Department of Health & Human Services

Date: 1 June 2015

Signed for and on behalf of **Victoria Police**



by the Acting Chief Commissioner, Victoria Police

Date: 19 May 2015