

CHILD PROTECTION

Statement of Policy

Meeting the needs of children and making sure they are safe in the family is a shared responsibility between individuals, the family, the community and the government.

When adults caring for children do not follow through with their responsibilities, are abusive or exploit their positions of power, then it is the child protection system that becomes responsible for taking action.

Eastcoast Housing involvement in this process maybe one of reporting an incident of concern to child protection or one of supplying information to Child protection.

Eastcoast Housing requires all staff to have an understanding of the Child Protection System and how it may affect one of our renters and their children once involved.

It is Eastcoast Housings belief that all children are entitled to feel safe, secure and live free from harm and abuse. Eastcoast Housing encourages all workers to openly discuss any reportable events or concerns with the Managing Director in the first instance.

Workers will be able to confirm what a reportable event is, who to report such an event to, what information to provide and how to record this event in Eastcoast Housing's data base.

This chapter also details how residency issues can become a reportable event and how this may also impact on a child's welfare.

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1. Introduction

These state-wide guidelines outline the information sharing arrangements between staff from Child Protection and Eastcoast Housing in the event a child residing in Eastcoast housing is identified as a client, or potential client, of the Child Protection program.

This document describes how staff from Child Protection and Eastcoast Housing will work together, in accordance with the relevant legislation, to facilitate the appropriate and timely information exchange to ensure the safety of the child and to reduce the risk to the residency of the family/household being terminated.

The exchange of information between the programs and their roles will be managed within the provisions of:

- The *Children, Youth and Families Act (2005) (CYFA)*
- the *Privacy and Data Protection Act (2014)*
- The *Health Records Act (2001)*
- The *Charter of Human Rights and Responsibilities Act (2006)*
- The *Residential Tenancies Act (1997)* and
- The Australian Privacy Principles contained within the *Australian Privacy Principle guidelines (March 2014)*.

1.1. Purpose

The purpose of these guidelines is to:

- Promote the safety and the best interests of the child (as defined in Appendix 1)
- Ensure staff of Child Protection and Eastcoast Housing are aware of their respective roles and responsibilities
- Ensure a consistent approach to sustain tenancies within Eastcoast Housing and recognise the potential benefits for children and families
- Promote a collaborative approach and integrated support to vulnerable children and families
- Ensure information is shared in the context of the Child Youth and Families Act, the Privacy and Data Protection Act and the Health Records Act (as detailed in Appendix 2).

2. Program roles and responsibilities

2.1. Child Protection

Child Protection has a statutory responsibility under the Children’s Youth and Families Act to provide Child Protection services for children in Victoria under the age of 17 years or, when a protection order is in place, children under the age of 18 years. Child Protection also accepts reports on unborn children who may be at risk upon birth.

The underpinning principle of the CYFA is that the best interests of the child must always be the paramount consideration in all decisions made by Child Protection. In determining whether any decision

2.2. Eastcoast Housing

Eastcoast Housing provides affordable housing for low income earners, targeting people who were previously homeless or experiencing other factors that impacted on their safety or well-being.

The work of Eastcoast Housing staff primarily involves residency and property management as well as the provision of housing services and assistance. This can include:

- Managing and maintaining tenancies
- Providing support and information on housing services
- Identification and assessment of an individual’s housing needs and their eligibility for housing services
- Allocation of rental properties to eligible applicants
- Conducting twice yearly rent reviews.
- Visiting and working with renters to resolve residency issues
- Ensuring maintenance work is carried out on renters' homes.

2.3. Principles underpinning practice within these guidelines

| Principle | Description | Practice questions |
|-----------------------------|--|--|
| Best interests of the child | The best interests of the child are paramount in all child protection decision-making and at all stages of service delivery. The best interests case practice model responds to a child's needs for safety, stability and development, strengthening the links between a child and their family and local community resources. | How are the child's best interests impacted by the proposed decision-making or action? Does the behaviour of parents/guardians negatively impact on the child's best interests? |

| Principle | Description | Practice questions |
|------------------------|---|--|
| Collaborative practice | Collaboration is required where a child, young person or parent may be, or is, a shared client of Child Protection and Eastcoast Housing. | How will the child/children of the family benefit if we are working together? |
| Early identification | Early identification and effective intervention can lessen the initial and long-term effects of child abuse, and neglect and promote recovery of the child and families concerned. Early identification and effective intervention in relation to renters or households that exhibit behaviours which may result in the termination of the residential rental agreement can mitigate the risk of the behaviour continuing or escalating. | What indicators are there that the safety of the child is at risk? What preventative measures can be taken to lessen the risk? |
| Rights of the child | In line with the Charter of Human Rights and Responsibilities, families are the fundamental group unit of society and are entitled to be protected by society. Every child has the right, without discrimination, to be protected by society and the state as is in their best interests and as required by them by reason of being a child. | How am I working to ensure that the safety and rights of the child are considered at all times? Does the decision being made negatively impact the child or family's right to be protected? |

3. Information Sharing.

Sharing information is necessary for collaborative practice as well as to effectively identify and respond to the needs of joint clients.

The Children's Youth and Families Act allows for the sharing of information which is relevant to the protection or development of a child.

Further to specific information about the child, relevant information may also include information about other members of the child's family or people living with the child whose behaviour impacts on the child or may pose a risk to the child.

Child Protection and Eastcoast Housing must share information where needed in the best interests of the child. Protecting children from harm and promoting their development is enhanced where assessments and case plans are based on adequate information.

The Children's Youth and Families Act prescribes when, and how, information sharing is authorised for Child Protection clients. Where there are no specific provisions in the Child Youth Families Act relevant to a specific circumstance, information sharing must then be consistent with other relevant legislation such as the Privacy and Data Protection Act or the Health Records Act which regulates health information.

4. Reporting requirements - potential child protection clients

4.1. Eastcoast Housing staff considerations

In the event that Eastcoast Housing staff become aware of a situation (e.g. antisocial behaviour, residency breach or move to eviction) in a Eastcoast Housing managed property where a child is present they must consult with the Managing Director determine, if not already established, the impact of the situation on the child's safety and wellbeing, and respond to the concerns.

All concerns relating to a child's welfare must be brought to the immediate attention of the Managing Director before a report is made to Child Protection. If it is a Housing Workers belief that a child's welfare is at risk and consultation has been held with the Managing Director and it is agreed that there is a risk to the child/children's welfare then a report can be made to Child Protection.

Two types of reports can be made in relation to significant concerns for the safety or well-being of a child – a report to Child Protection or a referral to Child FIRST.

A report to Child Protection should be considered if, after taking into account all of the available information, the Eastcoast Housing staff member forms the view that the child or young person is in need of protection because:

- The harm or risk of harm has a serious impact on the child's immediate safety, stability or development
- The harm or risk of harm is persistent and entrenched, and is likely to have a serious impact on the child's safety, stability or development
- The child's parents cannot or will not protect the child or young person from harm.

A referral to Child FIRST should be considered if, after taking into account the available information, the Eastcoast Housing staff member forms a view that the concerns have a low-to-moderate impact on the child and the immediate safety of the child is not compromised.

A referral to Child FIRST can connect children, young people and their families to services they need, when the following factors may affect a child's safety, stability or development:

- significant parenting problems that may be affecting the child's development

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

Eastcoast Housing staff who form the belief that a child is in need of protection will need to discuss and seek advice and endorsement from the Managing Director in determining the report to Child Protection or Child FIRST.

Discussions with the Managing Director must occur as soon as practicable. Eastcoast Housing staff will escalate the issue and discuss with the Chairperson if the Managing Director is not available.

4.2. How to make a report to Child Protection

Local area management equivalent to a Residency and Property manager role or above will make a report to Child Protection by phoning the Intake Team. Reports regarding the immediate safety of children can be made to the After Hours Child Protection Emergency Service (AHCPEs) outside of business hours, 7 days per week.

It is the responsibility of Child Protection to determine the outcome of the report and if further Child Protection intervention is required.

4.3. After-Hours Child Protection Emergency Service

The Statewide After-Hours Child Protection Emergency Service (AHCPEs) operates outside the business hours detailed above, on weekends and public holidays. AHCPEs is a crisis service that responds to urgent matters that are not able to be safely managed until the following working day. It is not an extension of the daytime activities that Child Protection provides for children in business hours.

After-Hours Child Protection Emergency Services 13 12 78

4.4. How to make a report to Child FIRST

Residency and Property managers or above will make a report to Child FIRST on 1300 721 383.

4.5. Child Protection response to a report from Eastcoast Housing

In the event that Eastcoast Housing staff determine it is appropriate to make a report to Child Protection, Child Protection staff will:

- Record the details of the report, make further inquiries as appropriate, complete a risk assessment and determine the classification and outcome of the report
- As a professional making a report, Eastcoast Housing staff will be informed of the classification and outcome of the report, usually within two working days of the determination being reached
- Typical outcomes of a child wellbeing report are to provide advice back to the reporter and or make a referral to Child FIRST or other support service. Outcomes of referrals to another service are not shared with reporters.
- Where the report is classified as a protective intervention report, the report will proceed to investigation.
- Provide a contact point for the reporter in the event future reports need to be made in relation to the child/children.

4.6. Outcome of the report

Child Protection will attempt to contact all professional reporters to inform them of the outcome of a report, unless there are exceptional circumstances or it is considered not to be in the child's best interest. This will usually occur within two days of the classification of the report being determined.

The reporter will be advised of the outcome of the report, but not the outcome of a referral to another service provide or the outcome of an investigation unless the reporter is actively involved in the ongoing service provision, care or support relevant to the child's protection or wellbeing. For example:

- In the event Eastcoast Housing staff form a view that a child may be in need of protection due to issues other than housing related, the officer should make a report and will be advised of the outcome and classification of that report but is unlikely to be provided with any further information regarding Child Protection's possible involvement.
- However, should Eastcoast Housing staff form a view that a child may be in need of protection because the residency of the Eastcoast Housing property that the child resides in is at risk, thereby potentially placing the child at risk, Child Protection may determine it appropriate and in the best interests of the child
- to share information in the context of joint working and case planning (as detailed in the joint clients section above).

4.7. Protection for the Reporter

Except in the limited circumstances provided for in the CYFA, it is unlawful for a person to disclose the identity of a reporter or any information likely to lead to the identification of the reporter without the reporter's written consent.

4.8. Record keeping requirements

Child protection will continue their established record keeping processes and protocols.

Eastcoast Housing staff are required to record all reports made to child protection. Eastcoast Housing staff must ensure that a record is left in Chintaro outlining the following:

- Nature of report.
- Name of person taking report / call.
- Date and time report is made.
- Name of housing officer making report.

Eastcoast Housing will only access, use and disclose information in accordance with the best interests principles contained in the CYFA, the Information Privacy Principles contained in the Privacy and Data Protection Act, or the Health Privacy Principles contained in the Health Records Act.

4.9. Joint clients (known to both Eastcoast Housing and Child Protection)

A 'joint client' of Eastcoast Housing and Child Protection is:

- From a Child Protection perspective, the child residing in an Eastcoast Housing property about whom a report has been made or is currently the subject of a Child Protection order.
- From a Eastcoast Housing perspective, a child (about whom a report has been made or is currently subject of a Child Protection order) who currently resides in a Eastcoast Housing property.

Child Protection will assess and identify the priorities of an intervention. Eastcoast Housing will be included in the case planning process in the event the sustainability of the residency is critical to effective intervention. This will be identified as part of a broader assessment of risk factors for the family.

Case planning meetings will be attended by Eastcoast Housing staff when necessary. Eastcoast Housing staff may also be included as part of the care team where there are housing-specific issues that are impacting on the family's well-being.

For joint clients, housing officers will discuss with the Managing Director the requirements to make a report to Child Protection when a breach is issued under the three strike approach (Appendix 3). Consideration should be given to:

- The potential impact on the wellbeing and safety of the child/children
- The potential impact on the sustainability of the residency (Child Protection may be able to intervene prior to the point of eviction where strategies to support the residency can be implemented as early as possible).

In the event a Notice to Vacate is issued to a renter, such as under the zero tolerance approach, with a known joint client, Eastcoast Housing staff will notify Child Protection immediately.

Not all Child Protection clients in Eastcoast Housing property will require Eastcoast Housing staff involvement. However, Child Protection can seek and disclose information to Eastcoast Housing staff such as the Residency and Property managers where it will assist in the investigation and case planning for a child at risk of harm.

In the event Child Protection receives information that a child's residency is at risk, the Child Protection staff member responding to the report will contact the local residency and Property manager for verification of the information.

If it is confirmed that the residency is at risk, Child Protection staff can seek advice from Eastcoast Housing regarding the available options for the family to manage the risks and assist the family to maintain their residency. This would include discussions on required support services to prevent the family from becoming homeless.

Child Protection staff will advise Eastcoast Housing under which section of the CYFA (Appendix 4) they are being authorised to release or receive information to ensure Eastcoast Housing staff are informed of their protection and responsibilities under the CYFA.

5. Release of information regarding potential danger

When either Eastcoast Housing or Child Protection staff become aware of a named person's potential to be a danger to professionals visiting an Eastcoast Housing property then this information will be shared with the Managing Director and Child Protection to develop a risk management plan.

6. Dispute resolution

It is essential that differences are addressed promptly.

Differences may relate to:

- Roles
- Professional and organisation priorities
- Systems issues
- Communication difficulties.

These factors have the potential to damage collaborative working relationships and negatively impact on the child.

In the event a dispute arises between the parties to these guidelines, parties must ensure that differences of opinion are addressed as soon as practicable after they arise. In the event this does not resolve the dispute, Eastcoast Housing staff must notify the managing director in the first instance for resolution.

Should there be disagreement relating to these guidelines it will be referred to the Assistant Director, Residential Services and Complex Support and the Assistant Director, Child Protection for negotiation and response. The safety and wellbeing of children is to be considered paramount.

1. Appendix: Part 1.2: Principles, Division 2: Best Interests Principles of the Children, Youth and Families Act (2005)

In all considerations, the best interests of the child must always be paramount.

Consideration of the best interests of the child includes:

- The child's safety – the need to protect the child from harm
- The child's development – the need to promote the child's development, taking into account the child's age and stage of development
- The child's rights
- Stability of care – the desirability of continuity and stability in the child's care
- Cumulative harm – the impact of cumulative harm on a child must form part of the overall assessment
- The child and child's family must be enabled to access appropriate services in order to ameliorate the long term effects of abuse and/or neglect
- Maintenance of family ties
- The child and child's family must be accorded a co-ordinated and sensitive service response that limits the people and professionals that directly intervene with the child.

2. Appendix: Summary of the Information Privacy Principles & Health Privacy Principles

The table below provides a summary of the key privacy principles outlined in schedule 1 of the Health Records Act 2001 (HRA) and the Privacy and Data Protection Act 2014 (Victoria) (IPA),. The full privacy principles can be found in schedule 1 of the HRA and the IPA.

Health Privacy Principles (HPP) summary

Collection

Collect only personal information that is necessary for performance of functions. Advise individuals the use of the information, third parties who may have access to their information, and how they can gain access to personal information.

Use and disclosure

Only use or disclose health information for the primary purpose for which it was collected or a directly related secondary purpose the person would reasonably expect. Otherwise, consent is generally required.

Data quality

Take reasonable steps to ensure health information held is accurate, complete, up-to-date and relevant to the functions performed.

Data security and retention

Safeguard the health information held against misuse, loss, unauthorised access and modification. Only destroy or delete health information in accordance with HPP4.

Openness

Document clearly expresses policies on management of health information and provides the policies to anyone who asks.

Access and correction

Individuals have a right to seek access to health information held about them in the

Information Privacy Principles (IPP) summary

Collection

Collect only personal information that is necessary for performance of functions. Advise individuals the use of the information, third parties who may have access to their information, and how they can gain access to personal information.

Use and disclosure

Use and disclose personal information only for the primary purpose for which it was collected or a secondary purpose the person would reasonably expect. Use for secondary purposes should have the consent of the person.

Data quality

Make sure personal information is accurate, complete and up-to-date.

Data security

Take reasonable steps to protect personal information from misuse, loss, unauthorised access, modification or disclosure.

Openness

Document clearly expresses policies on management of personal information and provides the policies to anyone who asks.

Access and correction

Individuals have a right to seek access to their personal information and make corrections.

Health Privacy Principles (HPP) summary

private sector, and to correct it if it is inaccurate, incomplete, misleading or not up-to-date.*

Identifiers

Only assign a number to identify a person if the assignment is reasonably necessary to carry out the functions efficiently.

Anonymity

Give individuals the option of not identifying themselves when entering transactions with organisations where this is lawful and practicable.

Transborder data flows

Only transfer health information outside Victoria if the organisation receiving it is subject to laws substantially similar to the Victorian HPPs.

Transfer/closure of practice health service provider

A health service provider whose business or practice is being sold, transferred or closed down, and will no longer provide services must give notice of the transfer or closure to past service users.

Making information available to another health service provider

A health service provider must make health information relating to an individual available to another health service provider if requested by the individual.

Information Privacy Principles (IPP) summary

Access and correction will be handled mostly under the Victorian Freedom of Information Act 1982.

Unique identifiers

A unique identifier is usually a number assigned to an individual in order to identify the person for the purposes of the organisation's operations. Tax File Numbers and Driver's Licence Numbers are examples. IPP 7 limits the adoption and sharing of unique numbers.

Anonymity

Where practicable, give individuals the option of not identifying themselves when entering transactions with organisations.

Transborder data flows

If personal information travels, privacy protection should travel with it. Transfer of personal information outside Victoria is restricted. Personal information may be transferred only if the recipient protects privacy under standards similar to Victoria's IPPs.

Sensitive information

The privacy legislation restricts collection of sensitive information such as an individual's racial or ethnic origin, political views, religious beliefs, sexual preferences, membership of groups or criminal record.

3. Appendix: Antisocial behaviour and the three strike and zero tolerance approaches

Anti-social behaviour includes the following behaviour described in the Residential Tenancies Act under:

- s 60: *Nuisance or interference* (i.e. causes a nuisance or interference with the reasonable peace, comfort or privacy of a neighbour)
- s. 61: *Damage* (i.e. causes damage to the Eastcoast housing property or common areas)
- s. 244: *Danger* (i.e. endangers the safety of neighbours)
- s. 63: *Condition of premises* (i.e. fails to keep the Eastcoast housing property in a reasonably clean condition)
- s. 59: *Use of premises for illegal purpose*
- s. 250A: *Drug related conduct in Eastcoast housing.*

a. *What is meant by zero tolerance?*

The Department does not tolerate serious antisocial behaviour such as malicious damage, dangerous behaviour and illegal activity.

b. *When will the Department act?*

The Department will take immediate action against renters who engage in the following destructive or threatening behaviours:

- Malicious property damage (to rented premises or common areas)
- Endangerment of neighbours' safety
- Illegal use of their property
- Drug related conduct in Eastcoast housing.

The renter is also responsible for the behaviour of other members of the household and visitors to the property.

c. *What action will the Department take?*

The Department will act in accordance with the *Residential Tenancies Act* (1997). This may include giving the offending renter an immediate or 14 day notice to vacate.

The Department will then seek a possession order for the property at the Victorian Civil and Administrative Tribunal.

d. *What is meant by three strikes?*

The *Residential Tenancies Act* 1997 imposes specific duties on residential rental providers and renters.

The Department uses a system of "three strikes" to make clear that repeated or non-remedied breaches of a renter's duties under the Act will not be tolerated.

A “strike” is recorded each time a renter breaches a duty provision or fails to remedy a breach of a duty provision. Three breaches of the same duty provision or failure to comply with a compliance order obtained from the Victorian Civil and Administrative Tribunal relating to a breach of a duty provision within a 12 month period will result in three strikes being recorded against the renter.

e. When will the Department act?

The Department will take **immediate** action against renters who breach the following duties under the Act:

- A renter must not cause nuisance or interference
- A renter must avoid damage to premises or common areas
- A renter must keep rented premises clean
- A renter must not install fixtures etc. or make any alteration to the premises without consent.

f. What action will the Department take?

The Department will give the renter a Breach of Duty Notice on the first breach of a duty provision. On any subsequent breach, or a failure to remedy a breach, of the same duty provision, the Department will either issue a second breach of duty notice or seek a compliance order from the Victorian Civil and Administrative Tribunal. Each breach of duty or failure to remedy a breach of duty will result in a strike being recorded against the renter.

On the third breach of the same duty provision, the Department will give the renter a three strikes notice and a notice to vacate for successive breaches, or where relevant, for noncompliance with a compliance order made by the Victorian Civil and Administrative Tribunal.

The Department will then seek a possession order for the property from the Victorian Civil and Administrative Tribunal. If VCAT makes a possession order, the renter may be evicted.

g. What should Eastcoast housing renters do?

- Understand and comply with your obligations under the Residential Tenancies Act 1997 and your residential rental agreement
- Comply with any directions or notices given by the Department in relation to resident behaviour
- Contact the Department as soon as possible to discuss any residency issues which arise
- Seek assistance and support early for any issues that are making it difficult for you to comply with your residency obligations.

4. Appendix: Information sharing sections of the CYFA

The following sections of the Children Youth and Families Act prescribe when and how information sharing is authorised under the Act:

- s. 28 Report to Secretary about child
- s. 29 Report to Secretary about unborn child
- s. 30 Response by Secretary to report
- s. 33 Response by community-based child and family service to referral
- s. 35 Who may the Secretary consult?
- s. 36 Who may the community-based child and family service consult?
- s. 37 Disclosers protected
- s. 38 Consultation with Secretary
- s. 39 Records of disclosures
- s. 40 Reporters protected
- s. 41 Identity of reporter or referrer confidential
- s. 167 Preparation of case plan
- s. 178 Responsibility of Secretary to provide information to parents
- s. 179 Responsibility of Secretary or out of home care service to provide information to carers
- s. 180 Confidentiality [of information about a child in care]
- s. 183 Report to protective intervener
- s. 184 Mandatory reporting
- s. 185 Report on child in need of therapeutic treatment
- s. 187 Determination by Secretary about report
- s. 188 Record of report
- s. 189 Reporters protected
- s. 190 Evidence and legal proceedings
- s. 191 Confidentiality
- s. 192 Secretary may request provision of information
- s. 193 Disclosers protected
- ss. 194-203 Compulsory Disclosure of Information
- s. 205 Investigation by protective intervener
- s. 206 Record of investigation

- s. 208 Protection of givers of information
- s. 209 Confidentiality
- ss. 210-213 Investigation of therapeutic treatment report
- s. 234 Protection of privileges
- s. 238 Report to Court by Secretary [re TAO]
- s. 265 Parent entitled to know child's whereabouts
- s. 552 Confidentiality of reports
- s. 534 Restriction on publication of proceedings
- s. 556 Access to protection report
- s. 559 Access to disposition report

- s. 561 Access to additional report
- s. 562 Access to additional reports [by the Children's Court Clinic]
- s. 556 Access to therapeutic treatment application report
- s. 570 Access to therapeutic treatment (placement) report

Child FIRST

Eastern

Yarra Ranges, Knox, Maroondah 1300 369 146

Monash, Whitehorse, Manningham 1300 762 125

Boroondara

Northern and Western

Nilumbik, Whittlesea, Banyule, Yarra 9450 0955

Darebin

Brimbank, Melton 1300 138 180

Hume, Moreland 1300 786 433

Southern

Casey, Cardinia, Greater Dandenong 9705 3939

Aboriginal children and families (Casey, 9794 5973
Cardinia and Greater Dandenong)

Frankston, Mornington Peninsula 1300 721 383

Kingston, Bayside, Glen Eira, 1300 367 441

Stonnington, Port Phillip

Barwon South Western

Greater Geelong, Queenscliff, Surf Coast 1300 551 948

Cola-Otway, Corangamite 5232 5500

Warrnambool, Moyne, Glenelg 1300 889 713

Southern Grampians

Gippsland

East Gippsland 5152 0052

Wellington 5144 7777

La Trobe, Baw Baw 1800 339 100

South Gippsland, Bass Coast 5662 5150

Grampians

Northern Grampians, West Wimmera 1800 195 114
Hindmarsh, Yarrambat, Horsham

Hume

Wodonga, Towong, Indigo 1800 705 211
Alpine, Benalla, Mansfield, Wangaratta
Greater Shepparton, Strathbogie, Moira 1300 854 944
Mitchell, Murrindindi 1800 663 107

Loddon Mallee

Greater Bendigo, Campaspe 1800 260 338
Buloke, Goonawarra, Swan Hill, Mildura 1800 625 533