

# Child Protection & Gateway Services

## Memorandum of Understanding

November 2009

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The Agreement also includes a section for incorporation of any additional arrangements developed locally (within the specified state-wide parameters set out in this document) to support the effective operation of the Gateway – Child Protection interface. Areas are required to submit completed Agreements to the local Area Director for endorsement prior to establishing Gateway Services.

## Purpose

This agreement describes a set of core features that will guide the operational links between Gateway and Child Protection services. These core features are conducive to the successful implementation of the ongoing reforms to family support services and will be reviewed as required. The document contains a proforma for the development of local agreements, allowing for detailed arrangements to be described, within the parameters of this agreement.

## Background

The Department of Health and Human Services (DHHS) in 2007 commissioned an independent review of Disability, Child Protection and Out of Home Care sectors. The outcome of the review identified key reforms to these sectors, one of which was to establish a community based intake service for vulnerable children and their families that was located in each of the Disability, Child Youth and Family services (DCYFS) areas with a collocated senior Child Protection worker in each of the services.

## Context

In 2009, four Gateway sites were established across Tasmania, one in each local DCYFS area.

The primary purpose of each Gateway is to ensure that vulnerable children, young people and their families are effectively linked into relevant services. Gateway Services will, over time, establish a strong profile within the local areas with a strong focus on establishing productive relationships with key local services and professionals, to support a more integrated and coordinated approach to intake into Family Support Services.

In working together the DCYFS areas, in partnership with Gateway Services and area family support services, will work towards building a reliable network of services that make a positive connection to vulnerable children and families in order to support them in the community.

These principles of partnership provide for:

- The DCYFS and Gateway Services to protect children from harm, protect children's rights and promote children's development (taking into account a child's age and stage of development)
- Shared leadership in achieving the changes associated with the program and policy reforms to improve outcomes for vulnerable children, young people and families. Establishing partnerships, collaborative practice arrangements and localised solutions within a consistent and jointly agreed state-wide framework.

## Community Based Child Protection

Community Based Child Protection work is a key component of the Gateway service model operating across the State.

Community Based Child Protection Team Leaders will be assigned to each Gateway site to undertake a range of key functions, including:

- Facilitation of referrals from Child Protection to Gateway Services
- Provision of consultation and advice on specific cases to Gateway and Family Support Services in the local area, including safety planning to enable ongoing case management
- Provision of advice to the Gateway local area Child Protection staff regarding making referrals to Gateway Services

- Participation in local professional and community education initiatives
- Identification of cases within Child Protection requiring enhanced referral<sup>1</sup>
- Community Based Child Protection Team Leader or Child Protection to actively hold referrals until Gateway have accepted or rejected the referral in consultation with the Community Based Child Protection Team Leader

Community Based Child Protection Team Leaders will be required to spend five days per week working on matters relating to the business of Family Support Services within the local area. The Community Based Child Protection Team Leader will be assigned at the Allied Health Level 3 within each local area. This will enable authoritative and timely decision-making within Gateway. Community Based Child Protection Team Leaders will not carry open Child Protection cases.

## Referrals from Child Protection to Gateway

Referrals from Child Protection to Gateway Services will be sent by CPISI (Intake) in an embedded email titled "Child Protection Services Record" and occur in consultation with the Community Based Child Protection Team Leader.

The Community Based Child Protection Team Leader will maintain a record of all referred cases, including the date of referral and the date the Gateway team determine whether a referral will be accepted. The Community Based Child Protection Team Leader will attend Gateway allocation meetings to provide advice and clarification on matters referred by Child Protection. Referrals from Child Protection to Gateway Services will range in priority from those where there is a lower level of presenting issues and allocation to Family Support Services would be helpful to the family (although not critical), through to complex cases where case closure will be contingent on allocation to Family Services.

Referrals can only be made directly from Child Protection to Gateway Services via the Community Based Child Protection Team Leader. Where a direct referral is made, Child Protection must inform the Community Based Child Protection Team Leader, to enable the monitoring and tracking of referrals.

For cases referred from Child Protection Intake, Gateway Services will be required to provide a decision in writing via email on whether the referral is accepted within 5 working days of the referral's receipt from Child Protection. Transfer of case responsibility occurs at the point Gateway confirms that the referral has been allocated. Once this confirmation is received in writing via email, Child Protection may close the case. Case responsibility at this point transfers to the Family Support Services that has accepted the referral at the allocation meeting.

For cases that are referred from Child Protection Response or Case Management Teams, preferred practice is to convene a handover meeting or case conference. Transfer of case responsibility should be made within 2 days of the handover meeting or case conference. If a later date beyond the 2 days is mutually agreed, the point at which case responsibility will transition to Gateway/Family Support Service should be agreed and clearly specified in writing at the handover meeting/case conference.

On a case by case basis, and not as a rule, 'open' cases may be accepted by Gateway Services when consultation has occurred between Gateway Services and Child Protection. Where Gateway Services accepts this referral, case responsibility will remain with Child Protection until it becomes a closed case and this will be communicated and agreed in collaboration with Gateway through an email from Child Protection.

Where necessary Gateway Services will prioritise referrals on the basis of need. This may lead to some scenarios where a Gateway Service does not accept a referral from Child Protection.

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<sup>1</sup> An enhanced referral is where there is a service gap or there are complex needs requiring the involvement of more than one service.

Where a decision is made by a Gateway not to accept a referral, Gateway will specify the reasons for non-acceptance of the referrals to the Community Based Team Leader Child Protection. Child Protection must consider an appropriate response for the child/young person/ family where a referral has not been accepted by the Gateway Service and will maintain case responsibility for the child/young person. The Gateway Service Manager will need to inform the Child Protection Manager and Senior Practice Consultant (SPC) in writing by email of the decision.

## Reports and Notifications from Gateway / Family Support Services to Child Protection

Urgent notifications from Gateway/Family Support Services to Child Protection can be made at any time, through existing Intake services.

Unless there are exceptional circumstances (such as an urgent matter that may call for an immediate notification to Child Protection) the Gateway/Family Support Service should seek the advice of the Community Based Child Protection Team Leader prior to contacting Child Protection Services.

If a child protection notification is agreed, the Community Based Child Protection Team Leader will advise the Child Protection Response Team Leader that an Intake notification is being made and recommend that the notification be accepted for investigation. The Community Based Child Protection Team Leader will then inform Gateway/Family Support Services that the notification will be accepted. The Community Based Child Protection Team Leader will record all discussions in this process within a WORD document.

The Gateway or Family Support Services worker would consult with the Community Based Child Protection Team Leader. The Community Based Child Protection Team Leader or the Gateway Team Leader would in turn pass information through to Child Protection Response around specific case details, as well as any initial needs /risk issues identified. The notification will be registered and classified as a protective or legal intervention by the Community Based Team Leader Child Protection, and proceed to investigation. The Community Based Child Protection Team Leader will take details and complete the CPIS notification document prior to handing the case to the Child Protection Response Team Leader.

A decision on whether the case should remain open within Gateway/Family Support Services, pending the outcome of the protective intervention (whether supportive, legal or both), should be made in conjunction with the relevant Child Protection worker. If there is a prospect of ongoing Family Support Services involvement, preferred practice indicates the case should remain open within Family Support Services. In these circumstances, Child Protection will assume case responsibility pending any outcome to the protective intervention.

If there has been recent (<3 months since closure) Child Protection involvement, preferred practice is that the referral will be allocated to the former Child Protection worker or team.

## Consultation with Child Protection

Gateway and Family Support Services will prioritise services on the basis of need. From time to time Gateway or Family Support Services may seek the professional advice of the Community Based Child Protection Team Leader on a case related matter (unless the case is allocated in CP). Where such a consultation occurs, both parties will make a written record of the consultation. Child Protection will record all consultation and subsequent advice in WORD documents and any subsequent advice or consultation on the same child will be recorded in the same format. After six months from the initial consultation the WORD documents will be put into a single WORD document file identifying the family and the start and end dates. Any subsequent consultation initiated by Gateway or Family Support Services and subsequent advice will be recorded in new WORD documents and will be subject to a six-month timeframe for subsequent consultations.

If there is a new notification to Child Protection from a third party, irrespective of whether the case is open or closed in Gateway/Family Support Services, this will be recorded as a new notification or case note where a case is already open. In these circumstances, if the Child Protection case file indicates a possible ongoing Gateway/Family Support Services involvement, advice should be provided to the relevant Family Support Services organisation that new information has been received and the outcome of that information.

## Information Sharing between Child Protection and Gateway Services

Information sharing between Child Protection and Gateway is subject to the legislative provisions detailed in the *Children, Young Persons and Their Families (CYPTF) Act 1997*, amended in 2009. Section 18 of the CYPTF Act has been amended to allow the Secretary of the Department of Health and Human Services (the Secretary) to require information to be provided, in appropriate cases, not only about the child or his or her guardian, but also about any 'significant person' in that child's life or a person with whom the child resides.

Section 53B provides that the Secretary may share information with an information sharing entity, or may *require* the entity to provide information. Such a requirement may be made by a Child Protection Worker or a Police Officer acting as the Secretary's delegate, when assisting with an assessment of a child's circumstances.

Section 53B also provides that information sharing entities may share information with each other in certain circumstances.

However, this arrangement to share information applies only between Gateway Services and Child Protection. This change in legislation does not empower Gateway Services to request information from other agencies, such as the Police Service or Mental Health Service, and compel that service to provide the information.

DCYFS has provided separate guidance on the application of the new information sharing provisions and this is attached in Appendix I.

## Dispute Resolution

If any of the above mentioned practices are not attended to a dispute resolution process may be required.

A child's best interests are the paramount consideration in any dispute resolution process involving Gateway Services and Child Protection. Where a dispute arises between Gateway Services and Child Protection, clear agreement on local procedures will support earlier and effective resolution.

As a general principle, Gateway Services, Family Support Services agencies and Child Protection will seek to resolve disputes at the operational level. If this is not possible, then the matter should be progressively and actively escalated to the next line of authority within Gateway Services and the Local Area Child Protection program.

## Local Agreements

This section may be utilised to describe specific local arrangements for operating the Child Protection – Gateway Services Agreement and supporting effective collaboration between Gateway and local area Child Protection services. Local arrangements may include details of

Gateway Services allocation meetings and other decision making points, inclusion of the dispute resolution table detailing relevant positions. Local arrangements cannot displace any of the core features required, outlined in the Agreement.

*The local agreement will be subject to review quarterly, or at anytime at the request of either Gateway or Child Protection Services (upon the agreement of both parties) with a view to facilitating continual service improvement.*

## Review of Agreement

The statewide Agreement will be subject to an ongoing review and evaluation process and may be subject to amendment.

## Signatories to the Agreement

<b>Area Director DCYFS, Department of Human Services</b>	<b>Operations Manager Gateway</b>
<b>Child Protection Manager DCYFS,</b>	<b>Service Manager Gateway</b>

## Appendix I – Information Sharing

- Professionals working in community sector organisations which are funded by the State Government manage client information under the *Personal Information Protection (PIP) Act 2004*. The PIP Act requires staff to acquire the consent of clients before sharing any information across services.
- Having client consent before sharing information is also regarded as sound professional practice.
- Community Sector Organisations not funded by the State Government are covered by the Commonwealth *Privacy Act 1988*. Information Privacy Principle 10 under the *Privacy Act 1988* addresses “Limits on use of personal information”. Section 202, subsection 3 of this Act states:
  - I. A record-keeper who has possession or control of a record that contains personal information that was obtained for a particular purpose shall not use the information for any other purpose unless:
    - (a) the individual concerned has consented to use of the information for that other purpose;
    - (b) the record-keeper believes on reasonable grounds that use of the information for that other purpose is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person; and
    - (c) use of the information for that other purpose is required or authorised by or under law.

Under Section 1(c) of the *Privacy Act 1988*, professionals working for private companies or the Commonwealth Government are able to share information about a child or an adult under the *Children, Young Persons and Their Families (CYPTF) Act 1997* where there are concerns about child abuse or neglect and the adult is a significant person in that child’s life.

- However, the need to have the consent of a client before sharing information is over-ridden by two factors:
  - Where there is impending danger: Section 2(1)(d) of the PIP Act states that information can be shared where, “the personal information custodian reasonably believes that the use or disclosure is necessary to lessen or prevent a serious threat to an individual’s life, health, safety or welfare; or a serious threat to public health or public safety”; and Section 202(3)(1)(c) of the *Privacy Act* states, that information may be shared if, “the record-keeper believes on reasonable grounds that use of the information for that other purpose is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person”; and
  - The CYPTF Act over-rides the PIP Act and the Commonwealth Privacy Act where there are concerns about the safety and/or wellbeing of a child because of the belief or

suspicion of abuse or neglect. This means that information can be shared with or without the consent of the client.

- Under the CYPTF Act, all adults in the community have a responsibility to take steps to prevent the occurrence or repetition of abusive or neglectful behaviour toward children. More specifically, the CYPFT Act requires certain individuals to report known or suspected cases of abuse or neglect of children. These people are called 'prescribed persons' under the Act and are often referred to as 'mandatory reporters'.
- On 1 August 2009 new provisions within the CYPTF Act came into effect. Among other changes, the Bill provides for :
  - notifications about child abuse or neglect to be made to either a Gateway Services or Child Protection intake; and
  - broader powers allowing the sharing of information relevant to the best interests of a child.
- For all the changes to the CYPTFA, see: <http://www.dhhs.tas.gov.au/dcyfs/legislation/cyptfa>
- The client's consent is not required before that information is shared during the course of making a notification. Section 16 of the CYPTF Act provides protection in regard to the identity of the person making a notification of the "knowledge, belief or suspicion of abuse or neglect". Sub-section two states that the identity of the notifier must not be made except if the disclosure:
  - (a) is made in the course of official duties under this Act to another person acting in the course of official duties; or
  - (b) is made with the consent of the notifier; or
  - (c) is made by way of evidence adduced with leave granted by a court.
- However, this does not mean that a professional cannot advise a client about the fact that information has been shared as part of a notification. The professional should consider whether or not it is safe to advise a client about the notification. Different approaches are adopted by professional groups and individuals in regard to this. For example, some women's shelters opt to advise their clients that they are making a notification because they want to be transparent with their clients and maintain a relationship with them; and sometimes school social workers adopt a similarly open approach. However, many professionals want their identity to be kept confidential and this is perfectly understandable.
- When working outside the CYPTF Act (that is where there is no concern about the neglect or abuse of a child), the consent of the client is still sought before sharing any information across services, except in circumstances where there is considered to be danger to either the community or a professional working with the family.
- Section 18 of the CYPTF Act has been amended to allow the Secretary of the Department of Health and Human Services (the Secretary) to require information to be provided not only about the child or his or her guardian in relation to suspected child abuse or neglect,

but also about any “significant person” in that child’s life. Section 53b also *allows* information sharing entities to share information with other relevant services about a significant person in a child’s life, but they *cannot be compelled* to share information by anyone but an authorised officer under the CYPTF Act – that is, a Child Protection Worker or a Police Officer assisting with an assessment of a child's circumstances.

- However, a professional being required to provide information by an authorised officer is able to exercise professional judgement as to how that information is supplied. For example, if an authorised officer requests information about a specific diagnosis in regard to a guardian or a significant person in a child’s life, the professional might elect to supply details about *the behaviours likely to be exhibited by their client and how those behaviours might impact on the child in question*, rather than supplying details about a *specific diagnosis* which could be misinterpreted by the authorised officer.
- Furthermore, Section 15 of the CYPTF Act states under sub-section (2) that in making a notification (of concern about the abuse or neglect of a child) a person:
  - (a) cannot, by virtue of informing the Secretary or a Community-Based Intake Service as specified in subsection (1), be held to have breached any code of professional etiquette or ethics, to have departed from any accepted standards of professional conduct or to have contravened any Act; and
  - (b) to the extent that he or she has acted in good faith, incurs no civil or criminal liability in respect of informing the Secretary or a Community-Based Intake Service [about suspected abuse and/or neglect of a child]. [This information is repeated in Section 53(b) of the Act.]