

***Supporting Young People under 16 Years of Age:
Guidelines for Good Practice for SAAP Services***



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enabling innovative and quality community services

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1. PURPOSE

The purpose of this document is to clarify roles and responsibilities and provide information to assist Supported Accommodation Assistance Program (SAAP) services to work with young people who are under 16 years of age and present unaccompanied at a SAAP service requesting accommodation and support, or who are referred to a SAAP service for assistance.

Providing accommodation and support to homeless young people under 16 years of age has generally been seen as the responsibility of State human services departments and State-funded alternative care services, as opposed to Commonwealth sponsored programs such as SAAP. For a number of reasons SAAP services may not be the ideal place for supporting young people under 16 years who are homeless. The transitional nature of SAAP renders it inappropriate for some members of this group, who may require supported accommodation over a number of years. However, some young people are unwilling to accept support from State-funded alternative care services but are willing to engage with SAAP funded organisations. They are therefore likely to continue to seek accommodation and support from SAAP services.

Accommodating young people under 16 years of age has been a source of anxiety for SAAP service providers, due to the uncertainty of their legal roles and responsibilities in relation to the child's parents or guardians. For example, SAAP services have expressed concern about their legal position should a young person require medical assistance. Similarly, agencies have developed varying practices in relation to the notification of parents or guardians of the whereabouts of the young person.

These guidelines address these and other common issues that arise for SAAP services in their work with clients who are under 16 years of age.

2. CHILD SAFETY

The Department of Child Safety is the Queensland Government's lead child protection agency and is dedicated to protecting Queensland's children and young people to ensure they are safe from abuse and neglect. The *Child Protection Act 1999* and Child Protection Regulation 2000 provide the legislative mandate for child protection work undertaken by the department.

The Department of Child Safety's primary clients are vulnerable children and young people within Queensland, with its operating focus being on meeting the protective needs of this group of children and young people. To do this, the department works closely with children, young people and their families and in close partnership with foster carers, kinship carers, non-government organisations and peak bodies.

Out-of-home care is used as part of the department's integrated child protection response, when assessment indicates that separation of the child from their family is required to ensure the child's safety. While the child and their family's culture and community must be considered when making all placement decisions, the 'child placement principle' is critical to placement decisions for all Aboriginal or Torres Strait Islander children under the *Child Protection Act 1999*, section 83.

Young people subject to Child Protection Orders in SAAP services

A number of homeless children and young people subject to a child protection order under the *Child Protection Act 1999* are currently intermittently supported by and accommodated in SAAP crisis youth services at various locations across Queensland. SAAP services are not part of the regular suite of placements for the Department of Child Safety as they are not a preferred placement option for young people under child protection orders. SAAP services may however, at times, be used as an emergency placement by the Department of Child

Safety. In response to the many issues raised by this situation, a Memorandum of Understanding (MOU) was agreed between the Department of Communities and the Department of Child Safety in November 2006.

Memorandum of Understanding (MOU)

A Memorandum of Understanding between the Department of Communities and the Department of Child Safety specifies the role of Department of Communities' funded SAAP crisis youth services and their clients, and potential clients, who are:

- children and young people under the age of 18 years, and
- who are subject to a child protection order under the *Child Protection Act 1999*.

The MOU contains operational guidelines for staff from the Department of Child Safety, Department of Communities and SAAP services and a process for monitoring the implementation of the MOU. A copy of guidelines is provided at Appendix 1.

3. YOUTH JUSTICE

Young people on juvenile justice orders

The *Juvenile Justice Act 1992* is the exclusive sentencing code for children and young people in Queensland. Section 29 (1) of the *Criminal Code Act 1899* establishes that a person under the age of 10 years is not criminally responsible for any act or omission, and schedule 4 of the *Juvenile Justice Act* defines a child, for the purposes of the Act, as a person who has not turned 17 years of age.

Under the *Juvenile Justice Act* a child can be sentenced to supervised community-based orders. Community-based orders include probation orders, community service orders, intensive supervision orders and conditional release orders. Any of these orders can potentially have an extra requirement that the young person reside at a particular address. Where the court is considering attaching an extra requirement about accommodation, the Department of Communities advocates that that the condition read "reside as directed by the Department of Communities" in preference to the court specifying a particular address.

The Department of Communities does not have custody or guardianship of young people subject to juvenile justice orders. The Department is responsible for administering orders made by the court and, in doing so, may need to arrange and monitor accommodation for young people where a "reside as directed" condition has been made. While there is no obligation to provide accommodation for young people generally, a departmental officer may assist other young people to secure appropriate accommodation if they are identified as homeless.

To ensure compliance with court orders, officers of the Department of Communities must maintain regular contact with young people. If a "reside as directed" condition has been attached to an order, the young person's compliance with this requirement will also require monitoring. It is for this purpose that departmental officers may visit the young person's place of residence.

All supervised orders contain a mandatory condition that the young person or their parent notify the Department of Communities of any change of address within 48 hours. Failure to comply with conditions specified on court order/s, including a reside as directed condition can result in the Department initiating breach action against the young person.

Young people on bail

A court may require that a young person reside at a particular address or to “reside as directed by the Department of Communities” while they are subject to bail. When a young person is subject to a “reside as directed by the Department of Communities” condition, the Department of Communities has a responsibility to monitor the young person’s place of residence and advise the police and court if a young person is not complying with the condition.

The Department of Communities has established the conditional bail program to assist those young people whom the courts believe are highly unlikely to comply with bail conditions unless supervised under a structured program. The conditional bail program engages young people in activities aimed at developing their capacity to comply with their bail undertaking. Young people subject to conditional bail may also have a reside as directed condition attached to their bail undertaking. As outlined above, this condition would require the Department of Communities to monitor the young person’s place of residence and compliance with the condition.

4. SUPPORTED ACCOMMODATION ASSISTANCE PROGRAM

The Supported Accommodation Assistance Act (1994) states that the aim of the Supported Accommodation Assistance Program is "to provide transitional supported accommodation and related support services, in order to help people who are homeless to achieve the maximum degree of self-reliance and independence."

Within this broad aim, the more specific goals are to resolve crisis, to re-establish family links where appropriate and to re-establish a capacity for service users to live independently of SAAP.

SAAP focuses on providing transitional support through a range of service models, including accommodation and non-accommodation support services.

While SAAP services can provide services to individual children and young people who are under the official school leaving age in Queensland, which is 15 years of age, the *Supported Accommodation Assistance Act 1994* states that services cannot be funded to provide services exclusively to this group.

The Act also states that SAAP “will not replace or duplicate a service that is already provided by, or is the responsibility of, any other government, program or organisation.

5. SUPPORTING YOUNG PEOPLE UNDER 16 YEARS OF AGE

SAAP services need to consider whether a young person under the age of 16 years is capable of understanding information about the issues for which they are seeking help, the choices available to them and the likely and possible consequences of any proposed course of action. Services need to make this assessment early in their interaction with a young person.

The initial goal of intervention with a young person should be to assist and support them and wherever possible reconcile and strengthen family relations. Where reconciliation of the young person with their family is not a viable option, the aim should be to support the young person and ensure that they have access to safe and secure accommodation.

In making and responding to the referral of a young person under the age of 16 years the best interests of the young person should be the SAAP service's first priority.

It is essential for services to work with young people exiting the service to plan for their exit and to ensure that they are aware of, and have access to, sources of ongoing support.

SAAP services should assess their policies to determine whether young people need any extra support to understand or comply with particular policies. Services should also look at any policies or procedures that may cause difficulty for young people due to their age or other specific needs.

In relation to young people who are under 15 years of age and unable to return home (or refusing to return home) due to allegations of physical or serious emotional harm, neglect or sexual abuse, SAAP staff should refer young person to the nearest Child Safety Service Centre to have their circumstances assessed.

6. RIGHTS AND RESPONSIBILITIES OF PARENTS AND YOUNG PEOPLE

Parents have a legal responsibility to care for, protect, guide and provide for their children to adulthood. Adulthood is normally considered to be 18 years of age.

Parents have a right to decide on day to day issues affecting their children (eg. where children live, where they go to school, reasonable discipline, consent for medical treatment, religious education) unless a court order exists which alters this. These rights are not absolute and a higher authority (ie. a court) can override them.

In December 1990 Australia ratified the International Convention on the Rights of the Child which was adopted by the United Nations General Assembly in 1989. The Convention on the Rights of the Child contains a comprehensive statement about children's rights. One of the principles the Convention emphasises is the right of children to be heard and to participate in decision making, taking their capacity to understand issues into account, on matters that affect their interests. (Alston and Brennan, 1991).

The effect of a 1985 English House of Lords case, known as the Gillick Case, is that once a "child" is capable of properly understanding information about particular issues for which they are seeking help, the choices available to them, and the likely possible consequences of any proposed course of action, then that "child", regardless of their chronological age, can make decisions and they then have the same rights to privacy, confidentiality, and health care as an adult.

In 1992, in a Queensland case commonly known as Marion's Case, the Gillick decision was adopted as part of Australian law. In the Australian case a majority of the judges of the High Court of Australia found that a young person was capable of giving informed consent if they had achieved a sufficient understanding and intelligence to enable them to understand fully what was proposed to them.

There is no uniform legislation throughout Australia on the issue of children's decision making rights. Some State governments have passed specific laws in this area. As the Queensland Parliament has not passed any specific laws relating to the issue of children's decision making rights, the legal decisions mentioned in the two cases are considered to be the law in Queensland (Acknowledgment to Youth Advocacy Service as the source of the information above).

7. LEGAL AND ETHICAL CONSIDERATIONS

The two judgements mentioned previously, the Gillick Case and Marion's Case have implications for SAAP services working with young people under 18 years of age. However the outcomes of these judgements are not clear-cut. There are a number of complex issues to be taken into account. These issues will need to be considered by SAAP services in the development of policies and procedures.

A summary of issues in relation to these judgements is below:

Best interests

The extent to which the decision or action is seen as being in the young person's best interests is an ethical and legal consideration which will need to be taken into account by SAAP services.

If known, the views of the parents in relation to the young person's decision or proposed course of action should also be considered.

The rights and wishes of both the young person and parents have to be considered and balanced against each other informed by the overriding principle of the young person's best interests.

Advocacy

The SAAP service will continue to act as an advocate for the young person but with a clear awareness of the need to assess the young person's situation in a holistic family context.

Informed consent

The young person can be assumed to have the capacity to give informed consent to matters such as medical assessment and treatment, providing they have an understanding of the options and implications of their decision.

This however is not a clear-cut determination, but requires an assessment of capacity to give consent. Consideration should be given to the young person's age, developmental stage, cognitive and emotional capacities, vulnerability, any intellectual or psychological impairment and the risk the decision poses for the young person and the degree to which they fully understand the choices and implications of their decision.

The immediate and longer-term impact and the seriousness of the decision for the young person also have to be assessed.

There are both legal and ethical considerations around the assessment of a young person's competence to give "informed consent" and each case has to be assessed taking individual circumstances into account.

Conflict between rights of the parent and rights of the young person

There are many situations where there are conflicts between the young person's rights to autonomy and the parent's rights as legal guardian.

Where it is clear that there is not parental agreement or there is a conflict between parent and young person around the young person's actions or decision then the SAAP service should be cautious in its assessment of "competence to give informed consent".

Such matters should be referred to the Department of Child Safety for advice and consultation on the appropriate course of action.

DUTY OF CARE

Every person has a duty of care to every other person who is reasonably likely to be injured by the first person's acts or omissions. The law limits the range of liability to those persons who are in foreseeable peril.

SAAP services have a duty of care to all clients of the service, as well as other workers and those who are likely to suffer foreseeable harm. Services are required to take all reasonable care in carrying out their work to make sure that appropriate standards of care are met. The appropriate standard of care is assessed on what action a reasonable person would take in a particular situation. On rare occasions a client's right to confidentiality may need to be breached by a SAAP service if duty of care issues arise.

SAAP services should have policies which generally ensure that procedures for reasonable actions to meet duty of care responsibilities are in place. Any action taken under a worker's duty of care obligation should be documented.

In order to meet duty of care responsibilities for young people SAAP services should consider:

- whether the service's model of operation can support young people who are under the age of 16 years
- the need to access interpreter or other support services for young people from culturally and linguistically diverse backgrounds
- the need to respect and be sensitive to the cultural preferences and customs of young people from Aboriginal and Torres Strait Islander backgrounds
- the need to respect and be sensitive to the needs of young people with a disability and aware of appropriate support services to assist young people meet their specific needs;
- how the service can responsibly meet the needs of a young person (eg. help them develop skills to live in independent accommodation)
- how the service can work co-operatively with other services to meet the needs of the young person
- referral to other support services when a SAAP service cannot responsibly provide assistance to a young person
- the need to assist young people exiting a SAAP service link with transitional or long term support services.

SAAP services must carefully consider the needs of young people under 16 years old to determine whether the service model is appropriate to meet these needs. It is also important to recognise that a SAAP service may be the only service available in an emergency situation.

SAAP services should advise young people under the age of 16 years of their duty of care responsibilities, including the service's policies about:

- the support the service is able to provide young people under the age of 16 years;
- the circumstances in which parents of a young person may be advised of the young person's whereabouts and safety;
- the circumstances in which the Department of Child Safety may be contacted.

This information will be provided upon initial contact so that young people can make an informed decision about whether or not to access the service.

8. HOW IS CASE MANAGEMENT RESPONSIBILITY WORKED OUT?

When providing assistance to young people SAAP services must use a case management approach. Case management is a term and an approach used by both SAAP services and the Department of Child Safety in their work with young people.

In the SAAP context case management refers to an approach to service delivery which emphasises working with clients in a way which respects them as individuals, focuses on their needs and goals and develops strategies to ensure their particular needs are being met.

Case management in the child protection context refers to a framework for assessment, planning and review for all child protection matters in which a decision has been made that on-going departmental intervention is necessary. This case management process guides case planning and casework to meet the protective and support needs of children and young people.

The principles underlying case management in both areas are similar in their emphasis on planning and coordination, focussing on individual client needs and involving clients as much as possible in the development of strategies to meet their needs. Consideration should also be given to involving the young person's immediate or extended family or community in the case management process where this is appropriate.

Depending on the specific circumstances of the case, primary case management responsibility may rest with either the SAAP service or the Department of Child Safety. The agency with primary case management responsibility should negotiate the case plan and day to day case management with the young person and the other agency. Both SAAP service providers and Department of Child Safety staff provide important services to young people and it is important for mutual respect for each other's role to be maintained.

Where the Department of Child Safety is carrying out an assessment

Case management responsibility would generally be held by the Department of Child Safety during a child protection assessment. The Department of Child Safety may undertake an assessment of a young person's circumstances if concerns about a young person constitute significant harm or risk of significant harm.

Young people under 16 years of age who are homeless and unsupported would generally be responded to by way of a child protection assessment to enable the Department of Child Safety to assess the protective needs of the young person and determine an appropriate response.

The Department of Child Safety may also assess a young person's circumstances if the young person is under the age of 15 years and applying for income support from Centrelink (as outlined in the Case Management Protocol between Commonwealth agencies and State/Territories Welfare Authorities for Unsupported Young People).

Where an Assessment Order or Child Protection Order exists

Primary case management responsibility for young people under the age of 16 years who are subject to an Assessment Order or Child Protection Order is held by the Department of Child Safety.

The provision of casework may be negotiated with the Department of Child Safety and the SAAP service providing different components of support to the young person. The Department of Child Safety would retain overall responsibility for planning, and coordination of the young person's case plan in accordance with the Memorandum of Understanding.

Where Juvenile Justice Orders exist

Case management responsibility for a young person's Probation Order, Community Service Order, Immediate Release Order or Fixed Release Order (referred to collectively as Juvenile Justice Orders) is held by the Department of Communities. Young people under these orders are responsible for meeting the conditions of the order. The provision of support to young people on Juvenile Justice Orders may be negotiated with a SAAP service.

Conditions of a Juvenile Justice order may specify that a young person reside at a specific location. The young person is responsible for maintaining their accommodation and while the SAAP service should assist the young person they are not obliged to accommodate the young person if the young person is not abiding by the service's rules and guidelines. The SAAP service should notify the Department of Communities if the young person is required to reside at the service under conditions of a court order but is unable or unwilling to continue residing there.

Summary of case management responsibilities

The Department of Communities has primary case management responsibility:

- if the young person is subject to a Juvenile Justice Order
- if the young person is homeless and an assessment of their circumstances is being undertaken by the Department of Communities in relation to their application to Centrelink for income support (as outlined in the Case Management Protocol between Commonwealth agencies and State/Territories Welfare Authorities for Unsupported Young People).

The SAAP Service should negotiate primary case management responsibility with the Department of Child Safety:

- if a young person under 16 years of age is not subject to an Assessment Order, Child Protection Order but is referred to the service by the Department of Child Safety.

The SAAP Service will have primary case management responsibility:

- if a young person under 16 years of age is not subject to any Assessment Order, Child Protection Order or Juvenile Justice Order, no child protection issues have been identified and the Department of Child Safety is not involved in providing support to the young person.

9. WHAT ABOUT CONTACT WITH PARENTS?

SAAP services should develop a policy regarding contact with parents. This policy should take the following into account:

- the young person's right to access safe and secure accommodation
- the young person's willingness to have contact with their parents/family
- the young person's right to have their confidentiality respected
- how to facilitate the provision of information about the young person's wellbeing to parents and/or families without compromising the young person's privacy
- a parent's general right to know where their child is and to make day to day decisions in relation to their child, subject to consideration of issues relating to the child's safety
- the SAAP service's operational guidelines, service model and the target group the service is funded to assist
- the Department of Child Safety's statutory obligations to assess child protection notifications relating to young people.

In providing services to young people under the age of 16 years SAAP services will need to consider issues relating to how the young person's parent or guardian may be involved in the young person's support plan. An important part of working with young people is to reconcile and strengthen family relationships wherever possible.

It is important for the SAAP service to ask a young person during initial intake if they are willing for their parents to be advised of their whereabouts or willing for the service to provide information to their parents or family if they contact the service requesting information. If a young person consents to information being provided to their parents/family then support should be provided to the young person to do so.

If the young person accommodated or supported by a SAAP service is subject to an Assessment Order or a Child Protection Order, then the Department of Child Safety should be involved in the contact made with the young person's parents/family and in the support provided to the young person during this process. The respective roles of the Department of Child Safety and the SAAP service in this process should be negotiated and explained clearly to the client.

In some instances young people may be reluctant for their parents or guardians to be informed of their whereabouts. On initial contact with the service, young people should be informed of their policy regarding contacting parents and how information is passed on.

Parents remain a child's legal guardian until the child reaches 18 years of age, unless a court order exists which changes this (ie. Child Protection Order with guardianship to the Director General, Department of Child Safety). This is the case even if the child leaves home. It is important to look at how the needs of young people can be met and family relationships supported in the process rather than *solely* looking at the rights of parents versus the rights of young people.

SAAP services' primary responsibility is to their clients. When the client is under the age of 16 years the rights and needs of the young person may not always be consistent with those of their parents. SAAP services should ensure that the best interests of the young person are the priority in any service being provided.

If parents contact the service requesting information

SAAP services will need to develop a policy on accommodating under 16s and whether or not parental consent is required to allow the young person to be accommodated.

There is no general legal duty to notify parents that a young person is accommodated in a SAAP service.

If the SAAP service's policy is to accommodate young people under the age of 16 years only with parent's consent, then young people should be advised of this policy when they initially contact the service. Services with this policy must also have procedures in place for providing information to parents if they contact the service inquiring about their child.

If the SAAP service's policy is to accommodate young people with or without parental consent then the service's general confidentiality policy would apply. Young people under the age of 16 years should be advised of any circumstances in which their confidentiality is limited (for example, contact with next of kin in case of emergency or carrying out their duty to warn/inform others if they are at risk of injury or harm).

Under no circumstance should SAAP services lie to a young person's parents/family. If a SAAP service's policy is not to release information, a policy relating to how to deal with requests for information should also be in place. The policy should require staff to advise parents that they cannot confirm or deny that the young person is accommodated at the service and if there is any contact with the young person now, or in the future, the young person will be advised that their parent/family has contacted the service and would like to speak with them.

If a young person advises the SAAP service that they are willing to speak with their parents or family members should they make contact with the service then there is no need to withhold information about the young person's accommodation in the service.

If a parent or family member comes to the SAAP service wanting to make contact with the young person, the service does not have to let the parent into the premises and can ask the parent or family member to leave. The service should inform the parent or family member of their policy in relation to requests for information from parents/family as discussed previously.

Where the Department of Child Safety holds primary case management responsibility for a young person, parents may contact the department for information about the young person. If the whereabouts of a young person subject to protective intervention is known by the Department of Child Safety, including their accommodation in a SAAP service, the department is required to advise parents of the young person's whereabouts. The Department of Child Safety should advise the SAAP service once they have provided this advice to parents. Information would only be withheld from parents by the department if there were legitimate reasons to do so. Legitimate reasons would include the young person's fear for their safety if their whereabouts were revealed or if advising parents might jeopardise an assessment (i.e. where someone may be charged with an offence for the harm to the child).

It is important to mediate with a young person and their family to help resolve conflict and reunite families wherever possible. It is also acknowledged that "time-out" is often important in enabling young people and families to gain perspective and resolve their own problems.

10. WHEN SHOULD SAAP SERVICES DISCUSS A YOUNG PERSON'S SITUATION WITH THE DEPARTMENT OF CHILD SAFETY AND DEPARTMENT OF COMMUNITIES?

Department of Child Safety

In order to safeguard the interests of a young person, SAAP services should contact the Department of Child Safety:

- if they are aware that a young person is subject to a child protection assessment, Assessment Order or Child Protection Order
- if a young person is subject to an Assessment Order or Child Protection Order and they leave the service or appear to be missing;
- to discuss a young person's support needs, case plan or to identify additional sources of support for the young person, where they consider this appropriate;
- to report concerns about harm or risk of harm to the young person. For example, if a young person exits a SAAP service with no ongoing support then the young person would be at risk and the Department of Child Safety should be notified.

A young person may be experiencing significant trauma or crisis when they initially present to the SAAP service and an accurate assessment of the young person's immediate safety needs may be difficult. In determining whether/when to contact the Department of Child Safety, the SAAP service should consider the young person's wellbeing and need for time-out to recover from traumatic events.

SAAP services are encouraged to consult with the Department of Child Safety at any time to discuss the circumstances or needs of a young person, or in order to obtain information that will help a young person make an informed decision about options available to them.

Provided the young person is not at risk of harm, SAAP services need not provide identifying information about the young person if the young person requests that the consultation

remain confidential. The Department of Child Safety will provide advice about the likely follow-up in specific circumstances and support available to the young person or service.

Early liaison with the Department of Child Safety is encouraged as this will assist if the department is later required to work with a young person and their family.

It is in the young person's best interest for SAAP services and the Department of Child Safety to act in a spirit of co-operation.

Department of Communities

The Department of Communities should be contacted if a young person is required to reside at the SAAP service, because of a Juvenile Justice court order specifying this, and is not able to continue living there.

11. WHAT ABOUT INCOME SUPPORT?

The Department of Child Safety is generally responsible for financially supporting a young person who is subject to a Child Protection Order, which grants custody or guardianship of the young person to the chief executive. Where custody or guardianship is not a provision of the order the parents of the young person would generally be responsible for financially supporting the young person.

The Department of Child Safety is also generally responsible for financially supporting a young person where the department is undertaking an assessment of the harm or risk of harm to a young person who is homeless or unsupported.

The Department of Child Safety is responsible for advising the SAAP service of how payment for accommodation costs and related living costs will be met for young people who are subject to an Assessment Order or Child Protection Order and who are referred to a SAAP service for accommodation.

For young people aged 15-17 years who are under Juvenile Justice orders, the Department of Communities maintains primary case management responsibility for the statutory components of their orders and may assist the young person to apply for benefits for which they may be eligible.

If a young person under 16 years, who is not subject to an Assessment Order or Child Protection Order requires income support, the SAAP service can make a referral to the Centrelink.

Centrelink will assess the application and provide income support if the young person meets the relevant eligibility criteria.

The Department of Child Safety and Centrelink are bound by the *Case Management Protocol between Commonwealth Agencies and State/Territory Welfare Authorities for Unsupported Young People* which is also known as the *Youth Protocol*. The protocol clarifies the responsibilities of each of the agencies in relation to homeless young people seeking income support.

Under the protocol, Centrelink is required to refer all homeless or unsupported young people under the age of 15 who apply for income support to the Department of Child Safety. Young people aged 15-17 may also be referred under the protocol, as deemed appropriate by Centrelink. In exceptional circumstances, Centrelink may provide financial support through Special Benefit for young people under 15 years age. Centrelink is responsible for the final decision regarding the outcome of all applications for Commonwealth income support.

12. HOW SHOULD COMPLAINTS BE MANAGED?

Complaints about the SAAP service

Funded services are required to establish a grievance procedure to follow when formal complaints are made. Young people accessing the SAAP service should be informed of the service's grievance procedures. As young people may require support to have their complaint heard the service's grievance policy may need to be modified to ensure support is available.

Young people have the right to complain to the Department of Communities about any aspect of the services they receive from a SAAP funded service. Such complaints may reach the department in a variety of ways, but they are referred to the Regional Office or Area Office where the service is located.

Complaints about the Department of Child Safety

Young people affected by the decisions made by the Department of Child Safety have the right to complain if dissatisfied. If a complaint relates to a decision made by Child Safety Service Centre staff then every effort should be made to work out the matter with the staff member involved. If the matter cannot be resolved this way, the Manager in the local Department of Child Safety Service Centre would be the next point of contact. If a matter cannot be resolved at this level, the issue should then be referred by the Manager to the Zonal Director in the relevant Zone.

The Department of Child Safety is accountable for the protection of children in Queensland. Should departmental clients, carers, licensed care service staff or other interested persons hold concerns about the decisions and or actions of departmental officers, various external accountability mechanisms are available, including the:

- Children Services Tribunal
- The Commission for Children and Young People and Child Guardian
- Crime and Misconduct Commission

Criminal matters

If a young person alleges that a criminal offence has been committed by anyone associated with the SAAP service or the Department of Communities, the young person should be referred to the Queensland Police Service to make a complaint.

13. WHAT ABOUT CONFIDENTIALITY?

When a young person contacts a SAAP service for assistance the service will explain its confidentiality policy and circumstances in which confidentiality may be limited

Upon entering SAAP services, young people should be provided with information about the service's confidentiality and record keeping policies. Young people should be asked if they understand the policies and if they have any questions. If the young person is from a particular cultural or linguistic background it may be necessary to use interpreter services to make sure the young person understands the service and can express their needs.

SAAP services should only record necessary and factual information. Records should be stored in a secure location that can only be accessed by staff and the person concerned.

The young person's permission should be obtained before any information is given to others involved in that person's care except under conditions of clear and present danger or overriding legislation.

Whenever possible, young people should be present when information about them is

provided by government agencies or other support services. When appropriate, SAAP services should support young people to access support services on their own behalf.

SAAP services may need to make contact in emergency situations with the Department of Child Safety, Queensland Health, Mental Health Services, Queensland Police Service, the young person's parents or other agencies without the approval of the young person. SAAP services should have well defined policies relating to the circumstances in which contact will be made with an individual or agency without a young person's consent (eg child protection notification, emergency medical treatment). It is important for services to advise young people of the limits to confidentiality that exist.

SAAP services must explain the need to collect data for research purposes to the young people accessing the service and explain that their privacy is safeguarded in the data collection process.

14. WHAT IF A YOUNG PERSON REQUIRES MEDICAL TREATMENT?

SAAP services will assist young people access medical services as required.

Legally, as a result of the Gillick Case discussed in Section 6, if a child understands the implications of the medical treatment and the doctor is satisfied that the child understands the implications, then it is the child who should be the one to give consent to medical treatment.

Some medical authorities have the policy that they will not treat the young person without the guardian's consent. If there is a contract form signed by the legal guardian consenting to the placement, it can be shown to the doctor.

In an emergency, doctors have the full authority of the law to act without consent.

Medical treatment for young people subject to Child Protection orders

Custody and guardianship decisions determine the person who has custody and/or guardianship of a child, and therefore the person who can make specific decisions, as determined by the department's statutory response/order type.

In relation to young people subject to Child Protection Orders granting custody to the Chief Executive – parents retain Guardianship decisions. Any medical treatment should be cleared by parents/Department of Child Safety. When young people are subject to Child Protection Orders granting Guardianship to the Chief Executive – the Department of Child Safety makes decisions regarding medical treatment. Please refer to the table provided at Appendix 2 for information regarding who is able to approve or should be informed about the medical treatment.

15. WHAT IF THERE IS CONCERN THAT THE YOUNG PERSON MAY HARM HIM/HERSELF?

SAAP services should have a clear policy in place which details procedures for staff to follow if they are concerned that a young person is at risk of suicide or other self harm. The policy and procedures for dealing with suicide risk must ensure that every reasonable action is taken to prevent suicide and support young people who may be depressed or at risk of suicide. The young person's case management plan will need to detail these actions. SAAP services should contact the Department of Communities if they are concerned about any young person who may be at risk of suicide or self harm.

SAAP services may not be in a position to responsibly accommodate a young person who is at risk of suicide due to the service's staffing model and the absence of appropriate health care services in the area. If SAAP services cannot responsibly respond to the needs of the young person referral to more appropriate health care/mental health care services should be made.

If SAAP services are concerned that a young person subject to protective intervention is at risk of suicide or self harm they should contact the relevant After Hours Child Safety Service Centre so that appropriate supports can be accessed. In an urgent situation SAAP services should arrange emergency medical assistance for the young person and then contact the Department of Communities. Local arrangements need to be in place to ensure that SAAP services and Department of Communities Offices responsibly manage emergency situations.

16. WHAT IF THE YOUNG PERSON IS A MISSING PERSON?

SAAP services should have a policy in place relating to the circumstances in which a young person will be listed as missing to minimise the risk of harm to young people under the age of 16 years whose whereabouts are unknown.

The Department of Child Safety is responsible for ensuring young people subject to an Assessment Order or a Child Protection Order, whose whereabouts are uncertain, are listed as missing. SAAP services may be called upon as the last person to see the young person under the age of 16 years to provide information (eg. description of clothing, movements) to assist the Queensland Police Service to locate the young person.

Where a young person is not subject to an Assessment Order or a Child Protection Order and the Department of Child Safety is not involved in providing support to them, then the SAAP service will need to make a decision about listing the young person as missing.

SAAP services are advised to ask young people whether they may be currently listed as missing when the young person first accesses the service. A young person may choose not to reveal their status as a missing person, or may be unaware that they are listed as missing. In the instance where a young person believes they may be listed as a missing person the service is advised to support the young person in exploring how to resolve this issue. The young person may be willing to advise the Queensland Police Service of their whereabouts or their wellbeing so that they are removed from the Missing Person's list. Alternatively, the young person may consent to another appropriate adult conveying this information to the Queensland Police Service on their behalf.

While SAAP services are encouraged to provide as much information as possible to the Queensland Police Service about any young person who may need to be listed as missing, it is inappropriate for SAAP services to obtain additional intrusive information because they believe a young person may one day need to be listed as missing. For example, it is intrusive and inappropriate to photograph young people or make records of tattoos or distinguishing marks because it is believed this would help in the event of having to list them as missing.

17. CONCLUSION

These guidelines are provided to assist SAAP funded services in Queensland who are supporting unaccompanied young people under 16 years old.

The guidelines are developmental in nature. They do not provide a generic blueprint of how to respond to the needs of young people but rather identify the “not-negotiable” elements in providing services to young people and important practice considerations. Some of the practice considerations discussed in the protocol are good practice for working with any client group, but particularly when working with vulnerable client groups.

Services may need assistance and support to develop better practices for working with young people under 16 years old and to develop some of the policies identified in this document. A Community Support Officer (CSO) in Department of Communities regional office can assist services with developing policies and procedures.

APPENDIX 1. SCHEDULE 1 - Memorandum of Understanding (MOU) between Department of Communities and Department of Child Safety

Guidelines for Supported Accommodation Assistance Program (SAAP) youth services and the Department of Child Safety in relation to the 'placement' by the Department of Child Safety of an unaccompanied child or young person in the care of the state in a SAAP youth service.

Guiding Principles

- All agencies should focus on meeting the diverse needs of clients through appropriate and flexible service delivery. In particular the specific cultural needs of Aboriginal and Torres Strait Islander people should be respected and responded to appropriately.
- Children/young people involved with the Department of Child Safety under the Child Protection Act 1999 should only access SAAP services:
 - where it is determined to be in the best interests of the child/young person;
 - only on an emergency basis until a more suitable placement can be arranged; and
 - where there are appropriate casework supports in place.
- Department of Child Safety clients should not be prioritised by SAAP services simply because they are referred by a government department.

Operational guidelines

1. Minimum Age Limit

The Department of Child Safety must only seek placements for children over 13 years and SAAP youth services will only accept Department of Child Safety 'placements' for children aged 13 years and above.

2. Time limits on placements

Placements will be for no longer than 3 working days in duration.

If a placement extends past 3 working days, the relevant Zonal Director (Department of Child Safety) or their delegate must advise the relevant Regional Executive Director (Department Of Communities) or their delegate. The placement may be extended with the agreement of the SAAP service provider and the endorsement of the Regional Executive Director (Department Of Communities) or their delegate.

Where a placement is extended past 3 working days, a written agreement must be completed. The agreement should include: arrangements for health, education, religion, cultural, family contact, behavioural needs, transitional plans for the child/young person; identification of roles and responsibilities for all parties involved; and a date as agreed upon by all parties for the review of the agreement. This process must include the involvement of an Indigenous Recognised Entity in cases relating to Aboriginal or Torres Strait Islander children or young people.

3. Mix of ages

When considering access to SAAP youth services by children/young people who are in the care of the Department of Child Safety, the service must, in keeping with their broader legislative and program requirements, give consideration to the ages and needs of the other

clients in the service and the need to avoid unreasonable risks from older clients.

4. Limits on numbers of 'placements'

At any point in time, children and young people who are the responsibility of the Department of Child Safety will not constitute the majority of clients of a SAAP crisis youth service.

5. Case worker support

The Department of Child Safety will provide caseworker support to all children and young people under the age of 18 years, and who are subject to a child protection order under the Child Protection Act 1999.

6. Supplementary support

Any services normally provided to SAAP clients will be provided to clients who are subject to a child protection order under the Child Protection Act 1999. Any additional support will be negotiated between the SAAP service and the Department of Child Safety.

7. Self referral to SAAP service by child/young person subject to a child protection order under the *Child Protection Act 1999*.

If a SAAP youth service becomes aware that a child/young person who has self referred to their service is subject to a child protection order, the service will inform the Department of Child Safety of this situation within 24 hours.

If a child is under 13 years old the SAAP service will inform their Regional Executive Director, Department of Communities (or their delegate) within two (2) working hours. The Department of Child Safety will provide a review within three (3) working days of being informed of the child/young person's presence at the service. If a child is under 13 years old the placement will not continue beyond three (3) days.

Where the placement is going to continue post-review, a written agreement must be completed. The agreement should include: arrangements for health, education, religion, cultural, family contact, behavioural needs, transitional plans for the child/young person; identification of roles and responsibilities for all parties involved; and a date as agreed upon by all parties for the review of the agreement.

8. Notification to the Department of Child Safety

If a SAAP service has concerns about a child/young person involved with their service being harmed or at risk of intra-familial harm, the service should notify the Department of Child Safety of their concerns. If the concerns are in relation to extra-familial harm or risk of harm, then the SAAP service should contact the Queensland Police Service.

If a SAAP service wants to follow up about a notification they have made to the Department of Child Safety, the Coordinator of the SAAP service should make contact with the Intake Officer or Team Leader, Intake and Assessment, who will inform the Coordinator about the actions being taken by the department in response to the information received.

9. Information sharing

Information sharing between SAAP youth services and the Department of Child Safety must be guided by the best interests, wellbeing and safety of the child/young person, and in consultation with the young person, in order to ensure that SAAP services are able to meet the needs of all their clients.

SAAP youth services should refer to Factsheets 1–5, Information sharing and the Child Protection Act 1999, which outline the legislative provisions that enable information sharing between the Department of Child Safety and SAAP youth services (<http://www.communities.qld.gov.au/family/childprotection/index.html>).

10. Critical incident reporting

In the event of an emergency relating to a child/young person who is the responsibility of the Department of Child Safety, the SAAP youth service is to:

- during office hours – contact the Child Safety Service Centre (CCSC) with case management responsibility, notifying them of the incident. In the event that the designated Child Safety Officer for the child/young person is not available, contact should occur with the CCSC intake officer;
- out of office hours – contact the Department of Child Safety’s Crisis Care Unit on Ph: 3235 9999 or 1800 177 135; and
- notify the Department of Communities in accordance with the Notifying Major Incidents section of standard Service Agreement (Section 4.10).

The Department of Child Safety will follow internal policies and procedures when responding to emergency/critical incidents.

11. Dispute Resolution

If a SAAP youth service has a dispute with the Department of Child Safety in relation to a casework matter, the SAAP service will attempt to resolve the matter directly with the Department of Child Safety staff involved. If the matter cannot be resolved in this way the service will contact their Department of Communities’ Community Support Officer who will refer the matter to their Regional Executive Director. If the matter remains unresolved at this level the issue will then be referred to the Department of Communities’ Regional Executive Director. The Regional Executive Director will thereafter discuss the matter further with the Zonal Director, Department of Child Safety.

If the Department of Child Safety has a dispute with a SAAP service about their service delivery, the department will attempt to resolve the matter directly with the SAAP service. If the matter cannot be resolved in this way, the department will contact the relevant Community Support Officer or Area Manager at the Department of Communities. If the matter cannot be resolved at this level, the issue will be referred to the Regional Director, Department of Communities.

In the case of disputes that cannot be resolved at the local level, they will be referred to the Nominated Responsible Officers for the MOU.

12. Monitoring of the MOU

In order to effectively review the MOU after one year, SAAP funded youth services will be required to collect data and to provide feedback to the Department of Communities. Feedback and data will provide qualitative and quantitative information about the effectiveness of the MOU in relation to interactions between the Department of Child Safety and SAAP funded Youth Services regarding the placement of children and young people into the SAAP service.

The Department of Child Safety staff will also provide feedback on these interactions and on the effectiveness of the MOU.

APPENDIX 2. Custody and guardianship decisions regarding medical treatment

Nature of statutory intervention/order	Effect on custody and guardianship
Assessment care agreement	The parents retain custody and guardianship and the department must document in the care agreement the type of day-to-day care decisions the parents must be consulted about
Child protection care agreement	The chief executive has custody, the parents retain guardianship and the type of day-to-day care decisions the parents must be consulted about must be documented in the care agreement
Child Protection Order - Directive orders	The parents retain custody and guardianship
Child Protection Order - Supervision orders	The parents retain custody and guardianship
Use of section 18 of the Act	The chief executive of the department has custody, the parents retain guardianship
Temporary Assessment Order	The chief executive or parents have custody, the parents retain guardianship
Court Assessment Order	The chief executive or parents have custody, the parents retain guardianship
Interim order (made on adjournment of Court Assessment Order)	The chief executive has temporary custody or the parents retain custody, the parents retain guardianship
Interim order (made on adjournment of Child Protection Order)	A family member or the chief executive has temporary custody, the parents retain guardianship
Child Protection Order – Custody order	A family member or the chief executive has custody, the parents retain guardianship
Child Protection Order – Short-term guardianship order	The chief executive has custody and guardianship
Child Protection Order- Long-term guardianship order	The chief executive or another suitable person has custody and guardianship

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