

Identifying Aboriginal and/or Torres Strait Islander children

Information for child protection practitioners

Introduction

Identifying Aboriginal and/or Torres Strait Islander children who are involved with child protection in Victoria is a practice requirement. Early identification of Aboriginal and/or Torres Strait Islander children ensures:

- the child's cultural rights are protected and promoted in accordance with the Victorian *Charter of Human Rights and Responsibilities Act 2006*;
- additional legislative obligations under the *Children, Youth and Families Act 2005* (CYFA) that promote cultural safety and connectedness (including consultation with the Aboriginal Child Specialist Advice and Support Service (ACSASS)) are met and;
- Aboriginal specific services are offered to the child and family as early as possible.

To appropriately identify a child who is Aboriginal and/or Torres Strait Islander, ask every child (where age and development permits) and each parent in person. We cannot make assumptions about a child's Aboriginality and should not rely on historical information recorded on the client file (CRIS) which may not be accurate or complete.

Identifying whether a child is Aboriginal and/or Torres Strait Islander:

Why do you need to ask?

Children and young people are entitled to have their culture known, respected and nurtured as part of case planning.

To get the best outcomes for children, and to promote culturally safe practice, practitioners need to proactively ask about each child's cultural identity. This promotes the child's cultural rights and connections and shows respect for the history of each child and their family.

The CYFA requires that an Aboriginal and/or Torres Strait Islander child's cultural plan aligns with their case plan. Cultural considerations inform all aspects of case planning and promote Aboriginal and/or Torres Strait Islander children and young people's connection to their family, community and culture. Focussed attention on cultural plans through care teams and achievement of these plans also fosters positive and healthy identity development. This promotes Aboriginal and/or Torres Strait Islander children and young people growing strong in their culture.

Consistent and accurate recording of Aboriginal cultural information on CRIS leads to improved data and service provision. This data is used when planning service and program delivery and in identifying what works well, to support Aboriginal and/or Torres Strait Islander children and families in the child protection program.

By identifying Aboriginal and/or Torres Strait Islander children early, practitioners are able to ensure the child's cultural rights are upheld; culturally appropriate care options are identified; culturally specific supports and services (including AFLDM) are offered to the child early; and legislative obligations (including consultation with ACSASS and the Aboriginal Child Placement Principle) are met for Aboriginal and/or Torres Strait Islander children under the CYFA.

What about a child and family's privacy?

Information collected by child protection is governed by the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001*. Information sharing provisions under the CYFA are consistent with this legislation. Information collected by child protection must be stored and used appropriately and in accordance with legislation.

Information that a child is Aboriginal and/or Torres Strait Islander is to be provided to the Children's Court if a Protection Application is issued as there are obligations and requirements that a magistrate must consider in making decisions for Aboriginal children under the CYFA.

How to ask?

With confidence, respect and sensitivity

Asking a child or parent if they are Aboriginal and/or Torres Strait Islander is of critical importance in protecting the child's culture and identity.

Respect a person's right to privacy and choice to identify as Aboriginal and/or Torres Strait Islander, or not.

Some children and young people may not know that they are Aboriginal and/or Torres Strait Islander and some families may choose not to identify that they are Aboriginal and/or Torres Strait Islander to child protection.

If asked why the information is needed, provide a simple and clear explanation and explain this question is asked of all children and families and that the information is used to help support children.

Use the following script to ask if a child is Aboriginal and/or Torres Strait Islander:

If asking another person (such as a reporter) about a child's Aboriginal and/or Torres Strait Islander status: ask;

"Is the child (use name) Aboriginal and/or Torres Strait Islander?"

If the answer is "Yes", clarify;

"Is the child (use name) Aboriginal or Torres Strait Islander or both?"

If the answer is "No", clarify;

"What is the child's (use name) cultural background or heritage?"

"Is the child's mother (use name) Aboriginal and/or Torres Strait Islander?"

If the answer is "Yes", clarify;

"Is the child's mother (use name) Aboriginal or Torres Strait Islander or both?"

If the answer is "no", clarify;

"What is the child's mother's (use name) cultural background or heritage?"

"Is the child's father (use name) Aboriginal and/or Torres Strait Islander?"

If the answer is "Yes", clarify;

"Is the child's father (use name) Aboriginal or Torres Strait Islander or both?"

If the answer is "no", clarify;

"What is the child's father's (use name) cultural background or heritage?"

For an **unborn report**, ask

"Is the baby's mother (use name) Aboriginal and/or Torres Strait Islander?"

If the answer is "Yes", clarify;

"Is the baby's mother (use name) Aboriginal or Torres Strait Islander or both?"

If the answer is "no", clarify;

"What is the baby's mother's (use name) cultural background or heritage?"

"Is the baby's father (use name) Aboriginal and/or Torres Strait Islander?"

If the answer is "Yes", clarify;

"Is the baby's father (use name) Aboriginal or Torres Strait Islander or both?"

If the answer is "no", clarify;

"What is the baby's father's (use name) cultural background or heritage?"

Ask each question for each child in a sibling group. If the reporter (or other source) does not know if a child or sibling is Aboriginal and/or Torres Strait Islander, the child's Aboriginal status should be recorded as *under assessment* on the client file (CRIS) and further enquiries made later.

Where either parent identifies as Aboriginal and/or Torres Strait Islander, the child is to be recorded on CRIS as Aboriginal and/or Torres Strait Islander, irrespective of whether the other parent or carer identified the child as such.

Where the child has been reported to be Aboriginal and/or Torres Strait Islander, the reporter (or other source) may know more information that could assist child protection, ask;

"Is there any other information about the child's (use name) Aboriginal family, community or significant people that may help to support this child (use name)?"

It is important for practitioners to be aware that at times children and parents may know little about their Aboriginal and/or Torres Strait Islander connections and may not know, or be willing to share, details such as mob, traditional country, totems or details of significant people in the family or community.

If you are asking a person directly (such as the child or a parent): ask;

"Are you Aboriginal and/or Torres Strait Islander?"

If the answer is "Yes", clarify;

"Are you Aboriginal or Torres Strait Islander or both?"

If the answer is "No", clarify;

"What is your cultural background or heritage?"

Record the answer in the relevant case note **and** Aboriginal cultural information section on CRIS.

When do I need to ask?

Intake

Ask the reporter if the child (and each sibling) is Aboriginal and/or Torres Strait Islander and record the response for each child separately on CRIS both in the case note and cultural information section. The following recording options will be available to intake workers:

- ☐ Aboriginal but not TSI origin
- ☐ TSI but not Aboriginal origin
- ☐ Both Aboriginal & TSI origin
- ☐ Neither Aboriginal nor TSI origin
- ☐ Decline to answer
- ☐ Under Assessment

Ensure the sibling group is recorded correctly on CRIS. When services such as a school, childcare centre, hospital, medical professional or police officer are contacted during the course of an intake assessment, ask the question. These services, and others, routinely identify if a child or family is Aboriginal and/or Torres Strait Islander in the course of their work. It's important to remember though that 'no' response at this stage may only indicate that the information has not been collected or recorded accurately.

If a child is identified as Aboriginal and/or Torres Strait Islander during the intake phase you must contact ACSASS as soon as possible for a consultation about the report.

- Lakidjeka ACSASS Statewide Intake 9388 2488

- Mallee District Aboriginal Service ACSASS (Mildura LGA only) (03) 5018 4100

Investigation and Response

It will not always be possible to identify if a child is Aboriginal and/or Torres Strait Islander during intake. During the first face-to-face contact with a family, usually the first home visit, ask each and every parent (and child where age and development permits) if the child is Aboriginal and/or Torres Strait Islander. Record the response in the First Home Visit document, as well as on the client file (CRIS) in cultural information. When developing a genogram with the family, you should remain curious and ask questions about extended family members and other people who may be significant to the child and family.

If you identify a child is Aboriginal and/or Torres Strait Islander during the first home visit, give the child and their family information about ACSASS and explain the requirement for child protection to consult with them regarding all Aboriginal and/or Torres Strait Islander children. In consultation with your supervisor, if assessed as safe to do so, offer to reschedule the visit when ACSASS is available to attend. Contact ACSASS, provide details of the report and consult with them on all significant decisions.

If a parent or child declines to answer the question or objects to answering the question, inform them of their right to decline to answer and their right to provide this information at a later time if they choose. It is a practice requirement to ask the question and record the answer as accurately as possible, and practitioners should be able to explain why the question has been asked. However, practitioners are not obliged to convince an unwilling parent or child to respond or justify the use of the standard question.

Throughout child protection involvement

Following substantiation, when providing formal documentation to families, such as case plans and court reports, the practitioner should draw attention to the client details and ask the family to check that the information is recorded correctly. This provides regular opportunities for children and parents to check information about their Aboriginality, and make changes as necessary. It also prevents practitioners from having to repeatedly ask families for this information.

It is possible that families who have not previously identified as Aboriginal and/or Torres Strait Islander may wish to at a later time and practitioners need to be sensitive and accepting of this.

As soon as a child is identified as Aboriginal and/or Torres Strait Islander, ACSASS should be advised of the report and consulted on all significant decisions. If the matter is also before the Children's Court, consult with the Child Protection Litigation Office (CPLO) or your divisional legal representative, and notify the Court in writing that the child's Aboriginal identity has become known. There are additional considerations that a magistrate must take into account under the CYFA when making decisions in relation to children who are Aboriginal or Torres Strait Islander.

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Where the term 'Aboriginal' is used it refers to both Aboriginal and Torres Strait Islander people.

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