

Australian Capital Territory

Corrections Management (Women and Children Program) Policy 2010

Notifiable instrument NI2010-449

made under the

***Corrections Management Act 2007*, section 14(1) (Corrections policies and operating procedures)**

1 Name of instrument

This instrument is the *Corrections Management (Women and Children Program) Policy 2010*.

2 Commencement

This instrument commences on the day after it is notified.

3 Policy

I make the

WOMEN AND CHILDREN PROGRAM POLICY

attached to this instrument, to facilitate the effective and efficient management of correctional services.

4 Revocation

This instrument revokes notifiable instrument NI2009-663.

James Ryan
Executive Director
ACT Corrective Services
6 August 2010



Alexander Maconochie Centre (AMC)
**WOMEN AND CHILDREN PROGRAM
POLICY**



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Purpose

The purpose of this program is to facilitate the maintenance or establishment of bonds and relationships between female primary caregivers (caregiver) and their young children. Male prisoners are not currently eligible for this program (see eligibility for further details).

This policy details the criteria, process and agency roles that enable an eligible caregiver to participate in the *Women and Children Program*. The *Women and Children Program* provides an opportunity for eligible women to care for their infants and young children (up to two children at one time) at the Alexander Maconochie Centre (AMC) where it is considered to be in the best interests of the child and the security of the AMC is not compromised. Caregivers may be granted approval to have their children reside with them on a full-time, part-time or short-term basis.

ACT Corrective Services (ACTCS) supports the early nurturing and mutual bonding of children, mothers and fathers through the *Private Family Visits Program*.

ACTCS Case Managers will ensure that caregivers and pregnant women are made aware of the *Women and Children Program* upon entry into the AMC, whether as sentenced prisoners or on remand.

The provisions for caregivers and their children will be of best practice and will allow for a caring, stimulating and normalised environment to children, and where practicable, allowing for interaction with other children within or outside the AMC.

Where the child is in the statutory care of the Territory, the final decision concerning the involvement of the child in the program will be made by the Chief Executive, Department of Disability, Housing and Community Services (DHCS).

Authority

Legislation

Corrections Management Act 2007, Sections 12(1)(g),46,47,48,49 and Part 9.8

Family Law Act 1975

Children and Young People Act 2008

Human Rights Act 2004

Privacy Act 1988

Policy

Principles

This policy will facilitate the establishment and/or maintenance of an emotional bond between female primary caregivers and their young children.

The best interests of the child principle (as defined in this policy and the *Children and Young People Act 2008*) will guide decisions concerning a child in this program.

Scope

This policy commences when an application is made by an eligible female AMC resident to participate in the Women and Children Program.

Rationale

Research suggests that children are more likely to suffer significant impact on their emotional development if they experience disrupted attachment from birth to three years of age. In addition, separation of the caregiver from the child may have a significant impact on the caregiver's capacity to bond with the child and engage in effective parenting.

With this in mind, provision has been made for children to potentially reside with their caregiver, should she be the primary caregiver, at the AMC. The policy is extended beyond the scope of the biological mother to include any female primary caregiver.

The Superintendent, as the delegate of the Chief Executive Officer (CEO), Department of Justice and Community Safety (JACS), is responsible for maintaining the security and good order of the AMC. As such, delegated discretion to accommodate any child within the adult correctional facility rests with the Superintendent.

The *Women and Children Program Policy* provides guidelines for the management and governance of children staying with their caregiver at the AMC. Due to AMC operational reasons, security of the facility and safety of the child, the *Women and Children Program* currently applies only to female caregivers and up to two children in the care of a caregiver at one time.

ACTCS is predominantly involved in the duty of care of adult offenders. Agencies holding expertise in the care and safety of children and youth are integral in advising ACTCS and inform ACTCS decisions taken within the *Women and Children Program Policy*.

Any action taken regarding a child in the statutory care of the Territory will be done in consultation with the Chief Executive, DHCS and, as necessary, other relevant agencies, to ensure that the best interests of the child are met.

Duty of Care

When a caregiver is authorised to have a child reside with her at the AMC, the caregiver is expected to exercise full responsibility for the child's care and safety and in compliance with AMC policies and procedures while residing at the AMC. During the period a child may be in the care of a co-resident temporary carer, the co-resident temporary carer is expected to exercise full responsibility for the child's care and safety and in compliance with AMC policies and procedures.

ACTCS' duty of care to the child will include taking all reasonable steps to minimise all foreseeable risks of harm that might occur to a child while residing or visiting the AMC.

The standard of care required to be provided by ACTCS will be high. In order for this standard of care to be upheld, ACTCS will:

- provide the best possible environment, facilities and services for the caregiver and child;
- provide child-friendly and smoke-free areas;
- engage a professional assessor to make an expert assessment of the child's social, emotional and environmental best interests;
- develop clear guidelines for child protection concerns and reporting requirements if safety risk factors emerge;
- develop a care plan based on the best interests of the child that will clearly establish the responsibilities of ACTCS and the standards and expectations of the caregiver with regard to the safety and wellbeing of the child at the AMC;
- provide caregivers and co-residents with information and training on child awareness and caregiver requirements to ensure responsible and safe child-rearing practices are applied (training to include ante and post natal awareness, parenting skills, modelling/attachment behaviours, child development, positive discipline skills and nutrition/hygiene/safety);
- provide staff with information and training as per caregivers and co-residents;
- provide access to associated support services including child health services, playgroups, preschool programs;
- report any suspected incidents of child abuse or neglect in accordance with sections 354 and 356 of the *Children and Young People Act 2008*; and
- report any anticipated abuse and neglect in accordance with pre-natal reporting (section 362 of *Children and Young People Act 2008*).

ACTCS and the Parenting and Children's Committee (PCC), whose role is outlined on Page 7 of this document, will consider the risks for every application by taking into account the Risk Register (refer to the *Women and Children Program Procedure*).

Definitions

Best interests of the child –The full definition of best interests of a child is at section 349 of the *Children and Young People Act 2008*. The following provides a summary of the issues for consideration.

The best interests of a child is a judgement made by a decision maker which considers factors crucial to the age appropriate care and development of the child, considering their prior history. Factors to be considered include:

- Safety of the child – physical, sexual, emotional and psychological;
- Nature of the relationship a child has with their primary carer/s and others, their role and capacity to promote and provide for the developing needs and well being of the child;

- For an Aboriginal child, the protection and promotion of the cultural and spiritual identity and development of the child and connections to family, community and culture;
- The impact of a decision on the emotional, psychological, physical and well being of a child;
- The importance for a child to have settled, stable and permanent care arrangements and the need for timely decision making to promote their safety, support and stability;
- Consideration of the views and wishes of the child; and
- The practicalities of maintaining ongoing contact between a child and their caregiver and significant other people in the life of the child.

Care Plan – refers to the document that will be developed and regularly reviewed by the PCC with consideration of all relevant information including the professional assessment and the child’s best interests as its basis . ACTCS is responsible for the implementation of the Care Plan, in conjunction with identified agencies.

Child – refers to an infant from birth until the child’s fourth birthday.

Full-Time Care – refers to ongoing full-time care of a child while the child is residing at the AMC.

Part-Time Care - refers to ongoing part-time care of a child while the child is residing at the AMC.

Short-Term Care - refers to a short period of care of a child e.g. under 3 months.

Primary Caregiver – means the child’s parent or another person who has parental responsibility for the child through an informal arrangement, parental responsibility within the meaning of the *Children and Young People Act 2008* or parental responsibility for a child pursuant to the *Family Law Act 1975* .

Community Carer – appropriate and responsible adult nominated by the caregiver to provide part-time care outside of the AMC, including to transport and care of the child at appointments and events, collect the child in case of an emergency at the AMC, or to care for the child. The community carer may be a family member (the caregiver’s partner, parent/s, close relatives) or friend, however, it is possible that a person from an outside organisation may be considered in the instance that a caregiver is unable to nominate appropriate support persons. At least one of the nominated community carers must be willing to take full-time care responsibility for the child in the instance that the program arrangements are terminated.

Co-Resident Temporary Carer – appropriate and responsible female prisoner nominated by the caregiver to care for the caregiver’s child for short periods of time while the primary caregiver is unable to care for the child.

Program Eligibility

All women admitted to the AMC including women on remand or who are on bail from a court who are the caregivers of children up to the age of four years or who are pregnant may apply to participate in the *Women and Children Program*.

The status of a female prisoner as the caregiver of the child is key in determining her eligibility for the *Women and Children Program*. This allows for consideration of caregivers who are not the biological mother of a child to participate in the program. Applicants must demonstrate their primary caregiver status to the child they wish to reside with them at the AMC and provide consent for information to be shared about herself and her child as appropriate with relevant and involved agencies.

Male prisoners are not currently eligible for this program. This is predominantly due to ACTCS assessments of the unacceptable level of risk associated with the placement of young children in the male section of the AMC. If the father of a child is also detained at the AMC, arrangements may be made for eligible fathers to participate in approved visits with the child and caregiver.

Eligibility for applicants will take into consideration all relevant law and orders made concerning the child and the parent or guardians of the child, particularly orders made under the *Family Law Act 1975* and the *Children and Young People Act 2008* or similar interstate legislation. If an order is in place granting persons shared parental responsibility for the child, this policy cannot supersede that ruling and all reasonable steps will be taken to ensure that the parties to the order are notified and consulted about the application.

Informal (ie: not court ordered) shared parenting arrangements between parents will also be considered.

To be considered eligible for the program, at least one significant person with whom the child has developed a relationship must be prepared to take full-time responsibility for the child in the instance that the AMC caregiver arrangement is terminated.

Caregivers with a history of having abused or neglected a child or sex related offences or a positive urinalysis test for non-prescribed drug use in the 6 months prior to an application being made may not be considered suitable to participate in the *Women and Children Program*. Other eligibility criteria are at Appendix A of this Policy.

Where a female at pre-sentence stage is eligible for, or is already participating in, the *Women and Children Program*, the prisoner's Case Manager must refer to this eligibility in the Pre-Sentence Report (PSR).

Care Plan, Caregiver's Contract and Rehabilitation Plan

The caregiver must agree to engage in the development and review of a *Care Plan*, *Caregiver's Contract* and a *Rehabilitation Plan* in collaboration with their Case Manager.

The *Care Plan* will outline:

- the child approved to participate in the program;
- the authorised caregivers that will care for the child (within and externally to the AMC) and how this will be undertaken in the best interests of the child;
- the support and services that will be provided to the child, the caregiver, the co-resident caregivers and the community caregiver ;
- other requirements to foster the child’s well being and facilitate the caregiver arrangement and foster a child friendly environment;
- identify concerns regarding the safety of the child at the AMC and strategies to address these;
- identify periods when the child will be outside of the AMC, the care of the child during this time, the purpose of such an arrangement and strategies to address issues arising in relation to the child’s access to the community;
- transitional planning for when the child and/or the caregiver leaves the AMC; and
- clear reporting mechanisms of all persons and agencies involved in supporting the child and caregiver to inform the process of review of the child’s well being while resident at AMC.

The *Caregiver’s Contract* will outline the conditions that the caregiver needs to abide by to enable her to participate in the *Women and Children Program*.

The *Rehabilitation Plan* will outline the strategies the caregiver needs to abide by to assist with her rehabilitation.

Health and Safety

Accommodation

An eligible child will be placed with their caregiver in a women’s cottage at the AMC. The women’s cottage consists of two five bedroom units with a shared living room, dining room, kitchen, laundry and courtyard. Every female prisoner has keys to access their bedroom within the cottage.

Facilities

All buildings within the AMC are smoke-free. Child play areas exist within the Women’s Community Centre, the Gatehouse and the Visits Centre. ACTCS will supply age appropriate aids to foster a caring environment such as toys, educational material, bath tubs, high chairs and strollers for use by the caregiver.

Property

Primary caregivers will need to declare all property items that they intend to bring in respect of a child who will reside with them at the AMC. Only permitted items may enter the AMC as per the *Property Form for Child Residing at the AMC*. The Superintendent may approve the entry of items that are either excluded or shown as prohibited on the *Property Form for Child Residing at the AMC*.

When a child leaves the AMC, the items to be signed out will need to be checked against the items that have been signed in.

Meals

ACTCS will make available food suitable for children, pregnant women and breastfeeding mothers. The caregiver is responsible for preparing meals for herself and the child in the kitchen of her cottage and will be allocated additional money in her cottage food budget.

Special buy-up for child related items

A female prisoner who has a child residing with her at the AMC may purchase special items for her child. A female prisoner will be able to use her family assistance payments towards child related purchases.

The Deputy Superintendent will determine what items may be purchased and the maximum amount that may be spent on child related items.

Childbirth

Female prisoners will have access to a midwife and/or community nurse who will provide support to both the mother during pregnancy and to mother and child after the birth. Female prisoners are taken under escort to a hospital to give birth to their child.

Arrangements will be made for the prisoner to contact her family or the baby's father following the onset of labour and again following the birth of their child. Where the prisoner is not able to contact the relevant support person, the AMC area CO2 will make the contact on her behalf.

Following a security assessment, consideration will be given to allowing a support person to be with the prisoner during the birth.

Breastfeeding a Hospitalised Baby

Where a breastfeeding mother is resident at the AMC while her child is hospitalised, the Superintendent will have regard to the prisoner's classification, the best interests of the child, the welfare of the prisoner and operational requirements in considering the following options:

- granting a local leave permit for the prisoner under section 205 of the Act;
- arrangements made for a prisoner to be hospitalised with the child;
- arrangements made for the mother to be escorted to the hospital to feed her child; or
- arrangements made for the mother to express milk which will be transported by the AMC to the hospital.

Health, Safety and Parenting Programs

All female prisoners will complete a Community Living Skills program. The program includes information on occupational health and safety, code of conduct, blood and body spills, communal living and safe food handling. A parenting course will be provided to caregivers and other female prisoners which will include information on parenting skills, modelling/attachment behaviours, education on child development, positive discipline skills, and information on nutrition, hygiene and safety.

Cultural Needs

An Indigenous Liaison Officer will be located at the AMC to assist in meeting the cultural needs of Aboriginal and Torres Strait Islander prisoners. Elders are Authorised Visitors at the AMC and may visit prisoners at their own instigation or at the request of prisoners.

A Chaplain is available to all prisoners to provide access to information on religious matters.

Lockdown Provisions

During lockdown, women can move around within their cottage including into the secure courtyard. This will apply if a child resides with their caregiver in the cottage. If a child becomes ill during lockdown, on-site nurses will have access to the child residing in the cottage. Access for an ambulance to transport a child from the AMC to a hospital will not be restricted during lockdown.

Co-resident Prisoners

Prisoners are assessed on admission and case management systems are in place for ongoing assessment of all prisoners. A risk assessment of all female prisoners residing at the AMC will be undertaken before a child is placed in the cottage with their caregiver in accordance with the *Women and Children Program Procedure*.

As part of the assessment all female prisoners will be screened for any sex offences and in offences relating to child abuse and neglect including consultation with the Department of Disability, Housing and Community Services. Prisoners with such offences will not be housed in the same unit of the cottage. If a safe environment cannot be provided, the Superintendent may decline a request for the child to be accommodated with the caregiver in the AMC.

Compliance with 'Kidsafe' Standards

ACTCS and the Superintendent will comply with Australian Kidsafe Standards and provide a safe environment.

Transportation of Children

The community carer will be responsible for transporting the child to and from the AMC. ACTCS staff will not be responsible for transporting children, however ACTCS will facilitate the arrangements for transportation of children to and from activities.

General Health Care

The ACT Health Corrections Health Program staff at the Hume Health Centre will be responsible for the general health care of any child residing with their primary caregiver at the AMC. This includes direct referral to the Visiting Medical Officer clinic as required, referral to secondary and/or tertiary health services as required and the administration of medication to the child.

Medical Emergencies

ACTCS officers will offer first aid as required to a child in the event of a medical emergency. Corrections Health Program nurses can be called on for support during Hume Health Centre opening hours (07:00-21:00 - 7 days per week). In an emergency outside these hours, the on-call doctor will be contacted and/or the child will be sent to the nearest emergency care hospital by ambulance.

Where a child is hospitalised and it is considered the caregiver cannot attend the hospital to be with the child, the community carer should be advised to ensure they provide comfort and support the child. Where possible, the primary caregiver at the AMC should be allowed as much contact with the child as practicable.

Death of Child

The death of the caregiver's child while residing at the AMC will need to be lawfully confirmed and the activities will be carried out within the law and with respect for the spiritual, ritual, religious and cultural beliefs of the caregiver. The steps will need to be undertaken in accordance with the *Managing Death of a Child* procedure.

Governance – Parenting and Children's Committee (PCC)

All applications for caregiver arrangements will be referred to, and considered by, the PCC.

The PCC will make a recommendation to the Superintendent regarding the best interests of the child and the suitability of an applicant to meet the best interests of the child through this program. All members of the PCC must provide input prior to making a final recommendation.

The standing membership of the PCC is as follows:

- Senior Advocate or Principal Advocate, Children and Young People, the Public Advocate of the ACT (PA ACT);
- Principal Psychologist, Office for Children Youth and Family Support (OCYFS) – necessary for the initial recommendation of the PCC with subsequent attendance as required;
- OCYFS Representative – necessary for all meetings not attended by the Principal Psychologist;
- Community Paediatrician, ACT Health;

- Director, Corrections Health Program;
- Offender Services Manager, ACTCS;
- OCYFS case management staff where the Department of Disability, Housing and Community Services has full or shared parental responsibility for the child;
- An Aboriginal or Torres Strait Islander representative, if the applicant or child is Aboriginal, with the proposed primary caregivers consent; and
- Other people as deemed necessary. The PCC may wish to engage expert opinions or call for additional information as required.

The PCC will be chaired by the Offender Services Manager with meetings to be called as required and monthly, at a minimum, while a child resides at the AMC.

The following reports will be required by the PCC to assess a *Women and Children Program* application:

- an ACTCS Case Manager’s assessment of the caregiver’s suitability for the *Women and Children Program*;
- reports of any previous engagement with OCYFS;
- a health assessment of the child (Child, Youth and Women’s Health Program – CYWHP); – Child at Risk Health Unit (CARHU) community paediatrician; and
- an expert assessment of the child’s social, emotional and environmental best interests (professional assessor).

The PCC will consider all reports and information and make a recommendation for consideration by the Superintendent of the AMC.

OCYFS representation may alternate depending on previous engagement with the family.

The PCC will discuss appropriate transitional planning for the child in consideration of operational policies of the AMC to ensure the best interests of the child are met. This process should commence at the time of entry or soon after entry to AMC and no later than 3 months before the child or primary caregiver is due to leave the AMC.

Professional Assessment

The Offender Services Manager will engage a professional assessor from a list of OCYFS Approved Providers. The professional assessor will provide individual, expert reports on a case by case basis concerning the ‘best interests of the child’. This

report will be used by the PCC to inform its decision regarding the participation of a child and caregiver in the *Women and Children Program*. The report will also inform the development of the *Care Plan* where an application is accepted.

The sample *Terms of Reference* for contracting the professional assessment is at Appendix C of this Policy.

Responsibilities

Responsibility of Caregiver

The caregiver may apply to participate in the *Women and Children Program* at any time following their remand or imprisonment or whilst on bail. Pregnant women who wish to have their child reside with them at the AMC are required to apply to participate in the *Women and Children Program*, as the assessment process regarding suitability must be conducted.

In requesting caregiver arrangements for their child at the AMC, the caregiver must advise whether the arrangements are for full-time, part-time or short-term care.

The caregiver must provide, or agree to the provision of, all relevant documentation relating to the family's engagement with health and welfare related services and agencies and to the ongoing exchange of information between the agencies providing services and supports to the child and caregivers.

The caregiver must agree to engage in the development of and abide by a *Rehabilitation Plan*, *Care plan* and *Caregiver's Contract*, in collaboration with their Case Manager that will include their participation in the *Women and Children Program*.

The caregiver must nominate at least one, and two where possible, appropriate and responsible community carers who are not co-residents at the AMC. To be considered eligible for the program, at least one of the nominated community carers must be prepared to take full-time responsibility for the child in the instance that the caregiver arrangement is terminated. Community carers must agree to participate in the assessment process and to consent to the provision and sharing of health and welfare information, if available, to the PCC.

If the caregiver cannot nominate a second community carer, the PCC will consider whether there are outside organisations that can undertake the role of a second community carer on a voluntary basis. The PCC will consider organisations that are suitable and are able to provide qualified people who can establish a bond with, and care for the child on an ongoing basis.

If a community carer cannot be arranged, the application may be refused.

The caregiver will also need to nominate at least one appropriate co-resident carer, where possible. This person must agree to participate in the assessment process and to the provision of relevant health and welfare information to the PCC.

Responsibility of Temporary Carers

Co-resident Carer

The nominated co-resident carer will be required to provide temporary care to the child in circumstances where the caregiver is either participating in a program or is unable to care for their child due to her own ill health. The nominated co-resident carer must be able to and willing to administer first aid to the child if required. It is expected that the co-resident carer will care for the child for limited periods, usually up to an hour. The duration of this care will also depend on the age of the child. If a primary caregiver needs to be absent from her child on a long term basis, it may be more appropriate to contact the community carer to care for the child.

If a co-resident carer cannot be arranged, the approved community carer will need to be prepared to undertake this role.

Community Carers

The community carers may be required to provide part-time care outside of the AMC, including taking the child to a play group or community event. Community carers will normally be a family member (the caregiver's partner, parent/s, close relatives) or friend, however, it is possible that a person from an outside organisation may be considered in the instance that a caregiver is unable to nominate appropriate support persons.

At least one of the nominated community carers must be willing to take full-time care responsibility for the child in the instance that the program arrangements are terminated. Examples of scenarios where program arrangements may be terminated are as follows:

- the PCC no longer consider the child's best interests are met by participating in the program;
- the primary caregiver breaches a condition of the caregiver arrangements; or
- the circumstances at the AMC change such that it is no longer considered safe for a child to remain in residence.

In such circumstances, every effort will be made to facilitate the smooth transfer of the care of the child to a community carer and to minimise any adverse outcomes for the caregiver or child.

The community carers may also be required to remove the child urgently from the AMC. Examples of scenarios where a child may need to be removed urgently from the AMC are as follows:

- a child or primary caregiver becomes sick or is injured and due to the risks posed to the child, the removal of the child is considered to be in the best interests of the child;
- the primary caregiver breaches a condition of the caregiver arrangements such that immediate removal of the child is considered to be in the child's best interests; or

- the security condition at the AMC is considered by the Superintendent to be an unsafe environment for the child (fire, riot etc.).

In emergency circumstances where nominated community carers cannot be contacted, it may be necessary to report the concerns to Care and Protection Services, OCYFS.

Responsibility of ACTCS

ACTCS has a duty of care to provide safe and secure accommodation for all prisoners in custody and their resident children. As ACTCS will be in daily contact with the caregiver and child, this duty of care will extend to the identification of any observable risk arising and the development and implementation of strategies to address these risks.

ACTCS will be responsible for liaising with and engaging collaborating agencies, including the Public Advocate (PA) of the ACT, OCYFS, Commissioner for Children and Young People, ACT Health and Corrections Health.

ACTCS will monitor the assessment process and participation in the program where approval has been granted.

ACTCS will be responsible for undertaking the following:

- ensure that the AMC has provisions in place for caregivers to participate in the *Women and Children Program* in full-time, part-time or short-term capacity including space, facilities and other operational matters (Offender Services Manager through Superintendent);
- engage an appropriate professional assessor to determine whether the proposed placement of a child with their detained caregiver is in the best interests of the child (Offender Services Manager);
- advise the PA of the ACT of the caregiver's application for participation in the *Women and Children Program* so that consideration is given to appointing an advocate for the child (Offender Services Manager);
- notify OCYFS and ACT Health of the caregiver's application for participation in the *Women and Children Program*, and seek their advice, access to information and expertise (Offender Services Manager);
- provide OCYFS with signed *Information Sharing Consent* forms to receive information in respect of female prisoners and community carers that may be necessary to determine whether the proposed placement is in the best interests of the child;
- attend training conducted by OCYFS about the reporting of suspected abuse and neglect of children and pre-natal reporting;

- provide training to caregivers, co-residents and ACTCS custodial staff (see Training);
- chair the PCC (Offender Services Manager);
- provide secretariat support to the PCC (Classification & Case Management Coordinator);
- ensure that the eligibility criteria for participation in the *Women and Children Program*, at Appendix A, are adhered to in the deliberations of the PCC (Offender Services Manager);
- ensure that a risk assessment is undertaken in consultation with the standing membership of the PCC (Offender Services Manager through PCC);
- monitor implementation of recommendations from the PCC including development, implementation and review of care plans, where approval has been granted to participate in the program (Offender Services Manager);
- make reports to the OCYFS about the suspected abuse and neglect of children in accordance with sections 354 and 356 of the *Children and Young People Act 2008*;
- make pre-natal reports to the OCYFS about suspicions that an unborn child may be in need of care and protection, in accordance with section 362 of the *Children and Young People Act 2008*;
- facilitate case planning and coordination for children who reside at AMC, including joint planning with the OCYFS in circumstances where Care and Protection Services has ongoing involvement with the child (in these circumstances, relevant staff will be declared as part of the child's care team, for the purpose of sharing information under the *Children and Young People Act 2008*);
- provide and facilitate an appropriate, clean, hygienic and safe environment for the child while residing at the AMC;
- make provision for the case management of the child whilst placed at the AMC;
- arrange for the caregiver to receive advice regarding her eligibility for Centrelink payments while participating in the AMC *Women and Children Program* (Case Manager); and
- ensure all information collected and recorded as part of this program is securely stored and that all staff are aware of their obligations concerning the

sharing of protected information provided pursuant to the *Children and Young People Act 2008*.

The Superintendent of the AMC, as the delegate of the CEO, JACS, will make the final decision to either approve or deny an application by a caregiver to have their child reside at the AMC. The Superintendent's decision will take into account the recommendations of the PCC and amongst other things the operational requirements of the AMC.

The PCC and the Superintendent will be responsible for monitoring and reviewing each arrangement where a child has been granted approval to reside with their caregiver at the AMC. The Superintendent may remove a child from the program in accordance with this policy.

Responsibility of the Public Advocate of the ACT

Upon being advised by the AMC Offender Services Manager that a caregiver has made an application to the PCC to participate in the *Women and Children Program*, the PA of the ACT will:

- appoint an advocate to focus on independent advocacy in promoting and protecting the rights and best interests of the child throughout the assessment process and when a child is residing in the AMC;
- inform the child of what is happening, (depending on age and ability of the child to understand);
- participate in PCC meetings;
- provide input into the development of Care Plans during PCC meetings; and
- be a party to the receiving and giving of information in respect of the *Women and Children Program*.

Responsibility of the Office for Children, Youth and Family Support (OCYFS)

Upon being advised by the AMC Offender Services Manager that a caregiver has made an application to the PCC to participate in the *Women and Children Program* and received consents by the applicant and others to access information, the OCYFS will:

- provide relevant information collected under the *Children and Young People Act 2008* to ACTCS staff (or their nominated assessor) that is necessary to assess whether the proposed placement of a child with their detained female primary caregiver at the AMC is in the best interests of the child;
- provide information in respect of other co-resident female prisoners who consent to the release of the information that is necessary to determine whether the proposed placement is in the best interests of the child;

- as a member of the Parenting and Children’s Committee, make recommendations to the Superintendent, AMC (or a delegate of the Chief Executive, JACS) about the suitability of placing a child at AMC with their detained female primary caregiver. Participation will be determined by the Superintendent, AMC in consultation with the Chief Executive, DHCS where the child is in the care of the Territory. For Aboriginal and Torres Strait Islander children, an Aboriginal and Torres Strait Islander Unit representative will also attend.
- respond to reports by ACTCS staff and others about the suspected abuse and neglect of the child at the AMC, in accordance with section 360 of the *Children and Young People Act 2008*;
- respond to pre-natal reports by ACTCS staff and others who suspect that an unborn child whose mother is at the AMC may be in need of care and protection, in accordance with section 362 of the *Children and Young People Act 2008*;
- provide training to ACTCS staff and others who may work with children at AMC about the reporting of suspected abuse and neglect of children and pre-natal reporting;
- provide advice on AMC policies and individual agreements regarding the responsibilities of detained female primary caregivers in caring for their children at AMC;
- participate in joint case planning with ACTCS staff for the child where OCYFS has ongoing involvement with the child; and
- provide information to facilitate access to services that support detainees in their caregiver role and/or support the child’s physical, developmental, social and health needs; and
- provide input into the development of Care Plans during PCC meetings.

Responsibility of ACT Health

ACT Health will have ongoing responsibility to provide health care to the mother and baby throughout the continuum of antenatal, birth, post natal periods and early childhood development years, which may include:

- outpatient antenatal care;
- inpatient care antenatal care;
- labour and birth care on site at Canberra Hospital;
- inpatient postnatal care;

- outpatient postnatal care;
- neonatal intensive care for the baby as required;
- acute inpatient care for women with gynaecological problems;
- acute inpatient care for babies and children;
- maternal and child health support to women;(IMPACT Program for the first two years of the baby's life);
- monitor the growth development including health, nutrition and hygiene of children residing in the AMC;
- participate in PCC meetings by providing expert advice on parenting and the health needs of the child and report on the history and health status of the child; and
- provide input into the development of Care Plans during PCC meetings.

Training

Caregivers and Co-residents

Caregivers and co-residents (sentenced and remand prisoners of six months or more) will be trained in child awareness and caregiver requirements to ensure responsible and safe child-rearing practices are applied. The training package will include the following modules:

- Ante and post natal awareness;
- Parenting skills;
- Modelling/attachment behaviours;
- Child development;
- Positive discipline skills; and
- Nutrition/hygiene/safety.

ACTCS Custodial Staff

ACTCS Staff will receive the same training package as the caregivers and co-residents.

Staff will additionally receive training from OCYFS in relation to their mandatory reporting obligations of the suspected abuse and neglect of children. This training will also include discussion around ACTCS' duty of care as it relates to their observation and support of the parent/child relationship.

Process

A caregiver will apply to participate in the AMC *Women and Children Program* by completing the *Application to Participate in the Women and Children Program* form with the assistance of a designated ACTCS Case Manager.

The Superintendent will make an initial assessment of every application and determine to either support or decline the application. For every application the Superintendent will also need to undertake a risk assessment of all co-resident prisoners in accordance with the *Women and Children Program Procedure*. The Superintendent may decline an application for one or more of the following reasons:

- reports of any prior engagement with the OCYFS;
- the applicant has a history of sex offences or offences relating to child abuse;
- the AMC does not have space to accommodate children;
- the applicant currently displays suicidal behaviour;
- appropriate community carers cannot be arranged;
- the applicant is displaying violent behaviour;
- the applicant has had a positive urinalysis result in the 6 months prior to the date when the application to participate in the *Women and Children Program* has been signed the prisoner;
- custody of the applicant may be put at risk;
- a risk assessment of co-residents does not allow for the child to be safely accommodated with their primary caregiver; and
- any other relevant reasons.

If the Superintendent declines the application, the applicant will have the right to appeal the decision. The review will be undertaken by the Deputy Executive Director, ACTCS.

If the application is supported by the Superintendent, the Offenders Services Manager will inform all collaborating stakeholders that an application has been made and seek their advice and access to information, records and expertise.

The Offender Services Manager will ensure that a professional assessment is conducted to determine the best interests of the child regarding their possible placement at the AMC with the caregiver. A professional assessor will be engaged to:

- assess the suitability of the placement by making an expert assessment of the primary caregiver and the child's best social, emotional and environmental interests;
- identify the needs of the child taking into account any views or wishes of the child if they are old enough to articulate them; and

- develop a report providing recommendations on the suitability of the placement and identifying the level of support required if they are to be placed at the AMC.

The report will include recommendations on the support required to ensure:

- effective attachment occurs between the primary caregiver and the child;
- successful parenting is performed by the primary caregiver; and
- the child participates in appropriate activities and education.

The recommendations of the assessor's report will provide information for determining whether the placement should be supported by the PCC.

A professional assessor may be engaged after the initial assessment to undertake a review of the caregiver arrangements and determine if the child's needs are being adequately met at the AMC.

The Offender Services Manager will convene a meeting of the PCC to consider:

- an ACTCS case manager's assessment of the caregiver's suitability for the *Women and Children Program*;
- reports of any prior engagement with the OCYFS;
- a health assessment of the child (CYWHP);
- an expert assessment of the child's best social, emotional and environmental interests (professional assessor); and
- the Risk Register.

The PCC will review the relevant information and make a recommendation to the Superintendent regarding the caregiver's application for participation in the *Women and Children Program*.

The outcomes of the PCC meeting will be submitted to the Superintendent of the AMC, as the delegate of the CEO, JACS who will make the final decision on the application, taking into account the PCC's reasons for their decision and relevant operational factors.

Where approval of the application is made, relevant caregiver arrangements will be reflected in the caregiver's care plan.

In the event the application to participate in the program is denied, the caregiver will have the opportunity to seek a review of the decision made by the Superintendent in accordance with the *Administrative Decisions (Judicial Review) Act 1989*. The review will be undertaken by the Deputy Executive Director, ACTCS.

The eligibility criteria against which a decision must be made is at Appendix A. The decision regarding participation in the program will be made within 2 months from the date the application is submitted to the delegate, where possible. The timeframe to reach a decision will depend on several factors including, but not limited to:

- the scenario of each application (e.g. pregnant prisoner with no other children, prisoner who has one child, prisoner who has several children);
- the time to complete a professional assessment;
- the availability of facilities for child/ren to reside at the AMC; and
- if a decision to not support participation in the program is being appealed by the prisoner.

A summary of the process is found at Appendix B.

Urgent Admissions

A decision regarding an urgent admission of a child to the AMC will be made by the Superintendent. The Superintendent will need to take into account the following:

- the criteria outlined under Program Eligibility;
- the initial assessment criteria under Process in this policy;
- whether the child is breastfed and if the child has intolerance to formula milk;
- the ability to isolate the baby with the primary caregiver at the AMC until a health assessment is conducted by ACT Health staff;
- information from OCYFS that is necessary to assess whether the proposed placement is in the best interests of the child;
- whether a community carer can be arranged until the PCC can make a decision regarding the urgent admission; and
- any other relevant reasons.

Once a decision is made regarding an urgent admission, the primary caregiver is still required to undergo the standard application process.

Monitoring and Evaluation

The PCC will continue to monitor and review the suitability of the child's placement at the AMC until the expiry of the period of remand/custodial sentence or until the child is placed in alternative care. It is envisaged that the PCC will meet monthly, at a minimum, when a child resides at the AMC.

The PCC will review all policies and procedures that relate to the Women and Children Program to ensure they remain current, reflect best practice and work operationally. Examples of scenarios where the policy may be reviewed are as follows:

- after a child has been discharged from the program; and
- in the event of death of a child who is participating in the program.

The Superintendent will oversee the implementation and monitoring of caregiver arrangements for each resident child in accordance with the care plan. The program will be evaluated every two years commencing from the date of the first child being accommodated at the AMC.

Transition Plans

The PCC will develop a transition plan for the child and caregiver soon after admission and no later than three months prior to the child leaving the AMC or the primary caregiver leaving custody. The transition plan must address at least the following:

- that OCYFS have been contacted and aware of the imminent transition of the child to the community;
- if the child is to reside with the primary caregiver on leaving AMC and concerns exist, ACTCS is to report to OCYFS;
- accommodation arrangements for primary caregiver and child;
- program of overnight and extended day visits with proposed community carer if the primary caregiver and child are to be separated;
- income support for primary caregiver;
- employment, vocational and counselling programs for primary caregiver;
- childcare options;
- engagement of a child health nurse with the primary caregiver in the area where she will reside; and
- the identification of any other community support agencies that may need to be engaged.

If a child leaves the AMC and the primary care giver remains at the AMC, a schedule that facilitates contact may need to be developed and implemented.

ACTCS Records Management

Information collected by ACTCS staff (and their nominated assessors) under this policy is to be stored and disposed of in accordance with the *Territory Records Act 2002*.

All records and information pertaining to a child residing under the *Women and Children Program* must be placed on a Resident Child file under the child's name (may be copied to prisoner's Offender Management file).

In the event a child, who participated in the *Women and Children Program*, wishes to obtain records relating to them in the future, access will be granted in accordance with the *Freedom of Information Act 1989* and in compliance with the information sharing requirements of the *Children and Young People Act 2008*. Personal information will be managed in accordance with the principles contained in the *Privacy Act 1988*.

Forms/Templates

Application to Participate in the Women and Children Program

Caregiver's Contract

Information Sharing Consent

Care Plan

Community Carer Obligation Statement

Consent to Disclose Information

Property Form for Child Residing at the AMC

Immunisation Register

Request to Participate in an External Activity

Application to Access Special Purpose Account for Child Related Expenses

Application for Temporary Absence of a Child that Resides at the AMC

Shopping List Request

Prisoner Payment Form

Record of Removal

Related policies and procedures

Private Family Visits Policy

Women and Children Program Procedure

Managing Death of Child Procedure

Reception and Management of Female Prisoners Policy

Eligibility Criteria

The final decision to approve placement for a caregiver's child at the AMC, as per their request, lies with the Superintendent as the delegate of the Chief Executive Officer, Department of Justice and Community Safety.

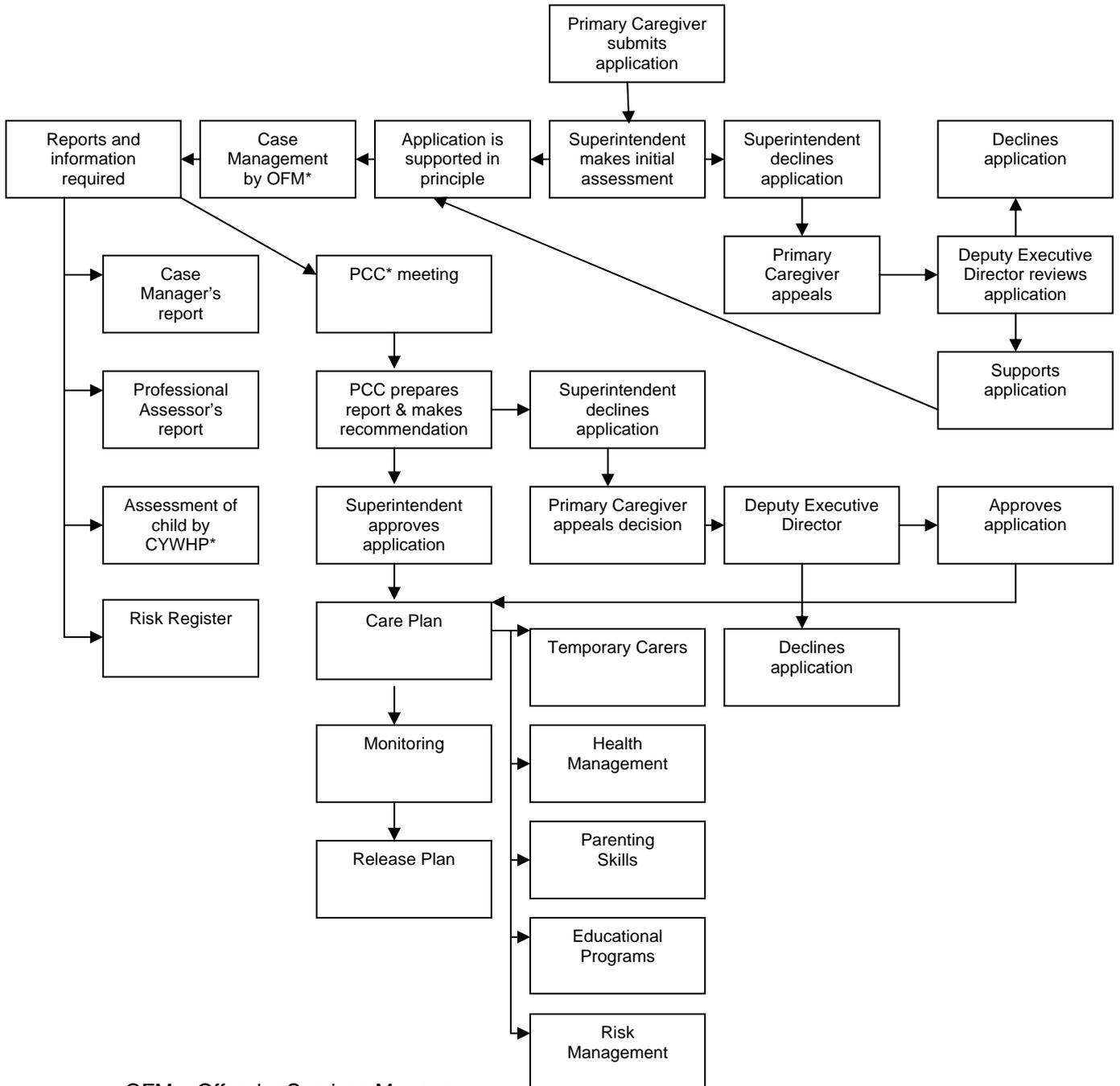
The eligibility criteria for placement of a caregiver's child in full-time, part-time or short-term care are as follows:

- an appropriate place is available in the AMC for the caregiver and child;
- the female prisoner is identified as the carer for the child prior to their placement at the AMC;
- the caregiver has legal custody/responsibility of the child;
- the child is aged between newborn to preschool age (0-4 year);
- the child is immunised according to the standard immunisation requirements (unless there is medical advice to the contrary);
- there is no demonstrated inability on the part of the caregiver to provide satisfactory care for her child such as mental disability or dysfunction and or physical disability. The nature and severity of these issues will be assessed to determine whether the caregiver is able to provide appropriate and satisfactory care;
- an assessment of the suitability of the caregiver and the best interests of the child has been made;
- the placement is supported by the Parenting and Children's Committee;
- the Superintendent must be satisfied that the parent can adhere to her rehabilitation plan (for example attending therapeutic/rehabilitation programs) prior to allowing a placement;
- there is no risk to child from other prisoners;
- the caregiver has returned no positive urinalysis results in the 6 months prior to the date of application for participation in the *Women and Children Program*;
- the caregiver has no history of sex offences or offences relating to child abuse; and
- additional criteria may also be taken into consideration including, but not limited to:
 - the possibility of continuous and stable care being provided by another appropriate and responsible adult e.g. family member (the caregiver's partner, parent/s, close relatives), friend or a foster carer from an appropriate independent organisation in the community;
 - the behaviour, health and emotional state of the child;
 - sibling integrity; and

- the possibility of maintaining the child’s significant relationships.

Appendix B

Process Flowchart Women and Children program



OFM – Offender Services Manager
 OCYFS – Office for Children, Youth and Family Support
 PCC – Parenting and Children’s Committee

Appendix C

**SAMPLE TERMS OF REFERENCE FOR PROFESSIONAL ASSESSMENT
BEST INTERESTS OF THE CHILD**

**The final details of the Terms of Reference are to be considered by the Parenting and
Children's Committee – part of the Women and Children's Program Policy**

Subject Child/Children:

[Subject Child] D.O.B.: __/__/____ [Age] [years or months]
[Name] D.O.B.: __/__/____ [Age] [years or months]

Siblings/ Half-siblings:

[Name] D.O.B.: __/__/____ [Age] [years or months] [Relationship]
[Name] D.O.B.: __/__/____ [Age] [years or months] [Relationship]
[Name] D.O.B.: __/__/____ [Age] [years or months] [Relationship]

Mother [or primary caregiver]:

[Name] D.O.B.: __/__/____ [Age] [years]

Father of Subject Child/ren:

[Name] D.O.B.: __/__/____ [Age] [years] (Father of...)
[Name] D.O.B.: __/__/____ [Age] [years] (Father of ...)

Father/s of Siblings [where applicable]:

[Name] D.O.B.: __/__/____ [Age] [years] [Details]

Maternal Grandparents/ Paternal Grandparents/ Kinship Carers [indicate which applies]:

[Name] D.O.B.: __/__/____ [Age] [years]
[Name] D.O.B.: __/__/____ [Age] [years]

Proposed Community carer/s:

[Name] D.O.B.. __/__/__ [Age]{[Years]
Name] D.O.B.. __/__/__ [Age]{[Years]

Contact details:

Proposed Co-resident carer/s:

Name] D.O.B.. __/__/__ [Age]{[Years]
Name] D.O.B.. __/__/__ [Age]{[Years]

Contact details:

-
1. Please assess the parenting capacity of [mother or primary caregiver], [father], and other proposed carers for the child/ren. The assessment of the primary caregiver should include, but is not limited to, assessment of the individual's:
 - a. Psychosocial history and the impact of this on their parenting capacity (include comment on issues such as drug and alcohol use and domestic violence, if any);

- b. Current psychosocial stressors (include comment on issues such as poverty, housing, unemployment, illness or criminal proceedings, if any);
- c. Emotional and behavioural functioning and the impact of this on their parenting capacity;
- d. Cognitive capacity and adaptive functioning (Please only use psychometric testing if indicated);
- e. Ability to perceive and respond to the needs of the child/ren including their physical, emotional and protective needs and their needs for appropriate limits and boundaries;
- f. Ability to accept responsibility for their behaviour and situation;
- g. Support system, both personal and professional and their ability to make use of clinical interventions, including past use of such interventions; and.
- h. Personal strengths, capacities and resilience.

The assessment of the father and community carers may include components a) to h). The assessment components including the extent of assessment will depend on the proposed degree of involvement. This will be determined by the professional assessor on a case-by-case basis.

2. [Where subject child/ren is an infant] Please assess [subject child]'s general development, including achievement of developmental milestones.
3. [Where subject child is no longer an infant] Please assess [subject child]'s development including:
 - a. Emotional and behavioural functioning;
 - b. Social functioning;
 - c. Physical development;
 - d. Cognitive functioning (Please only conduct psychometric testing if indicated); and
 - e. Personal strengths, capacities and resilience.
4. Please assess the quality of each child's relationship with [where applicable]:
 - a. Their mother;
 - b. Their father;
 - c. Their siblings;
 - d. Other family members;
 - e. Proposed community caregiver/s;
 - f. Proposed co-residents; and
 - g. Any significant others.
5. Should concerns be raised regarding the children's development, emotional, social and environmental factors (including scenarios where the primary caregiver is pregnant) or the quality of their relationships, the assessor is requested to comment on the likely origin or cause of the problem.
6. Please conduct an assessment of safety and wellbeing for [subject child/ren] in the care of their mother (including consideration of the impact for the child/ren of residing with their mother within the AMC), father, and any other proposed carers for the

child/ren, including an analysis of risk and protective factors. This is to take into account the parenting capacity assessments, developmental assessments and the documented contact of the family, if any, with Care and Protection Services and other areas of the Office for Children, Youth and Family Support.

Recommendations:

The assessor is asked to make recommendations on the following [as appropriate]:

1. The most suitable parent/s and/or caregiver/s to meet the needs of [subject child] in both the short and long term. Please provide reasons for these recommendations, including alternatives considered and basis for your decision. This should include consideration of the impact for the child/ren of residing with their mother in the AMC and the impact for the child/ren of any sudden or planned transfer of the child/ren from their mother's care within the AMC to the care of an alternate caregiver. This should further include consideration of the impact of any separation of siblings.
2. The nature of any interventions and/or supports required in order for [subject child/ren's] mother or other caregiver to meet the [subject child]'s needs in the short and long term.
3. The frequency and duration of contact between the subject child/children and their significant others should the recommendation be that the [subject child/ren] not reside with that person.
4. Where the recommendation is for the child/ren to reside with their mother within the AMC and the mother is likely to remain within the AMC for a period exceeding the child/ren's fourth birthday, please provide opinion regarding a progressive transfer plan for the transfer of the child/ren to the care of an alternate caregiver.
5. The nature of any interventions and/or supports required for the [subject child/ren] to enhance their development and wellbeing.
6. The nature of any interventions and/or supports required for the mother or other caregiver to enhance their functioning and wellbeing.
7. Any other matters the assessor considers to be relevant to the welfare of the [subject child/ren].

Detailed Definitions of Terms

In accordance with the *Children and Young People Act 2008*

‘Best interests’ of a child

In line with the general principles of the *Children and Young People Act 2008*, the ‘best interests’ of the child are the paramount consideration. In deciding what is in the ‘best interests’ of a child, a decision-maker must have regard to the following principles where relevant:

- (a) the need to ensure that the child is not at risk of abuse or neglect;
- (b) any views or wishes expressed by the child;
- (c) the nature of the child’s relationship with each parent and anyone else;
- (d) the likely effect on the child of changes to the child’s circumstances, including separation from a parent or anyone else the child has been living with;
- (e) the practicalities of the child maintaining contact with each parent and anyone else with whom the child has been having substantial contact;
- (f) the capacity of the child’s parents, or anyone else, to provide for the child’s needs including emotional and intellectual needs;
- (g) for an Aboriginal or Torres Strait Islander child - that it is a high priority to protect and promote the child’s cultural and spiritual identity and development by, wherever possible, maintaining and building the child’s connections to family, community and culture;
- (h) that it is important for the child to have settled, stable and permanent living arrangements;
- (i) for decisions about placement of a child - the need to ensure that the earliest possible decisions are made about a safe, supportive and stable placement;
- (j) the attitude to the child, and to parental responsibilities, demonstrated by each of the child’s parents or anyone else;
- (k) any abuse or neglect of the child, or a family member of the child;
- (l) any court order that applies to the child, or a family member of the child or young person.

In deciding what is in the ‘best interests’ of a child, a decision-maker may also consider any other fact or circumstance the decision-maker considers relevant and must have regard to the following, except where it is, or would be, contrary to the best interests of a child:

- (a) the child’s sense of racial, ethnic, religious, individual or cultural identity should be preserved;
- (b) the child’s education, training or lawful employment should be encouraged and continued without unnecessary interruption;
- (c) the child’s age, maturity, developmental capacity, sex, background and other relevant characteristics should be considered;
- (d) delay in decision making processes under the Act should be avoided because delay is likely to prejudice the child’s wellbeing.

Shared Parental Responsibility

The *Children and Young People Act 2008* (sections 17 -18) defines parental responsibility for a child as all the duties, powers, responsibilities and authority parents ordinarily have by law in relation to their children. Parental responsibility includes responsibility for the day-to-day or long-term care, welfare and development of the child. Parental responsibility for a child may be transferred to, or shared with, the Chief Executive of the Department of Disability, Housing and Community Services (DHCS) under any of the following:

- an appraisal order including a temporary parental responsibility provision (section 373)
- a voluntary care agreement (part 12.3)
- emergency action (part 13.1)
- a care and protection order including a parental responsibility provision (part 14.6)
- a safe custody warrant (section 683)
- a court order (under *Children and Young People Act 2008* or another law in force in the Territory)
- a provision of another law in force in the Territory.

If the DHCS Chief Executive shares parental responsibility with another person, the other person may not carry out that parental responsibility in a way that would be incompatible with the way the DHCS Chief Executive would do so (section 19).

The Supervision Provision

The **Supervision** provision (Part 14.10 of the *Children and Young People Act 2008*), in a care and protection order, or an interim care and protection order, for a child, means a provision placing the child, for the period stated in the order, under the supervision of the Chief Executive of DHCS. If a care and protection order including a supervision provision is in force for a child, the Chief Executive of DHCS or delegate of the Chief Executive DHCS, may meet and talk with the child alone or otherwise. A supervision order may also require that the child or young person, and /or a person with parental responsibility for them, or both, take part in discussions about the welfare of the child or young person, especially about education, vocation, recreational activities or other activities.