

**Bilateral Schedule between the
Department for Child Protection and
Family Support and WA Health¹ for
Collaborative responses to:**

- **Child Abuse and Neglect Identified
by WA Health; and**
- **Children in Care**

2017

¹ WA Health incorporates the following entities: Department of Health as the system manager and, Child and Adolescent Health Service, North Metropolitan Health Service, South Metropolitan Health Service, East Metropolitan Health Service and WA Country Health Service.

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1 PURPOSE

The purpose of this bilateral schedule is to outline the responsibilities and collaborative processes between the Department for Child Protection and Family Support (CPFS) and WA Health for referring and responding to concerns of child abuse and neglect identified by WA Health staff. It also outlines WA Health's approach to providing health service to children in the care of the Chief Executive Officer (CEO) of CPFS.

This document is a schedule to and is guided by the Level 1 Strategic Bilateral Memorandum of Understanding (MOU) between WA Health and Department for Child Protection (2011)².

2 LEGISLATIVE BASIS

Relevant provisions of the *Children and Community Services Act 2004* (the Act) include:

- Part 2, Division 1 Objects
- Part 2, Division 2 General principles relating to children
- Part 2, Division 3 Principles relating to Aboriginal and Torres Strait Islander children
- Section 21 Functions of the CEO
- Section 22 Cooperation and assistance
- Section 23 CEO etc. may disclose or request relevant information
- Part 3, Division 6 Information sharing
- Section 28 When a child is in need of protection
- Section 29 Provisional protection and care, meaning and effect of
- Section 31 CEO may cause inquiries to be made about child
- Section 32 Further action by CEO
- Section 33A CEO may cause inquiries to be made before child is born
- Section 33B CEO's duties if action needed before child born to safeguard etc. child after birth
- Section 33 Access to child for purposes of investigation
- Section 35 Warrant (provisional protection and care)
- Section 37 Taking a child into provisional protection and care without a warrant in certain circumstances
- Section 40 Power to keep child under 6 years of age in hospital
- Section 44 Application for a protection order
- Part 4, Division 9A Reporting sexual abuse of children
- Section 127 CEO may give consent in lieu of parent in some cases
- Section 128 Records of children in CEO's care to be kept
- Section 129 Protection from liability for giving information
- Section 240 Restriction on disclosing notifier's identity

Children and Community Services Regulations 2006, Part 2 – Children in the CEO's care, regulation 5: records, prescribed information for (Act s.128)

² Department of Health 2011, Level 1 Strategic Bilateral Memorandum of Understanding (MOU) between WA Health and Department for Child Protection Government of Western Australia, http://ww2.health.wa.gov.au/~media/Files/Corporate/general%20documents/Child%20protection/PDF/MOU_DCP_Health.ashx [5 May 2016]

3 ROLES AND RESPONSIBILITIES

3.1 Department for Child Protection and Family Support (CPFS)

CPFS has a statutory role under the *Children and Community Services Act 2004* (the Act) to assess and respond to allegations of child abuse and neglect and take actions when necessary to safeguard or promote the child's wellbeing. This may include providing family support and/or placing the child in out-of-home care.

3.2 WA Health

WA Health's vision is to deliver a safe, high-quality, sustainable health system.

WA Health has a responsibility to promote the safety and wellbeing of children and young people and where necessary report concerns of abuse and neglect to the appropriate authorities. WA Health staff must be alert to possible child protection concerns when a child presents at any WA Health service. WA Health staff should also be alert to possible child protection concerns for the children of parents receiving adult health services.

The Act allows persons who are concerned about the wellbeing of a child to share relevant information in good faith with CPFS or other relevant agencies without penalty.

Doctors, nurses and midwives are legally required to comply with the Act for the mandatory reporting of child sexual abuse.

The *WA Health Guidelines for the Protection of Children 2015* (*WA Health Guidelines*) and related resources are provided by the Department of Health to assist WA Health staff in their roles and responsibilities³.

The Perth Children's Hospital Child Protection Unit provides tertiary medical child protection services and consultation and support to health services and other Government agencies state-wide.

4 COLLABORATIVE PROCESSES

4.1 Identifying possible child abuse and neglect

WA Health staff will refer to the *WA Health Guidelines* for information on identifying and managing concerns of child abuse and neglect.

4.1.1 Consultations

Open communication between agencies is required to promote and safeguard the wellbeing of a child for whom there are concerns. Consultations between WA Health and CPFS may involve:

- discussing concerns for the child (with or without providing the child's details) and whether a referral to CPFS is appropriate, and
- inquiring whether the child is known to CPFS, either as a current or closed case.

³ Department Health 2015 *WA Health Guidelines for the Protection of Children 2015*. Government of Western Australia, http://ww2.health.wa.gov.au/Articles/A_E/About-child-abuse-and-neglect/Guidelines-for-Protecting-Children [5 May 2016]

4.1.2 Power to keep a child under 6 years of age in hospital

WA Health will act under section 40 of the CCSA where there are concerns that a child under 6 years of age is in need of protection and hospital staff have reasonable grounds to believe that the parents are likely to remove the child before the concerns can be assessed. This legislative provision allows the hospital to keep the child in hospital for up to two working days for observation, assessment or treatment. WA Health will notify CPFS as soon as practicable if it exercises power under this section.

4.2 WA Health referrals to CPFS

4.2.1 Mandatory reports of child sexual abuse

A doctor, nurse or midwife who, in the course of their work, forms a belief based on reasonable grounds that a child has been the subject of sexual abuse that occurred on or after 1 January 2009, or is the subject of ongoing sexual abuse, must notify CPFS as prescribed in Part 4, Division 9A of the Act. Details of processes and procedures are in the *WA Health Guidelines, Section 2.3.2, Mandatory Reporting of Child Sexual Abuse to CPFS*.

Mandatory reporters who have concerns but have not yet "formed a belief" can consult with the relevant CPFS district office as outlined below, and in the *WA Health Guidelines*.

4.2.2 Making a referral of child abuse and neglect

WA Health non-mandatory reporters and mandatory reporters who wish to make a notification about any other form of child abuse and neglect, or sexual abuse where they are a non-mandatory reporter, will refer the child to the duty officer at the CPFS district office nearest the child's current address during usual working hours or to the Crisis Care Unit after hours.

Notifications may be made verbally to the local CPFS district office, but will be followed by a written notification as soon as practicable.

The notification should include information on:

- the current concern for the child
- whether there are immediate or ongoing safety concerns for the child
- whether there are any other children in the household
- whether the parent/carer is aware of the referral, and
- whether the parent/carer is believed to pose a risk to others.

4.2.3 Information sharing with CPFS

Section 23 of the Act enables CPFS to disclose or request information relevant to a child's wellbeing with other government agencies.

Further information on information sharing is available in the following documents and resources:

- The *Joint guidelines on the mutual exchange of relevant information between WA Health and the Department for Child Protection for the purpose of promoting the wellbeing of children (2011)*⁴;
- The *Working together for a better future for at risk children and families: A guide for information sharing for government and non-government agencies*⁵. This resource includes information on when and what information to share to protect children and families and CPFS process when information is requested; and
- The *WA Health Guidelines, Section 4.2. Confidentiality and disclosure of confidential patient information*.

4.2.4 Restrictions on disclosing the notifier's identity (protections for the notifier)

A person must not reveal identifying information obtained in the course of duty about a mandatory reporter or other notifier, except in particular circumstances as outlined in s.124F and s.240 of the Act. Significant penalties may apply to disclosures that breach the Act.

Section 129 of the Act provides protection from liability for a person who makes a report to CPFS of child wellbeing concerns in "good faith".

4.2.5 Advising the child's parents/carers of a referral to CPFS

WA Health staff will inform the child's parents/carers of a planned referral to CPFS as outlined in the *WA Health Guidelines for Protecting Children 2015*, if it is safe to do so.

4.3 CPFS response to referrals

CPFS will undertake an initial assessment based on the available information to inform a decision on what should happen next.

If CPFS does not plan to take any further action, relevant WA Health staff will be advised of this decision and the rationale, where appropriate.

4.3.1 Immediate safety concerns for the child

Where there are immediate safety concerns for a child, CPFS and WA Health, and other agencies as appropriate, will meet within a priority timeframe (24 hours where possible) via tele/video conference or face-to-face, to exchange relevant information and develop an immediate safety plan for the child⁶.

The interagency plan will be inclusive of health service provision, child protection action, and/or criminal investigation. The plan will detail the actions that staff of each agency agrees to complete within a particular timeframe and include a review date, if necessary. The immediate plan will be documented at the meeting by the convening agency to be taken away by all participants.

⁴ Department of Health 2011, available from http://ww2.health.wa.gov.au/Articles/A_E/About-child-abuse-and-neglect/Child-abuse-and-neglect-operational-directives-MOUs-and-policies [5 May 2016]

⁵ Department for Child Protection and Family Support 2016, *Working together for a better future for at risk children and families: A guide for sharing for government and non-government agencies*, Government of Western Australia. Available from: www.cpfs.wa.gov.au [11 February 2016].

⁶ The Princess Margaret Hospital / Perth Children's Hospital Child Protection Unit provides consultation to other WA Health areas on convening and conducting serious injury planning meetings.

Under section 33 of the Act, CPFS may interview a child in hospital for the purpose of an investigation.

Where a child is hospitalised and may be in need of protection, CPFS will assess whether parental/caregiver contact requires restrictions and/or supervision, and will work with the hospital staff to implement arrangements to safeguard and/or promote the wellbeing of the child.

Under section 35 of the Act, a warrant (provisional protection and care) may be issued in circumstances where a child is in need of protection, even if temporarily in a safe place, for example a hospital ward. This power applies if an authorised officer believes that when the child leaves that place, he or she is likely to be living in circumstances that pose an unacceptable risk to the child's wellbeing.

4.3.2 Criminal matters (CPFS refer to WA Police)

CPFS staff will refer concerns of alleged child abuse and neglect that could constitute a crime to the WA Police. If CPFS and WA Police agree to undertake a joint assessment and investigation of the allegations, CPFS will invite WA Health staff to participate in Joint Strategy Meetings where appropriate.

4.3.3 CPFS Safety and Wellbeing Assessment

During a safety and wellbeing assessment, WA Health and CPFS staff will exchange information relevant to the wellbeing of the child.

The possible outcomes of a CPFS safety and wellbeing assessment are:

- the case may be closed with either no further action or referral to social services; or
- the case may remain open to CPFS for intensive work with the family to address the ongoing safety needs for the child; or
- the case remains open because the child is in need of protection and needs to enter the CEO's care.

4.4 Roles and responsibilities of WA Health and CPFS staff related to CPFS safety and wellbeing assessment outcomes

4.4.1 Case remains open to CPFS for intensive work with the family to address the ongoing safety needs for the child (child may or may not have come into the CEO's care) and where WA Health has an ongoing role

WA Health staff will continue to provide services to the child, young person and their family consistent with the WA Health workers role as required.

WA Health and CPFS staff will exchange relevant information as necessary.

CPFS staff will invite relevant WA Health staff to participate in meetings where appropriate, to develop and review plans focused on addressing the concerns for the child and provide for their health treatment needs.

WA Health staff will advise CPFS if they no longer have a role with the child and/or family, where appropriate.

4.4.2 CPFS closes the case (with either no further action or referral to social services)

CPFS will contact relevant WA Health staff to advise of the decision to close the case, and the rationale where appropriate. CPFS and WA Health staff will also discuss:

- whether WA Health has an ongoing role with the family, and
- whether any additional services are required for the family and the steps that each agency will take to link the child and family into these services.

WA Health staff will consult with CPFS if they have any further concerns for the child.

4.5 Children under the parental responsibility of the CEO

WA Health staff will establish who has parental responsibility for the child so consent for service is obtained from the person with parental responsibility. Where it is identified that the child is in the care of the Chief Executive Officer of CPFS, WA Health staff will refer to section 3.5 of the *WA Health Guidelines for Protecting Children 2015*, in particular the table: CPFS Decision-making responsibility, according to that part of s30 CCSA the child is subject to.

Process guidance for WA Health staff and how to contact CPFS is provided in the attached flow charts:

- Outline of the process where a child in the Chief Executive Officer's (CEO's) care of the Department for Child Protection and Family Support presents to a Hospital Emergency Department (ED) in crisis and requires emergency care, including mental health intervention. (Attachment 1)
- How to contact the Department for Child Protection and Family Support (CPFS) if a child in the Chief Executive Officer's (CEO's) care presents at a Hospital Emergency Department (ED) in crisis and requires emergency care, including mental health intervention (Attachment 2)

4.5.1 Obtaining consent for health services

If CPFS has parental responsibility for the child, WA Health staff must obtain CPFS written consent for treatment after providing the following information to CPFS, unless the mature minor principle applies:

- child's health condition, the type of treatment required and the reasons for it
- expected benefits and likely outcomes and any possible risks or complications
- alternative service options, including the likely result of 'no service'
- the time involved in the service
- the likely recovery period, and
- any follow up services or care that may be required.

In certain circumstances, WA Health staff may assess a child in care as a mature minor, able to give consent for a health service (refer section 4.1.2 of the *WA Health Guidelines for Protecting Children 2015*). WA Health staff will assess the child's mature minor status on each presentation as the circumstances of a child's condition, proposed intervention and the implications of the intervention will vary. CPFS staff should be cognisant of the *WA Health Consent to Treatment Policy* concerning mature minors.

If WA Health staff assesses that a child is a mature minor, this will be recorded in the child's patient record.

Mature minor (competency of child to consent to medical treatment)

The law in Australia considers that a child under the age of 18 years is capable of giving consent to a medical procedure if he or she fully comprehends the nature and consequences of the procedure proposed, irrespective of whether a parent consents.

To determine whether a child is capable of providing consent as a mature minor, consideration is given to the:

- age and maturity of the child
- child's ability to understand fully the medical advice being given
- nature, consequences and implications of the proposed treatment
- potential risks to health
- emotional impact of either accepting or rejecting the advised treatment, and
- moral and family questions involved.⁷

4.5.2 Emergency or threat to life

A doctor may proceed with the provision of health services/treatment in the absence of consent in the case of an emergency where there is an imminent risk of serious physical or mental harm to the child.

Following emergency health services for a child where the CEO has parental responsibility, WA Health staff should advise CPFS as soon as practicable in writing of the following:

- presenting health condition and the type of treatment provided
- outcome, including any complications, and
- any medication and further treatment required.

Other circumstances where treatment can be provided in the absence of consent are contained in the *WA Health Consent to Treatment Policy*.

4.5.3 Child discharged from hospital

WA Health staff will provide a discharge summary to the relevant CPFS district office as soon as practicable for a child where the CEO has parental responsibility. The discharge summary should include:

- child's health condition, the type of treatment required and the reasons for it
- the likely recovery period and longer term prognosis where appropriate, and
- any follow up treatment or care that may be required, including medication.

WA Health staff will record in the child's file that a copy of the discharge summary has been sent to CPFS.

⁷ WA Health Guidelines for Protecting Children 2015

5 DISPUTE RESOLUTION

The parties will attempt to resolve any disputes in good faith through negotiation at a local level wherever possible.

Disputes that cannot be resolved at a local level should be referred in writing to:

- CPFS: relevant Service Delivery Practice Unit Director; and where matters remain unresolved, to the Executive Director Metropolitan or Country and Residential Care Services.
- WA Health: relevant line manager and where matters remain unresolved to the relevant senior manager. Refer to *WA Health Guidelines Section 4: Dispute Resolution between WA Health and CPFS*.

6 TIMEFRAME AND REVIEW

The parties may review, amend or vary this schedule by written agreement signed by persons authorised to sign on behalf of the parties.

This schedule will continue to be effective until both parties endorse a revised schedule.

7 COSTS

Each party agrees to bear any of their own costs (if any) arising out of this schedule.

8 STATUS OF SCHEDULE

Both parties agree that this bilateral schedule is not intended to, and does not create any legally binding obligations between the parties.

9 SIGNATURE OF RESPECTIVE CHIEF EXECUTIVE OFFICERS

This bilateral schedule is signed by:



MS EMMA WHITE
DIRECTOR GENERAL
DEPARTMENT FOR CHILD
PROTECTION AND FAMILY
SUPPORT

DATE: 21.01.2017

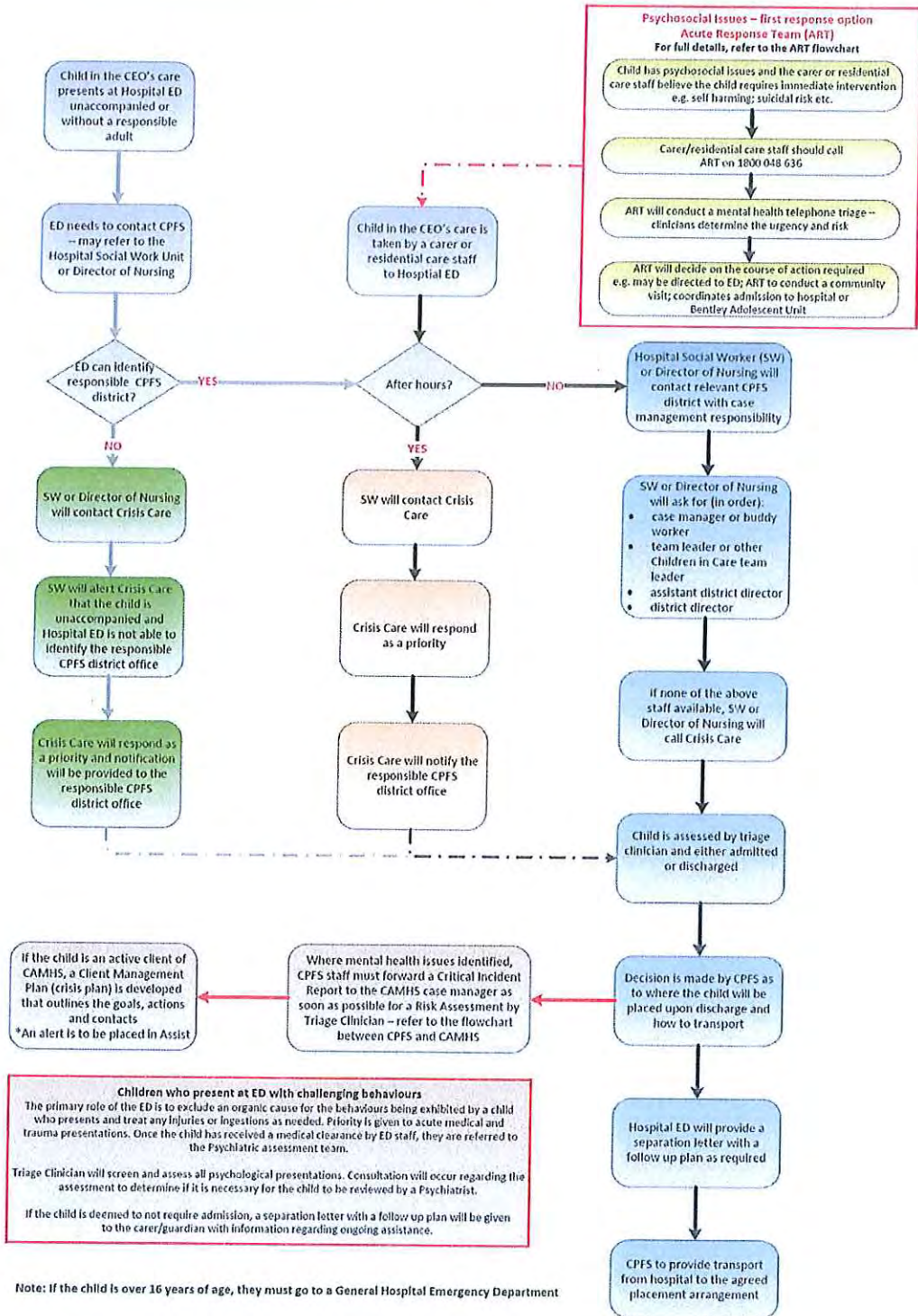


DR DAVID RUSSELL-WEISZ
DIRECTOR GENERAL
DEPARTMENT OF HEALTH

DATE: 2/5/17

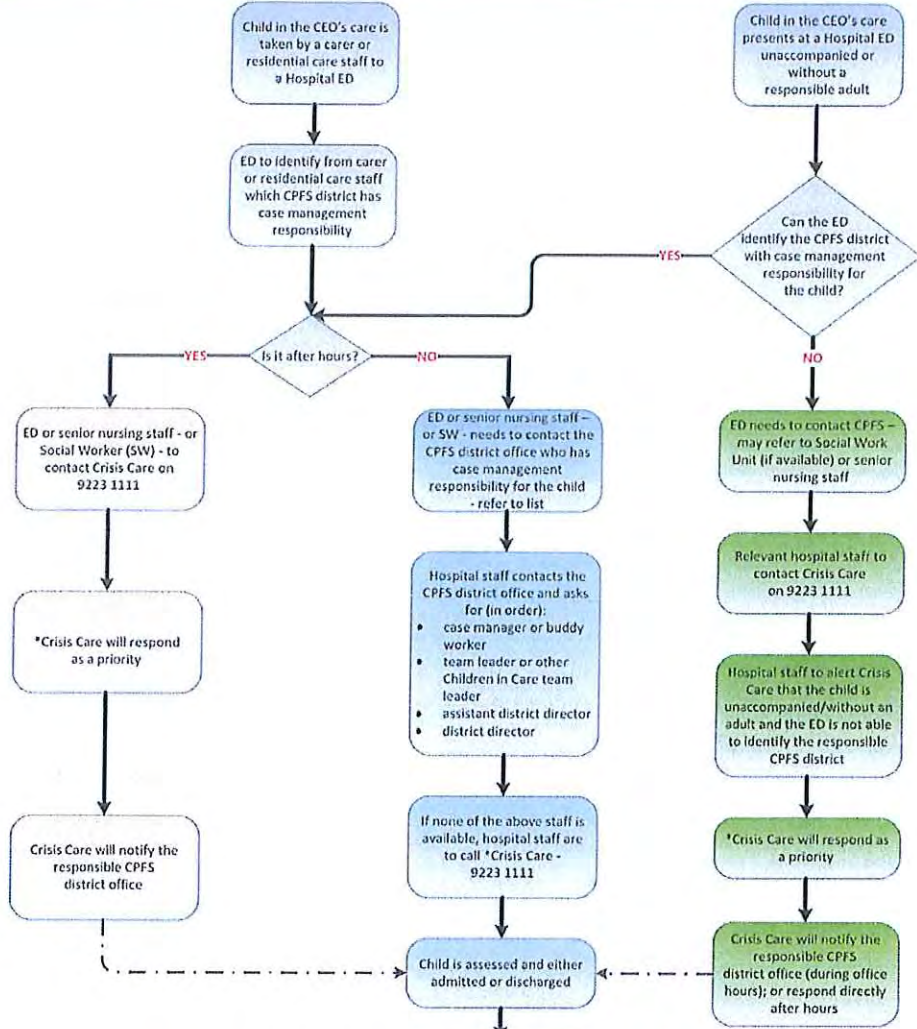
10 ATTACHMENTS

Outline of the process where a child in the Chief Executive Officer's (CEO's) care of the Department for Child Protection and Family Support presents to a Hospital Emergency Department (ED) in crisis and requires emergency care, including mental health intervention



Note: If the child is over 16 years of age, they must go to a General Hospital Emergency Department

How to contact the Department for Child Protection and Family Support (CPFS) if a child in the Chief Executive Officer's (CEO's) care presents at a Hospital Emergency Department (ED) in crisis and requires emergency care, including mental health intervention



- LIST OF CPFS DISTRICT NUMBERS**
- Metropolitan**
- Armadale – 9497 6555
 - Cannington – 9351 0888
 - Fremantle – 9431 8800
 - Joondalup – 9301 3600
 - Midland – 9274 9414
 - Mirrabooka – 9344 9666
 - Perth – 9214 2444
 - Rockingham – 9527 0100
- Country**
- Goldfields – 9022 0700
 - Great Southern – 9841 0777
 - West Kimberley – 9192 1317
 - East Kimberley – 9168 0333
 - Murchison – 9965 9500
 - Peel – 9583 6688
 - Pilbara – 9160 2400
 - South West – 9722 5000
 - Wheatbelt – 9621 0400

*Crisis Care is available 24 hours per day, 7 days per week. Note however that handover from CPFS districts of at risk cases occurs between 4.30 – 5.30pm on weekdays (In particular on a Friday), which can be a busy period for Crisis Care unit staff