



Child Protection Holding Order - Power to Detain a Child Under the Age of Six in Hospital Procedure

1. Purpose

This procedure supports the implementation of the *Children and Community Services Act 2004* (the Act) within WA Country Health Service (WACHS) hospitals.

Section 40 (2) of the Act provides that:

If —

- (a) a child under 6 years of age is brought to a hospital for observation, assessment or treatment or is admitted to a hospital; and*
- (b) the officer in charge believes on reasonable grounds that the child is in need of protection,*

the officer in charge may keep the child in the hospital for the purpose of observation, assessment or treatment or otherwise to safeguard or promote the wellbeing of the child.

The power to detain only applies for two working days until further ongoing arrangements can be pursued by the Department of Communities.

Situations where a child, under six, may be deemed to be at imminent risk include:

- where a parent or guardian wishes to discharge the child against medical advice and the child needs ongoing treatment or assessment
- there are safety concerns that the child may suffer from harm if taken from the hospital (including exposure to violence, suspicion of non-accidental injury)
- the parent or guardian is the subject of an apprehension order by the Department of Communities, and they are believed to be a 'flight risk' if they leave hospital with the child.

These situations are often identified when a child attends the Emergency Department or during admission to a Paediatric or Maternity ward.

The Act does not confer similar powers in respect of children aged six or over and the local process for referral to Department of Communities would apply to those children.

2. Procedure

WACHS is committed to ensuring that child safety is embedded in our leadership, governance, and culture. This procedure sits within the governance of the [Child Safety and Wellbeing Policy](#). This policy document has mandatory requirement under the [Children and Community Services Act 2004](#) (WA).

A decision to request a holding order for a child must be made by the senior treating medical officer in consultation with the social worker (if available) and the most senior nurse or midwife on site ([Request by a Medical Officer for a Holding Order](#)). Treating

medical staff may seek further advice from the Regional Paediatrician or from the Child Protection Unit at Perth Children's Hospital. Consultation with the Aboriginal Liaison Officer (if available) and Community Health (in hours) may also provide further information for consideration or support if needed.

The senior medical officer or hospital social worker or senior nurse or midwife must liaise with the Department of Communities (office hours) or Crisis Care (after hours) in relation to making the decision to detain a child in hospital. The details of the conversation with the named staff member from the Department of Communities or Crisis Care must be documented in the child's health record.

The decision to apply a holding order must be confirmed by the Officer in Charge, (the 'officer in charge' in relation to a hospital, means "the person for the time being in charge of the hospital"), at the time the order is made:

- in hours this would generally be the responsible Director of Nursing/Health Service Manager or Operations Manager
- after hours this may be the hospital nurse manager or sites may need to follow their local escalation process for the executive member on call.

The senior treating medical officer or health service social worker or Officer in Charge must verbally inform the parent(s)/guardian of the decision. The parent (s)/guardian must also be provided with written confirmation of the decision ([Letter to Parent/Guardian template](#)) along with a copy of section 40 of the Act. The Aboriginal Liaison Officer may also provide support as appropriate.

A copy of the written confirmation is to be placed in the child's health record.

The health service social worker or Officer in Charge must notify the relevant office of the Department of Communities (office hours) in writing that a Holding Order on the child has been applied ([Template to notify Department of Communities](#)).

The Officer in Charge, or their delegate, must ensure the relevant hospital staff are notified of the Holding Order and are provided with relevant essential information. This may need to occur prior to the parent/s or guardian/s being. This information should also be provided during each subsequent shift handover.

The Department of Communities will determine safe parent(s)/guardian contact arrangements with the child subject to a Holding Order. Clinical staff must liaise with the health services social worker and check the health record for details of the Order.

If threats, or attempts, are made to remove the child, the hospital staff may contact security staff, if available, and notify the local police to assist in providing a safe environment for staff and patients. If attempts are made to, or the child is removed from the hospital by a parent or guardian then staff should follow the **Code Black Alpha** procedure.

All staff need to be aware of, and consider, the security risks and potential for violence that may result from applying a Holding Order. Mitigation strategies should be developed to minimise identified risks in each step of the process.

Consider the need to activate a webPAS Child at Risk Alert according to the [WebPAS Child At Risk Procedure](#).

3. Roles and Responsibilities

This procedure is applicable to all WACHS sites and services, including contracted entities that conduct activities which involve, result in, or relate to, contact with children. This procedure applies to all people who conduct work on behalf of WACHS in a paid or unpaid capacity. All employees and volunteers must abide by the WA Health Code of Conduct which specifies the standards of conduct required when working with children.

Senior Medical Officers are to be familiar with the provisions of the Act, consult with designated staff and ensure the procedure is applied.

Nurses, midwives and social workers are to be familiar with the provisions of the Act, liaise with senior medical staff and the Officer in Charge to ensure implementation of the procedure.

All staff are required to comply with the directions in WACHS policies and procedures as per their roles and responsibilities. Guidelines are the recommended course of action for WACHS and staff are expected to use this information to guide practice. If staff are unsure which policies procedures and guidelines apply to their role or scope of practice, and/or are unsure of the application of directions they should consult their manager in the first instance.

4. Monitoring and Evaluation

Monitoring and Evaluation Monitoring of this policy will be within the remit of the Program Officer for Child Safety.

- analysis of complaints and subsequent responses relating to children to ensure alignment with the National Principles of Child Safe Organisations and this policy
- data quality monitoring of the Child at Risk (CAR) data within the Community Health Information System (CHIS)
- management assurance review of the internal controls for child safety across all WACHS services.

This policy will be evaluated as required to determine effectiveness, relevance and currency. At a minimum it will be reviewed every 5 years by Program Officer for Child Safety.

5. References

Department of Communities [Mandatory Reporting of Sexual Abuse of Children under 18 years](#)

6. Definitions

Term	Definition
Child/Children	Legally, the term refers to individuals up to the age of 18 years. Older children aged 12 to 18 years may be referred to as 'young people'. For the purposes of this policy the terms child and children are used throughout and are intended to include young people.
Child Abuse	All forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power
Clinician	A healthcare provider, trained as a health professional, including registered and nonregistered practitioners. Clinicians may provide care within a health service organisation as an employee, a contractor or a credentialed healthcare provider, or under other working arrangements. They include nurses, midwives, medical practitioners, allied health practitioners, technicians, scientists and other clinicians who provide health care, and students who provide health care under supervision.
Wellbeing	Wellbeing of a child, as defined in section 3 of the Children and Community Services Act 2004, includes the following: (a) the care of the child; (b) the physical, emotional, psychological and educational development of the child; (c) the physical, emotional and psychological health of the child; and (d) the safety of the child. Social and emotional wellbeing is a holistic concept which includes relationships between individuals, family, kin, and community. It also recognises the importance of connection to land, culture, spirituality, and ancestry, and how these affect the individual.

7. Document Summary

Coverage	WACHS-wide
Audience	All Staff
Records Management	Non Clinical: Corporate Recordkeeping Compliance Policy
Related Legislation	Children and Community Services Act 2004 (WA)
Related Mandatory Policies/Frameworks	<ul style="list-style-type: none"> • Clinical Services Planning and Programs Policy Framework
Related WACHS Policy Documents	<ul style="list-style-type: none"> • Child Safety and Wellbeing Policy • WebPAS Child At Risk Alert Procedure
Other Related Documents	<ul style="list-style-type: none"> • CAHS Guidelines for Protecting Children 2020 • Letter to Parent/Guardian template • Memorandum of Understanding – Information Sharing between agencies with responsibility for preventing and responding to family and domestic violence in Western Australia • Request by a Medical Officer for a Holding Order • Template to notify Department of Communities. • Vulnerable babies, children and young people at risk of harm
Related Forms	Nil
Related Training	Available from MyLearning : <ul style="list-style-type: none"> • WebPAS CAR Alert eLearning • Family and Domestic Violence training
Aboriginal Health Impact Statement Declaration (ISD)	ISD Record ID: 4122
National Safety and Quality Health Service (NSQHS) Standards	1.01, 1.15, 2.05
Aged Care Quality Standards	Nil
Chief Psychiatrist's Standards for Clinical Care	Nil
Other Standards	Nil

8. Document Control

Version	Published date	Current from	Summary of changes
2.00	6 June 2025	6 June 2025	<ul style="list-style-type: none"> change of title inclusion of statement for WebPAS Child at Risk Alert removal of appendix of DCCP office locations with replacement of link to internet page to ensure always up to date.

9. Approval

Policy Owner	Executive Director Clinical Excellence
Co-approver	Executive Director Nursing and Midwifery Services
Contact	Senior Program Officer – Child Safety
Business Unit	Population Health
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