

WA SAAP PROTOCOLS PROJECT

***Referral and Assessment Process for Services
Provided through the Joint
Commonwealth/State Supported
Accommodation Assistance Programme under
the Family Violence Provisions of the Australian
Migration Regulations.***

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INTRODUCTION

This document has been developed to provide guidance to staff working within the SAAP programme who become aware of a client claiming family violence and where the client has an application for permanent residence in the partner component of Australia's migration programme.

This document has been developed by the SAAP Protocols Project team in consultation with a working party of SAAP sector representatives which includes representation from DIAC and DCP.

The primary source of direction for this document and relevant SAAP services is through the Family Violence Provisions of the *Migration Regulations 1994* (Cth). The purpose of this document is to clarify referral and assessment processes under the Family Violence Provisions and to provide general information regarding other relevant migration issues.

It is understood that it is unlawful for anyone other than a registered migration agent to provide migration advice in Australia.

A copy of this document will be distributed to all SAAP services, DIAC and DCP offices in Western Australia.

RATIONALE FOR THE DOCUMENT

A commitment to effective collaboration and coordination is important at all levels including:

- strategic policy and planning;
- service planning and management; and
- service delivery.

This document has been agreed to by senior executive officers of the Department for Child Protection as the funders of SAAP Services and the Department of Immigration and Citizenship.

REVIEW OF THE DOCUMENT

This Document was reviewed in January 2008 and is to be further reviewed and updated by November 2010.

The review process will involve the SAAP State Advisory Committee, DCP, DIAC and representatives from SAAP funded services.

The review framework will be developed by the Protocols Reference Group.

Any proposed amendments and/or additions to this Document are to be circulated for comment with a reasonable period for feedback prior to agreement.

AGENCY DESCRIPTIONS

Department of Child Protection (DCP)

DCP provides funding to not for profit organisations to provide services to contribute to its desired outcomes as follows:

1. Children and Young people in the CEO's care receive quality care.
2. Children and Young people requiring protection are safe from abuse.
3. At risk families and individuals to resolve crisis and promote the safety and well being of themselves and their family members.

DCP works to contribute to the overarching goal of the government to enhance the quality of life and wellbeing of all people throughout Western Australia by providing high quality, accessible services.

An important programme for achieving these goals is the Supported Accommodation Assistance Programme (SAAP).

Supported Accommodation Assistance Programme (SAAP)

The joint Commonwealth/State Supported Accommodation Assistance Programme provides funds to not for profit organisations to help people who

are homeless or at risk of homelessness, including women and children escaping family violence.

The overall aim of SAAP is to provide transitional supported accommodation and related support services to help homeless people achieve the maximum possible degree of self-reliance and independence.

These services are comprised of:

- crisis and temporary accommodation and support for homeless single adults and families;
- refuges and outreach support services for women with or without children who are victims of family violence;
- crisis and temporary accommodation for young people;
- support and counselling for young people at risk; and
- a range of other support services including meals.

SAAP services provide a range of assistance to homeless people including:

- providing crisis/transitional accommodation and support;
- assisting people to access other services such as employment, education, health services; and
- helping people to obtain longer term secure accommodation.

Services use a case management approach to service delivery that includes the development of support plans for clients where appropriate.

Department of Immigration and Citizenship (DIAC)

The purpose of DIAC is to enrich Australia through the well managed entry and settlement of people.

Partners of Australian citizens, Australian permanent residents or eligible New Zealand citizens may enter and/or remain permanently in Australia. Partner migration may apply to:

- people intending to get married.
- married (de jure) partners.
- de facto partners.
- interdependent partners (including those in a same sex relationship).

Legislation Relevant to this Document

Note: Recent amendments to the Migration Regulations mean that from 15 October 2007, the Domestic Violence Provisions (DVP) are known as the Family Violence Provisions (FVP). These amendments impact all applications lodged on or after 15 October 2007. Pre 15 October 2007 legislation must be applied to any applications lodged prior to this date.

The Family Violence Provisions of Australia's Migration Programme allow certain people applying for permanent residence in Australia to continue with their application after the breakdown of their spouse or partner relationship if they, or a member of their family unit, have experienced family violence committed by their spouse or de facto partner.

The Family Violence Provisions were introduced in response to community concerns that some spouses and partners might feel compelled to remain in abusive relationships rather than end the relationship and be forced to leave Australia.

Under the Migration Regulations, the definition of 'relevant family violence' is as follows:

'a reference to conduct, whether actual or threatened, towards:

- (i) the alleged victim; or*
- (ii) a member of the family unit of the alleged victim; or*
- (iii) a member of the family unit of the alleged perpetrator; or*
- (iv) the property of the alleged victim; or*
- (v) the property of a member of the family unit of the alleged victim; or*
- (vi) the property of a member of the family unit of the alleged perpetrator;*

that causes the alleged victim to reasonably fear for, or to be reasonably apprehensive about, his or her own wellbeing or safety'.

Under the Family Violence Provisions, people who are in Australia and who are applicants for the following visa classes may be eligible to continue with their application for permanent residence:

Family stream visa classes: *primary applicants for:*

- Spouse permanent (application lodged offshore) – second stage of visa processing, client onshore.
- Interdependency permanent (application lodged offshore) – second stage of visa processing, client onshore.
- Spouse temporary & residence) – lodged onshore.
- Interdependency (temporary & residence) – lodged onshore.
- Prospective Marriage (temporary) – lodged offshore, when onshore and married.

Skilled stream visa classes: *spouses of primary applicants for:*

- Established Business in Australia.
- State/Territory Sponsored Regional Established Business in Australia.
- Labour Agreement.
- Employer Nomination Scheme.
- Regional Sponsored Migration Scheme.
- Distinguished Talent.

Other: *spouses of primary applicants for:*

- Resolution of Status (subclass 851 only).

Most applicants claiming family violence apply for permanent residence in the partner component of the Migration Programme.

Where an Australian child is born of the relationship the overseas parent may be able to remain in Australia on grounds of child custody and may choose to pursue this option rather than the Family Violence Provisions.

Referral and Assessment

SAAP services should contact the Family Violence Case Officer or Assistant Manager – Family Residence Section of DIAC WA office in Perth as the first point of contact when dealing with family violence issues for DIAC clients (see contact details on page 10).

Where notification is received that a relationship has broken down due to alleged family violence DIAC will send a letter and information (*Fact Sheet*) to the applicant's notified address and he/she has 28 days in which to respond (from the date of receipt).

Family Violence contact officers are located at department offices in each state and territory. They are immigration officers who are experienced in handling applications from people seeking permanent residence on the grounds of family violence.

They provide information on the FVP as well as details of organisations that offer a range of welfare and legal services.

Note: SAAP services should encourage clients to notify DIAC of any change of address as soon as possible.

The Family Violence Provision can be satisfied through the provision of either judicial or non-judicial evidence. Judicial evidence is generally satisfied by a final Violence Restraining Order (WA), where as non-judicial evidence requires the *Form 1040 "Statutory Declaration Under the family violence provision of the Migration Regulations"* to be completed by the client and two (2) competent persons. This form should be completed comprehensively and clearly identify family violence details to assist the assessment process.

Note – DIAC must assess that a spouse like relationship was genuine prior to the violence occurring and/or relationship ending. Once DIAC is satisfied of this, they can then assess the family violence claim. Should the applicant provide completed evidence which does not satisfy the DIAC case officer, an Independent Expert may be used.

Permanent Residence applications in the Partner programme generally undergo a two-stage process. At the first stage, successful applicants are granted a two (2) year provisional or temporary residence visa, followed by permanent residence at the second stage if the relationship is genuine and continuing. If the relationship has broken down and it is proved that family violence has occurred, the applicant is expedited to permanent residency stage where possible.

Any difficult or complex issues (such as an expired visa or irregular entry into Australia such as a partner on a visitor's visa) should be discussed with DIAC or may be referred to a migration agent with the client's consent. SAAP services should ensure any migration agents that they are dealing with are registered migration agents and obtain a registration number.

For further information see Yellow Pages Telephone Directory or Migration Agents Registration Authority (MARA) website at www.themara.com.au, linked to the DIAC website at www.immi.gov.au ; and the MARA phone (02) 9299 5446 or email themara@themara.com.au.

Eligibility:

SAAP services should contact DIAC to confirm if Family Violence Provisions apply to an applicant's circumstances and visa category. The most common visas covered under the Family Violence Provisions are the Partner visa subclasses 309 and 820.

Note: The Family Violence Provisions do not apply to any visitor (tourist) or other temporary visas.

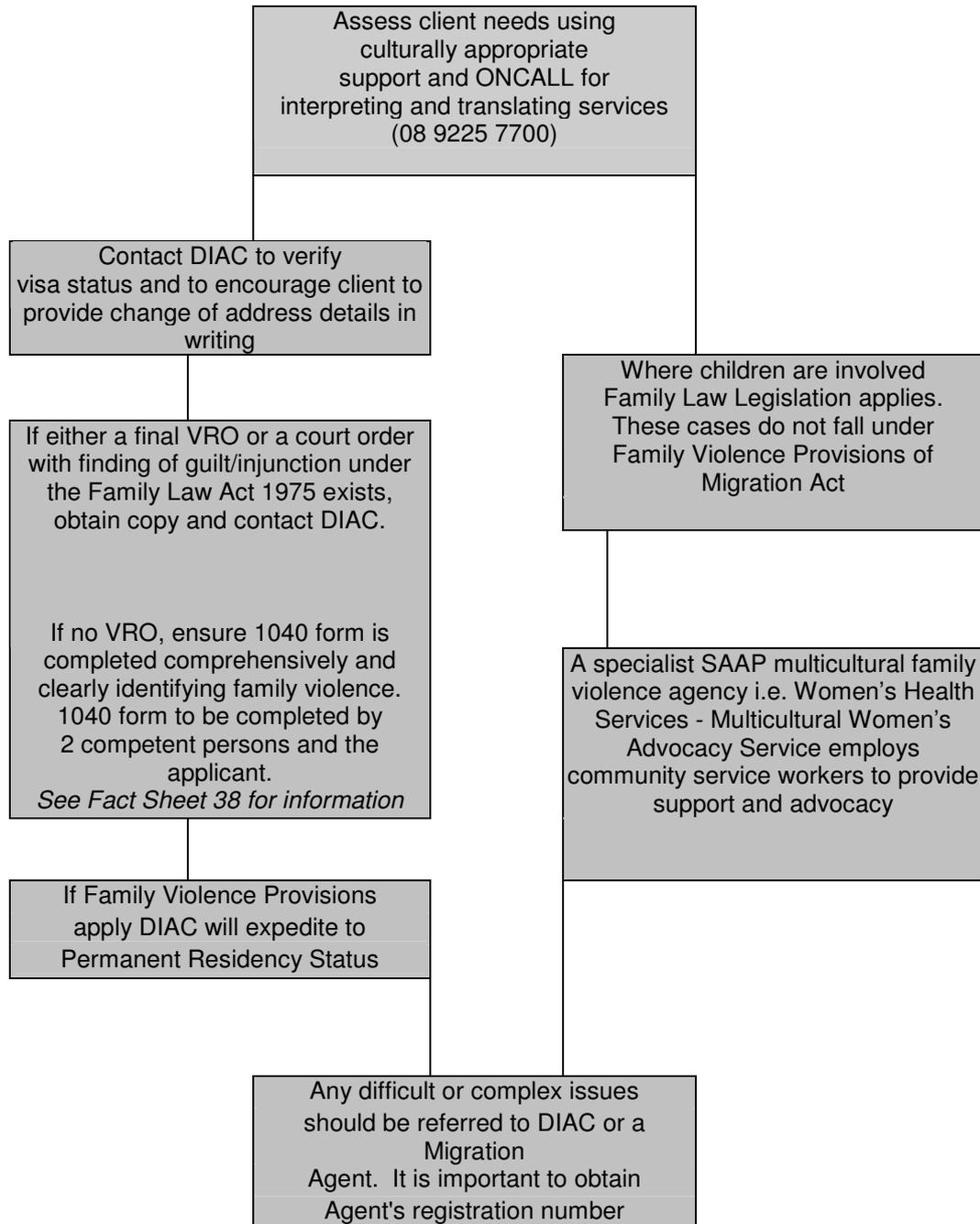
Some tourist visas have a condition where the applicant cannot apply for any other visa while physically in Australia. Condition 8503, commonly referred to as 'no further stay' states, *"The holder will not, after entering Australia, be entitled to be granted a substantive visa, other than a protection visa, while the holder remains in Australia"*.

Visitors and other temporary visa holders, who are victims of family violence that hold visas that these violence provisions do not apply to may wish to explore other visa options. For example, they can apply for any visa that they consider themselves eligible for as a principle applicant, such as various temporary or permanent business visas. If an 8503 condition is placed on their temporary visa, in certain circumstances a waiver can be applied for. The applicant should be encouraged to discuss with DIAC or a registered migration agent.

Note: A Permanent Resident will not have their Permanent Residence Visa cancelled if their relationship breaks down due to family violence.

Prospective Marriage visa subclass 300 holders are only covered by the Family Violence Provisions if they have arrived in Australia and married their sponsor.

REFERRAL AND ASSESSMENT PROCESS
UNDER THE FAMILY VIOLENCE PROVISIONS
OF THE MIGRATION ACT



ATTACHMENT 1

WA DIAC Contact Officers and General Information

All enquiries to DIAC regarding referral and assessment procedures for WA clients should be directed to:

Family Violence Officer	Lisa Fuller	08 9415 9396
Assistant Manager	Basil Lardicos	08 9415 9439
Manager Family Residence	Claire Forte	08 9415 9276

Written correspondence should be sent to:

Locked Bag Number 7
NORTHBRIDGE WA 6865

Further information is available on the department's web site.

See: www.immi.gov.au

The department also operates a national telephone service inquiry line.

Telephone: 131 881

Hours of operation: Monday to Friday from 9am to 4pm (recorded information available outside these hours) for the cost of a local call anywhere within Australia.

For further information, the following Fact Sheets are available on DIAC's web site: www.immi.gov.au

DIAC Fact Sheet 30: Family Stream Migration - Partners

DAIC Fact Sheet 34: Assurance of Support

DIAC Fact Sheet 35: One-Year Relationship Requirement

DIAC Fact Sheet 38: Family Violence Provisions

The following form is available on the web site or on Legend:

1040 - *Statutory declaration relating to family violence*

Note: Legislation and policy may be updated regularly. To ensure up to date and accurate information, it is important that Fact Sheets are accessed via DIAC's website.

DIAC forms are only available in English. The Telephone and Interpreting Service (TIS) is available to assist clients to complete the forms. TIS can be contacted on 131 450. TIS is not an advice service. All migration advice should be sought through DIAC or a registered migration agent.

OTHER SETTLEMENT ISSUES

- **Settlement Information**
- **Migration Agents**
- **Interpreting and Translating Services**
- **Adult Migrant English Program**
- **Support Services**
- **Temporary Protection Visas**

Settlement Information:

With the consent of the client, SAAP services should contact the DIAC call centre on 131881 to confirm visa status as soon as possible. DIAC is able to provide SAAP services with training and settlement information on important issues such as visa class, English language classes and community organisations. Additional information on issues such as housing, health, public transport, employment and emergency services may be obtained from community organisations that are funded through the DIAC Settlement Grants Programme (SGP).

People are able to obtain information about their immigration status free of charge from DIAC.

Migration Agents:

The only people who can lawfully give immigration advice in Australia are registered migration agents. Most migration agents charge a fee for their services. Some voluntary agencies staff are registered migration agents, however they provide immigration assistance free of charge.

DIAC keeps a register of Agents which lists all migration agents in each State and Territory. Some migration agents who operate overseas are also listed on the Register, although agents overseas do not need to be registered.

For further information about Migration Agents see Yellow Pages Telephone Directory or Migration Agents Registration Authority (MARA) website at 'www.themara.com.au' linked to the DIAC website at 'www.immi.gov.au'; and the MARA phone (02) 9299 5446 or email – themara@themara.com.au.

Interpreting and Translating Services (ONCALL):

The Department of Child Protection has contracted ONCALL Interpreters and Translators Agency to provide translating and interpreting services to Supported Accommodation Assistance Programme (SAAP) services.

In order to access ONCALL interpreting and translating for SAAP clients, a **SAAP Service Code** must be quoted by the SAAP agency to enable the invoice to be forwarded to the Department Child Protection.

A letter including **SAAP Service Code** has been sent to SAAP services, including an instruction sheet, with contact details for ONCALL, along with a booking form which may be used SAAP services if preferred.

Note-

Further information and training about interpreting and translating assistance is available by telephoning ONCALL on (08) 92257700.

Adult Migrant English Programme (AMEP):

DIAC provides English language tuition to eligible migrants and humanitarian entrants under the Adult Migrant English Programme (AMEP). Tuition is generally provided at a TAFE facility but where distance, cultural or family barriers exist to prevent the client accessing these facilities tuition may be made available through distance learning or a home tutor scheme. Some clients may be eligible to receive assistance with childcare while attending classes and they should discuss their requirements with the AMEP provider.

Although available to most migrants and humanitarian entrants the AMEP is not generally available to temporary visa holders. Eligibility criteria for the AMEP requires clients to register with the Independent Assessment service (IAS) within three months of their arrival in Australia or of a grant of permanent residence and they must complete the programme within five years of arrival. In special circumstances exemptions to these eligibility criteria may be made and clients should seek advice from the IAS or AMEP service provider if they cannot meet these requirements.

Community Support Services:

There are many different information sources and support networks to help migrants. These include health, welfare and community organisations. Some specialised counselling services are also available such as torture and trauma services.

Community organisations provide services to help migrants adjust to life in Australia. They provide support, welfare and advisory services and some also provide sporting and other social outlets.

Help is also available from the community organisations funded by DIAC to provide settlement services to migrant and humanitarian entrants, as well as the dependents of skilled and family stream migrants with low English language proficiency. These organisations employ Settlement Grant Programme workers to help new migrants. Their services are provided free of charge. DIAC Settlement Staff can provide further information about Settlement Grants Programme workers, what language they speak and where they can be located.

DIAC Funded Organisations:

Settlement Grant Programme funded organisations help new arrivals access people and organisations who can assist them in finding jobs, accommodation, health care and other relevant services. The focus is on building self-reliance and fostering connections with mainstream services.

Note-

For more information on the new DIAC Settlement Grants Programme and the list of currently funded organisations in WA go to:

<http://www.immi.gov.au/living-in-australia/delivering-assistance/settlement-grants/index.htm>

Temporary Protection Visa Holders (TPVs):

Temporary Protection visa holder's are subject to a number of conditions which vary from time to time. SAAP services should contact the Senior Advisor Cultural Diversity in DCP central office on (08) 92222649 for assistance in ascertaining appropriate entitlements for these people. Temporary Protection Visa Holders are not eligible to access services under the Settlement Grant Programme.

TPVs who are under 18 years old and not accompanied by a parent or legal guardian.

The Minister for Immigration and Citizenship has overarching responsibility for unaccompanied non citizen children released from immigration detention to live in the community. Section 5 of the *Commonwealth Immigration (Guardianship of Children) Act 1946* empowers the Minister for Immigration and Citizenship to delegate all guardianship powers, functions and duties regarding unaccompanied children living in the community in Western Australia to senior officers of the Department for Child Protection.

SAAP services should always contact the relevant Department for Child Protection district office if an unaccompanied young person is seeking assistance. From time to time the Department will work jointly with other service providers, including SAAP services, to ensure support is provided to these young migrant people.

ATTACHMENT 2

SAAP funded services for Migrants and Refugees

Multicultural Services Centre of WA

Phone 9328 2699

Fax: 9227 7638

Service Description: Crisis/transitional accommodation for migrant/refugee families and single adults. Provides advocacy, support, information and referrals.

9:00am – 4:30pm (Northern Suburbs)

Visit www.mscwa.com.au for further information.

Perth Asian Community Centre

Phone 9328 2237

Service Description: Crisis and supported accommodation for short-medium stays for NESB ethnic - singles and families who are experiencing homelessness. Provides advocacy, support, housing information and referrals.

9:00am – 4:30pm Mon- Fri (excluding public holidays)

Rae Lenny Shalom House

Phone 9275 6743

Fax: 9275 6743

Email: jewishcareperth@arach.net.au

Service Description: Crisis accommodation for short-medium stays for Jewish families and individuals of all ages

8.30am – 12.30pm weekdays

Visit www.jewishcarewa.org for further information

Fremantle Multicultural Centre

Phone 9335 9588

Fax: 9430 6352

Service Description: Crisis accommodation and support for medium stays for refugee and migrant families Provides advocacy, support and referrals.

8:30am – 4:30pm Mon- Fri: (excluding public holidays)

Visit www.fmrc.asn.au

Women's Health Services – Multicultural Women's Advocacy Service:

Phone 9227 8122/9328 1200

Fax: 9227 6615

Service Description: Advocacy, support, information and referral service for women, with or without children, from culturally and linguistically diverse backgrounds who have experienced or are at risk of family violence.

9:00am – 5:00pm Mon- Fri (excluding public holidays)

For information and support for dealing with CaLD issues or access to interpreter services contact your district Department for Child Protection CDFO.

The Supported Accommodation Assistance Programme (SAAP) funds a SPECIALIST SERVICE for FAMILY VIOLENCE ASSISTANCE

Women's Health Services - Multicultural Women's Advocacy Service:

The Women's Health Services (WHS) provides an advocacy, support, information and referral service for women from culturally and linguistically diverse backgrounds, including recent arrivals and women who are longer term residents through its programme the Multicultural Women's Advocacy Service (MWAS). MWAS promotes the safety of women, with or without, children who have experienced or are at risk of family violence. The service is provided to women in crisis periods and to women re-establishing themselves in the community after leaving refuges.

MWAS supports and advocates for women in relation to housing, medical and income assistance; involvement with immigration authorities regarding migration and residency issues, and family and civil law where matters are being heard in metropolitan courts. MWAS also assists women to access services for their children.

DCP funded service for Migrants in Private Rental Accommodation (Metropolitan area)

Support and Advocacy Service for Migrants in Private Rental Accommodation (Metropolitan Area)

Phone: 9328 1544

Fax: 9328 2343

Service Description: The service works primarily with non-English speaking migrant families and individuals in private rental accommodation who are identified as being at risk of eviction or who are experiencing difficulty maintaining their tenancy.

The service also supports migrant families and individuals who have been homeless and require ongoing support to maintain their new accommodation and avoid further episodes of homelessness.

Referrals to this service will come primarily from the generalist Support and Advocacy Services for People in Private Rental Accommodation, the Department for Child Protection, Department of Housing and Works and other community CaLD services.

ATTACHMENT 3

Organisations funded through the SETTLEMENT GRANTS SCHEME in Western Australia 2006 – 2007

These organisations are able to:

- deliver settlement information and referral services to individuals
- facilitate community capacity building, and
- promote client needs to mainstream service providers

From the 1 July 2006, CSSS and MRC/MSA funding ceased and was replaced by the Settlement Grants Programme (SGP)

Updates of Settlement Grants Services are available on
<http://www.immi.gov.au/media/publications/settle/pdf/wa.pdf>

**Information on the 07/08 Settlement Grant Programme funded
organisations is available on**
http://www.immi.gov.au/media/publications/settle/pdf/07_08/wa.pdf

Further information is available on the DIAC web site:
<http://www.immi.gov.au>

ASSOCIATION FOR SERVICES TO TORTURE AND TRAUMA SURVIVORS INC

286 Beaufort St, PERTH WA 6000
Ph: 9227 2700 Fax: 9227 2777

Information, referral and casework services to SGP eligible African Women in the Perth Metropolitan area.

*Community capacity building in the Central Perth metropolitan area, through the **Family in Cultural Transition Programme.***

*Community capacity building services to small and emerging communities in the Central Perth metropolitan area, through the **Connect Community Coaching Programme and Junior Leadership Mentoring programme.***

AUSTRALIAN – ASIAN ASSOCIATION OF WESTERN AUSTRALIA

Joondalup Lotteries House, Suite 10, 70 Davidson Tce JOONDALUP WA 6027
Ph: 9300 2720 Fax: 9300 2720

Information, referral, casework services to SGP eligible clients in the Perth-North metropolitan statistical division

CATHOLIC MIGRANT CENTRE

PERTH:
25 Victoria Sq PERTH WA 6000
Ph: 9221 1727 Fax: 9221 3793

MANDURAH:
Suite 4, Charlotte Lodge
2 Sutton Street, MANDURAH WA 6210
Ph: 9535 7320 Mon(pm), Thurs & Fri

Information, referral, casework and capacity building services to eligible SGP clients in the Perth and Mandurah metropolitan areas with a focus on Afghan and refugee youth communities.

In partnership with AMEP, provide volunteer programme to assist newly arrived humanitarian entrants.

Capacity building through multicultural youth camps for SGP refugee youth aged 12-20 yrs in Metro Perth.

EDMUND RICE CENTRE

18/22 Chesterfield Rd MIRRABOOKA WA 6061

Ph: 9440 0625 Fax: 9440 0629

Casework and capacity building to eligible SGP clients from Horn of Africa, in the Perth metropolitan area.

COMMUNICARE INC

28 Cecil Ave CANNINGTON WA 6107

Ph: 9451 9777 Fax: 9350 5770

Information, referral, casework, community capacity building, services planning, development and integration services, focussing on Middle Eastern women and African communities and family issues for the African community in South East Metropolitan Perth.

FRONTIER SERVICES

NEWMAN:

Shop 5, Hilditch Ave NEWMAN WA 6753.

Ph/Fax: 9177 8706

SOUTH HEDLAND:

Community Health Centre Colebatch Wy, SOUTH HEDLAND WA 6722

Ph: 9172 1639 Fax: 9140 1745

KARRATHA (incl: Dampier, Wickham, Pannawonica):

Welcome Lotteries House Unit 4/7 Morse Crt KARRATHA WA 6714

Ph: 9185 1856 Fax: 9144 2865

Information, referral and casework services to eligible SGP clients in the Pilbara region

METROPOLITAN MIGRANT RESOURCE CENTRE

1/14 Chesterfield Rd MIRRABOOKA WA 6061

Ph: 9345 5755 Fax: 9345 5036

Information, referral and casework services to SGP target group with a focus on Muslim women, Sudanese, Middle Eastern and Afghan communities in Perth's northern suburbs and African men in the Perth metropolitan area.

Capacity building services for small and emerging communities in the North East and Central Perth metropolitan areas.

MULTICULTURAL SERVICE CENTRE OF WA INC

20 View St NORTH PERTH WA 6006

Ph: 9328 1544 Fax: 9227 7638

(SGP Workers at 4 View St North Perth)

Information, referral, advocacy, casework and capacity building services for small and emerging communities from Africa and Middle East in Perth's central and inner northern suburbs.

Outreach service located at 15 Park Lane, Bassendean

MUSLIM WOMEN'S SUPPORT CENTRE

Ground flr 1127 Albany Hwy BENTLEY WA 6012

Ph/Fax: 9451 5696

Information, referral, casework, community capacity building, service planning, development and integration services to SGP eligible Muslim women and families in Metropolitan Perth.

THE GOWRIE (WA) INC

213A Belmont Ave BELMONT WA 6104

Ph: 94775222 Fax: 9477 5444

Information, Referral, advocacy, casework and capacity building services for new and emerging migrant communities in the City of Belmont and Town of Victoria Park.

Information, referral, casework and Youth/family capacity building for new arrivals in SE Metropolitan Perth.

SOUTH METROPOLITAN MIGRANT RESOURCE CENTRE

241 - 243 High St FREMANTLE WA 6160

Ph: 9398 1455 Fax: 9490 1265

Information, referral, casework, capacity building, service planning, development and integration services to eligible SGP clients in the South Metropolitan region of Perth. Facilitate access to services by SGP eligible youth, aged five to twenty years of age, in the South Metropolitan region of Perth.

RAINBOW COAST NEIGHBOURHOOD CENTRE INC

ALBANY:

219 North Rd ALBANY WA 6330

Ph/Fax: 9841 8254

KATANNING (outreach service) –:

Old Railway Building,

Austral Tce KATANNING WA 6317

Ph 9821 2788 Fax 9821 8066

Information, referral, casework, settlement planning, Development and integration services to eligible SGP clients in Lower Great Southern WA.

SOUTH WEST MIGRANT AND MULTICULTURAL SERVICES INC

Suite 3, 23 Spencer St BUNBURY WA 6230

Ph/Fax: 9791 5271

Information, referral and casework services to SGP clients in the Bunbury region.