

# CHILD PROTECTION OBLIGATIONS – SOUTH AUSTRALIA



In this tool, you will find:

- » An overview of obligations under the *SA Children and Young People (Safety) Act 2017*
- » How to meet your obligations under this legislation as a CaFIS provider
- » Answers to common questions you may have
- » Links to additional resources.

## BACKGROUND AND CONTEXT

This document provides information for CaFIS providers in South Australia about their obligations under the *Children and Young Peoples (Safety) Act 2017* (the Act).

Whilst this is an overview of obligations under the Act, it is expected CaFIS organisations will have their own processes for ensuring employees are aware of their legal responsibilities as part of onboarding or ongoing training.

## KEY GUIDANCE

### Children and Young People (Safety) Act 2017

In Australia, child protection legislation empowers state and territory governments to intervene when there are concerns that a child or young person has been harmed or is at risk of harm.

### Reporting your suspicion that a child or young person may be at risk

Under the Act certain groups of people are mandated reporters.

As an employee of an organisation providing services directly to children and young people, CaFIS providers are mandated reporters.

As a mandated reporter you are required to notify the Department for Child Protection if you suspect a child or young person is, or may be, at risk.

It is an offence not to make a report.

However, if you reasonably believe another person has reported the matter, you aren't required to report your suspicion.

You may also report your suspicion that an unborn child is at risk (whether due to an act or omission of the mother or otherwise), but it is not a requirement to do so.

SA Child Abuse Report Line  
13 14 78

## Sharing information about children

As a CaFIS provider you will gather a lot of information about families you work with. These children and families have a right to privacy, and you have an obligation to maintain confidentiality of the information you gather.

When the information relates to the health, safety or wellbeing of children and young people, or is necessary to manage risks to children and young people, the information can be shared by certain persons or bodies to perform functions related to providing services and support to children.

Additionally where necessary, Department for Child Protection staff can share information with any person in order to protect a person from risk of serious harm. Children and young people's safety must always be the paramount consideration.

The Information Sharing and Confidentiality Practice Guide provides detailed information including:

- » who can share information
- » what information can be shared
- » what information must be shared
- » what information can't be shared, and
- » when consent should be obtained before sharing information.

As this is a complex and detailed child protection obligation you will find further guidance on this topic in CaFIS resource *Sharing Information about Children – SA*.

## APPLICATION TO CaFIS SERVICE PROVIDERS

### Does a report need to be made if I am working with the family to address the concerns?

Yes, this is a requirement under the legislation.

### Will the family be told I made the report?

As a mandated reporter your identity will not be disclosed unless the disclosure is:

- » made with your consent, or
- » required or authorised by the Chief Executive or under the Act, or
- » made by way of evidence and the court or tribunal is satisfied the disclosure is of critical importance in the proceedings and failure to admit it would prejudice the proper administration of justice
- » reasonably necessary for the performance of the person's official functions and duties, or the functions and duties of a State authority relating to the protection of children and young people from harm, or
- » reasonably necessary to prevent harm, or further harm, being caused to a child or young person to whom the information relates.

### Will I get in trouble if I make a report, but no harm or exploitation is found?

No. Under section 166(4) of the Act, as a mandated reporter, you cannot be held to have breached any code of professional etiquette or ethics, or to have departed from any acceptable form of professional conduct.

### How do I know if a child has been harmed or exploited, or is at risk?

The Act provides definitions of harm as physical harm or psychological harm (whether caused by an act or omission) and includes such harm caused by sexual, physical, mental or emotional abuse or neglect.

'At risk' is defined under the Act as:

- » the child or young person has suffered harm; or
- » there is a likelihood the child or young person will suffer harm; or
- » there is a likelihood the child or young person will be removed from the State for the purpose of:
  - being subjected to a medical or other procedure that would be unlawful if performed in this State (including female genital mutilation); or
  - taking part in a marriage ceremony that would be a void or invalid marriage under the Marriage Act 1961 of the Commonwealth; or

- enabling the child or young person to take part in an activity, or an action to be taken in respect of the child or young person, that would, if it occurred in this State, constitute an offence against the *Criminal Law Consolidation Act 1935* or the *Criminal Code of the Commonwealth*, or
- » the parents or guardians of the child or young person:
  - are unable or unwilling to care for the child or young person; or
  - have abandoned the child or young person, or cannot, after reasonable inquiry, be found; or
  - are dead; or
- » the child or young person is of compulsory school age but has been persistently absent from school without satisfactory explanation of the absence; or
- » the child or young person is of no fixed address.

If you are unsure about whether to make a report, refer to the Mandatory Reporting Guide for guidance about when to report concerns to the Child Abuse Report Line.

### Can I get feedback about my report?

As a mandated reporter, you are entitled to know if your concerns are going to be recorded as "child protection" or otherwise. This is the only feedback you are entitled to. Other feedback may be provided at the discretion of the responsible child protection office.

#### Disclaimer

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#### Where to go for more information on this topic

The South Australian Children and Young People (Safety) Act (2017)

[https://www.legislation.sa.gov.au/LZ/C/A/Children%20and%20Young%20People%20\(Safety\)%20Act%202017.aspx](https://www.legislation.sa.gov.au/LZ/C/A/Children%20and%20Young%20People%20(Safety)%20Act%202017.aspx)

Mandatory Reporting Guide

[https://www.childprotection.sa.gov.au/\\_\\_data/assets/pdf\\_file/0008/107099/mandatory-reporting-guide.pdf](https://www.childprotection.sa.gov.au/__data/assets/pdf_file/0008/107099/mandatory-reporting-guide.pdf)

Further guidance on child protection and other relevant legislation guiding practice can be found in the CFCA Resource: Australian Child Protection Legislation <https://aifs.gov.au/cfca/publications/australian-child-protection-legislation>