

DOMESTIC AND FAMILY VIOLENCE OBLIGATIONS – SOUTH AUSTRALIA



In this tool, you will find:

- » An overview of domestic and family violence obligations
- » Answers to common questions
- » Links to additional resources

Related tool:

- » Sharing Information in Relation to Child Safety and Wellbeing – SA

BACKGROUND AND CONTEXT

This document provides information for CaFIS providers in South Australia (SA) about their domestic and family violence obligations.

Whilst this guidance provides an overview of obligations, it is expected that CaFIS providers will have their own processes for ensuring employees are aware of their legal responsibilities as part of onboarding or training.

KEY GUIDANCE

Domestic and family violence legislation

The terms domestic violence, or domestic and family violence are commonly used in SA. However, the term domestic abuse is used in the principal legislation for domestic and family violence, the *Intervention Orders (Prevention of Abuse) Act 2009* (the Act).

The primary purpose of the Act is to provide for intervention orders and associated problem gambling and tenancy orders in cases of both domestic and non-domestic abuse.

What is domestic and family violence?

In general, there are two parts to any definition of domestic and family violence:

- what constitutes a domestic or family relationship
- what constitutes violence or abuse.

Domestic abuse is defined under the Act as an act against a person with whom the defendant is or was formerly in a relationship, that results in, or is intended to result in:

- physical injury
- emotional or psychological harm
- an unreasonable and non-consensual denial of financial, social or personal autonomy
- damage to property in the ownership or possession of the person or used or otherwise enjoyed by the person.

Domestic relationship is defined as a relationship between two people, including:

- married, domestic partners, or other intimate personal relationships
- child, stepchild, grandchild, or under the guardianship of the other (regardless of age)
- child, stepchild, grandchild, or under the guardianship of a person in a relationship (currently or formerly) with the other (regardless of age)
- child and person acting in the place of a parent or instead of a parent
- child who normally or regularly resides or stays with the other
- Siblings, or otherwise related to each other by or through blood, marriage, a domestic partnership or adoption
- related according to Aboriginal or Torres Strait Islander kinship rules or are both members of some other culturally recognised family group
- one is the carer of the other.

The effects of domestic and family violence

Domestic and family violence can have devastating short term and long term effects on families and communities, and in particular on women and children.

In addition to causing physical injuries and being the leading cause of death, illness and disability for women under the age of 45, domestic and family violence can lead to depression, anger and suicide, the use of alcohol and other drugs, and homelessness.

Over 50% of women who experience domestic and family violence have children in their care. Children can be impacted by being subjected to violence, by witnessing violence, or by knowing about the violence.

The impact of family violence on children can depend on the child's age and gender, and the extent and frequency of the violence. Children may cry frequently, refuse to eat, withdraw emotionally, or act out by hitting, biting or becoming aggressive. Children might have frequent illness, severe shyness, low self-esteem, anxiety, and depression. They might believe they are the cause of the violence or think violence is an appropriate way to resolve conflict.

Reporting domestic and family violence

An information sharing directive was endorsed by the SA Government to enable government and relevant non-government agencies to share information about vulnerable people where there is a threat to safety and wellbeing.

Under the Information Sharing Guidelines for Promoting Safety and Wellbeing if you suspect there is a serious and imminent risk of injury or death through domestic and family violence, you must report this to SA Police.

It can be a very difficult decision to report domestic and family violence, particularly in small communities where you may know every family, or when the violence is occurring between members of your own family.

You may be concerned reporting could lead to an escalation of violence or 'payback', or that everyone will find out you have reported.

These considerations will need to be balanced with your understanding of the impacts of family violence on adults and children and knowing why it is important for families to receive assistance.

What information should I report?

You should tell SA Police the following information:

- where the violence or harm has happened
- if the person needs medical help
- if there are any children nearby
- if there are any weapons involved
- the name of the victim or the other person if you know
- the relationship between the victim and the other person.

Sharing information about domestic and family violence

Under the Information Sharing Guidelines for Promoting Safety and Wellbeing relevant information can be shared when there is a valid purpose, for example, to help service providers more effectively address risks to safety and wellbeing, to alert other service providers to a person's need for assistance, and to protect a person from potential harm or abuse.

A person's consent to share information should be sought and obtained wherever safe, possible and practical, but safety is the priority. Consent to share information is not required if the information is being shared because you suspect there is a serious and imminent risk of injury or death to someone due to domestic or family violence (see CaFIS tool *Sharing Information in Relation to Child Safety and Wellbeing – SA*).

APPLICATION TO CaFIS PROVIDERS

Key questions and answers

Am I required to report domestic and family violence if the person harmed doesn't want it reported?

Under the Information Sharing Guidelines for Promoting Safety and Wellbeing if you suspect there is a serious and imminent risk of injury or death through domestic and family violence, you must report this to SA Police.

You should talk to the person wherever it is safe, possible and practical to do so to explain you are required to share the information under the Information Sharing Guidelines for Promoting Safety and Wellbeing,

Can I get in trouble if I share information about a person affected by domestic and family violence?

You are required to seek consent in all situations where it is considered reasonable and practicable to do so. You can't get in trouble if you have the person's consent to share their information.

If you suspect someone is at serious and imminent risk of injury or death due to domestic and family violence, you are required to report this to SA Police. You can't get into trouble if you have followed the Information Sharing Guidelines for Promoting Safety and Wellbeing procedures endorsed by your organisation.

Disclaimer

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Where to go for more information on this topic

SA Intervention Orders (Prevention of Abuse) Act 2009
[https://www.legislation.sa.gov.au/LZ/C/A/INTERVENTION%20ORDERS%20\(PREVENTION%20OF%20ABUSE\)%20ACT%202009/CURRENT/2009.85.AUTH.PDF](https://www.legislation.sa.gov.au/LZ/C/A/INTERVENTION%20ORDERS%20(PREVENTION%20OF%20ABUSE)%20ACT%202009/CURRENT/2009.85.AUTH.PDF)

SA information sharing guidelines
https://www.dpc.sa.gov.au/__data/assets/pdf_file/0009/45396/Information-Sharing-Guidelines.pdf

Domestic violence as a form of child abuse:
Identification and prevention
<https://aifs.gov.au/cfca/publications/domestic-violence-form-child-abuse-identification>