



THE UNIVERSITY
of ADELAIDE

Legal Compliance Education and Awareness



CRICOS PROVIDER 00123M

Children's Protection Act 1993 (South Australia)

NB: Child related screening requirements will change from 1 July 2019.
Further information about screening is available on the [Department of Human Services Website](#)

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seek LIGHT

What does the Children's Protection Act do?

- Provides for the care and protection of children
- Gives authority to the [Department for Child Protection](#) to intervene when a child is at risk
- Requires anyone who is employed in a position which involves working closely with children (i.e. a **prescribed position**) to undergo a **child related employment assessment** before being cleared to work with children
 - A **child related employment assessment** is one aspect of the recruitment process to determine if a person is suitable to work with children
 - The decision is made on the basis of the person's criminal history (if any) and the assessment of risk to children who access the services provided.
- Makes it mandatory for people in some occupations to report suspected child abuse

How does the Act apply to the University?

- A **child** is a person under the age of 18
 - Tertiary students are not excluded from the definition of a child
- The Act applies whether the person working with children is an employee, volunteer, agent, contractor or subcontractor
- The University is required under the Act to establish and maintain policies and procedures to ensure a child safe environment
- In addition to a general responsibility to report abuse, people who work closely with children are legally obliged to report suspected abuse to Families (SA)
- Before engaging a person to work in a **prescribed position**, the University must undertake a child related employment assessment of that person
 - Sometimes a prescribed position is exempt under the Act and a child related employment assessment is not required
- The University may require a child related employment assessment for any person working at the University, if it is 'necessary or desirable' to do so to maintain a child safe environment.

What is a 'prescribed position'?

- A **prescribed position** means any position which involves:
 - having regular contact with children, unless directly supervised at all times
 - working in close proximity to children on a regular basis, unless directly supervised at all times
 - supervising or managing someone who is in regular contact with children or who works in close proximity to children on a regular basis or
 - access to educational records relating to children
- **Regular contact** implies contact that has a constant or definite pattern, or which recurs at short uniform intervals or on several occasions during short periods of time, such as a week
- University staff who work in prescribed positions may include:
 - *Staff, titleholders, contractors, volunteers or students involved in research projects, clinical placements or marketing activities with children*
 - *Staff, contractors or volunteers employed at Bradford College, Eynesbury College and University Senior College*
 - *Staff or volunteers involved in programs for children (eg: The Young Conservatorium, Urrbrae House School's Program)*

When is a child related employment assessment not required?

- For an under 18 year old volunteer working with children
- If someone is only working with children for a short time, i.e. for no more than 10 days in a row or not more than one day each month
 - ***eg. A person working with a child who is undertaking work experience for a week at the University***
- If the work is generally for the wider University population and not specifically for children
 - ***eg. A staff member working with student records that are not specifically kept for children***

UNLESS there are other potential risks – like on overnight camps or field trips

When is a child related employment assessment not required? (cont)

Under the Children's Protection Act*, a DCSI may not be required:

- For registered teachers*
- For someone who is working with a volunteer who is under 18, provided the work is not child-related
- For child-related work which takes place in the presence of the children's parents or guardians and where there is ordinarily no physical contact
 - ***eg. Outreach programs for children where teachers or parents are present***

***From 1 July 2019 all registered teachers will be required to be screened under the [Children and Young People \(Safety\) Act 2017](#)**

What is child 'abuse or neglect'?

- **Child abuse** can occur;
 - through someone doing something harmful to a child; or
 - by someone not doing something to provide for or protect a child
- A child is considered "at risk" if they are in a situation where there is a high likelihood that their safety and/or wellbeing will be severely compromised

Child abuse or neglect under The Children's Protection Act means;

- **Sexual abuse**
- **Physical or emotional abuse, or neglect of the child** to the extent that;
 - the child has suffered, or is likely to suffer, physical or psychological injury detrimental to the child's wellbeing; or
 - the child's physical or psychological development is in jeopardy.
- The legal age of consent in South Australia is 17 years of age for both boys and girls in heterosexual or homosexual relationships

What is child 'abuse or neglect'? (cont)

- * **Physical abuse** is commonly characterised by physical injury resulting from:
 - hitting, punching, kicking (*eg. marks from belt buckles, fingers*)
 - shaking
 - burns (*eg. irons, cigarettes*)
 - biting
 - pulling out hair
 - the administration of alcohol or other drugs
- * **Sexual abuse** occurs when someone in a position of power to the child uses that power to involve the child in sexual activity. It can include:
 - sexual suggestion
 - exhibitionism, mutual masturbation, oral sex
 - showing of pornographic material (*eg. DVDs, internet*)
 - using children in the production of pornographic material
 - penile or other penetration of the genital or anal region
 - child prostitution

* Excerpt from [Guidelines for reporting Child Abuse and Neglect](#), Department for Education

What is child 'abuse or neglect'? (cont)

- * **Emotional abuse** tends to be a chronic behavioural pattern directed at a child so that a child's self esteem and social competence are undermined or eroded over time. It can include:
 - devaluing or ignoring
 - rejecting or isolating
 - corrupting
 - terrorising
 - chronic or extreme domestic violence in the child's presence
- * **Neglect** is characterised by the failure to provide for the child's basic needs. It may include:
 - inadequate supervision of young children for long periods of time
 - failure to provide adequate nutrition, clothing or personal hygiene
 - failure to provide needed or appropriate health care, or medical treatment
 - disregard for potential hazards in the home
 - forcing the child to leave home early
 - allowing the child to engage in chronic truancy

* Excerpt from [Guidelines for reporting Child Abuse and Neglect](#), Department for Education

Who is a 'mandated notifier'*?

- Certain people have a legal obligation to report reasonable suspicions of abuse or neglect of children and can face penalties for failing to do so
- **Mandated notifiers** include:
 - *medical practitioners, psychologists, dentists, enrolled nurses and pharmacists*
 - *police and probation officers*
 - *teachers and social workers*
 - *voluntary workers providing children's services*
- In the University context, a mandated notifier is any staff member who is engaged in the delivery of services to children, or is a manager with direct responsibility for or supervision of the provision of these services to children
- **A fine of \$10,000 may be incurred for failing to report**

***Mandatory notification requirements have changed under Chapter 5 of the [\(Children and Young People \(Safety\) Act 2017\)](#).**

Further information is available on the [Department for Child Protection website](#).

Who is a 'mandated notifier'? (cont)

- When making a report of suspected child abuse, proof of harm is not required, **however**, notification to a police officer must be accompanied by a written statement of the observations, background information and opinions upon which the suspicion is based
- In making a report, mandated notifiers;
 - are assured of confidentiality (subject to certain exceptions)
 - are immune from civil or criminal liability, when acting in good faith; and
 - cannot be held to have breached any code of professional etiquette or ethics for reporting their suspicions in good faith

How and when to make a report?

- If you suspect on reasonable grounds, that a child or young person is being abused or neglected, report it to the:
 - **Child Abuse Report line: 13 14 78** (24 hours)
- **Reasonable grounds** may include:
 - when your own observations of a particular child's behaviour &/or injuries, or your knowledge of children generally lead you to suspect abuse is occurring;
 - when a child tells you they have been abused;
 - a child telling you that they know of someone who has been abused; or
 - when you hear about it from someone who is in a position to provide reliable information (eg. the child's relative or friend)

University Obligations: Child Safe Environments

- The University is obliged to create and maintain a **child safe environment** which helps protect children from abuse and harm
- The University is required to establish and maintain **policies and procedures** to help promote the safety and well-being of children
- As part of this requirement, the University;
 - Must conduct **child related employment assessments** on employees, contractors and volunteers who, as part of their employment, interact with children on a regular basis; and
 - Has lodged a Child Safe Environment Compliance Statement with the Department for Education

University Obligations: Notifying abuse and neglect

- University staff employed in positions where an inherent requirement of the position is to interact directly with children must report suspicion of child abuse or neglect **as soon as it becomes known**
 - **Merely notifying your suspicions on reasonable grounds that a child has been or is being abused, does not necessarily exhaust your duty of care to the child**
- All staff and volunteers should be aware of what is meant by abuse and neglect of children as defined in the Act
- Every step should be taken to protect the safety of persons under the age of 18 (ie. children), including;
 - **taking steps to ensure that staff and volunteers are safe people to work with children and**
 - **making sure that staff know how to report concerns about child safety**

Additional Resources

- [Jane Welch](#), Director HR Advisory
 - **8313 0257**
- [Richard Duddy](#), Legal Counsel
 - **8313 0085**
- [Sandra Lilburn](#), Manager Compliance
 - **8313 0482**
- [Children's Protection Act 1993](#)
- [Children's Protection Regulations 2010](#)
- [Department for Child Protection](#)
- [Department of Human Services](#) (for child related employment screening)
- [Guidelines for Reporting Child Abuse and Neglect](#), Department for Child Protection
- Child Abuse Report line: 13 14 78 (24 hours)



Disclaimer

The content of this material is intended only to provide a summary & general overview of the *Children's Protection Act* as it applies to the University of Adelaide.

It is not intended to be comprehensive nor does it constitute legal advice.

Please contact Jane Welch, Director HR Advisory, or legalcompliance@adelaide.edu.au if you are unsure of your compliance obligations under the Act.