

## REPORTING OBLIGATIONS IN SOUTH AUSTRALIA

*Children's Protection Act 1993 (SA), ss. 6, 10, 11*

1. Names of the elders calling and from what congregation?
  2. Names of the alleged victim/s?
    - Age now?
    - Age at time of alleged offence?
    - Spiritual status – (baptised/unbaptised/unbaptised pub/nonJW)?
  3. Name of the alleged perpetrator?
    - Age now?
    - Age at time of alleged offence?
    - Spiritual status – (baptised/unbaptised/unbaptised pub/nonJW)?
    - Date of offence – (recent or if historical approx. year/s)?
    - Does alleged perpetrator presently have access to children?
    - Relationship to the alleged victim?
  4. In what State or Territory did the alleged abuse occur?
  5. Who reported the matter to the elders?
  6. Has this matter been, or will be, reported to the police or other authorities?
  7. If the victim is still a child (under 18), is he/she still in danger? If so, the Service Department will provide necessary direction to ensure the child's protection.
  8. If the victim is still under 18, the mandatory reporting obligations must be carefully considered. In ***virtually every instance***, ask the elders to take no further action until the office calls them back with the needed direction.
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9. Obtain legal advice from solicitor concerning this matter.
  10. Irrespective of the legal advice, advise the elders to pass on the following information to the victim, if he/she is an adult, or the child's parent/s if the victim is still a minor:
 

**“Even though you have reported this matter to the elders, you have the absolute right to report this matter to the authorities if you want to and the elders will support you in whatever decision you make.”**
  11. Transfer the elders to the Service Department.
  12. If matter has been or will be reported to the authorities, the elders need to ensure that their actions do not interfere with any police investigation.

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### General position:

- A child means someone under the age of 18.<sup>1</sup>
- The age of consent in 17.<sup>2</sup>
- Person in position of authority (foster parent, step-parent, minister of religion) commits an offence if they have intercourse with person under 18.<sup>3</sup>

### Reporting obligation:

Nominated persons are required to report if they suspect on reasonable grounds that a child (under 18) ***has been or is being abused or neglected*** provided the suspicion is formed in the course of their work or in carrying out their official duties. Disclosures *made in the course of a religious confession* are exempted.<sup>4</sup>

Since 2007, *ministers of religion* and *volunteers* in organisations formed for *religious* or *spiritual* purposes, have had a mandatory reporting obligation under the *Child Protection Act 1993*.<sup>5</sup>

***Abuse or neglect*** in relation to a child means ***sexual abuse or physical or emotional abuse*** 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.<sup>6</sup>

***Sexual abuse occurs*** when someone in a position of power to the child (generally 2 or more years older) uses that power to involve the child in sexual activity. This can include: "*sexual suggestion; exhibitionism, mutual masturbation, oral sex; showing of pornographic material; using children in the production of pornographic material; penile or other penetration of the genital or anal region; child prostitution.*"<sup>7</sup>

### Analysing calls about abuse:

- If the victim is under 18 and someone in a position of power in relation to the child involves the child in sexual activity – ***Matter must be reported***.<sup>8</sup>
- The Chief Minister is not obliged to take action (where a report has been made) even if there are proper grounds for such suspicion if proper arrangements exist for the care and protection of the child and the apparent abuse or neglect has been or is being adequately dealt with.<sup>9</sup>

### How to Report:

- Report should be made to the Department for Families and Communities on the Child Abuse Report line (operated by The Department for Child Protection) on 131 478 or Crime Stoppers 1800333000

<sup>1</sup> *Children's Protection Act 1993 s. 6(1).*

<sup>2</sup> *Criminal Law Consolidation Act 1935, s.49(3).*

<sup>3</sup> *Criminal Law Consolidation Act 1935, s.49(5), (5a) and (4).* It is a defence if victim is 16 or over when offence committed and the perpetrator is under 17.

<sup>4</sup> *Children's Protection Act 1993, s. 11(2) and (4).*

<sup>5</sup> *Children's Protection Act 1993 s.11(2).*

<sup>6</sup> *Children's Protection Act 1993, ss.10, 6(1).*

<sup>7</sup> *Reporting Child Abuse and Neglect, Guidelines, For mandated notifiers and information for organisations*, p. 7, What is child abuse or neglect? See also pp.7 and 8 for definitions of physical abuse, emotional abuse and neglect.

<sup>8</sup> See footnote 7.

<sup>9</sup> *Children's Protection Act 1993, s.14.*