



Government of Western Australia
Department for Child Protection

Working together for a better future for at risk children and families

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A guide on information sharing for
government and non-government agencies

An electronic copy of this publication can be downloaded from the Department for Child Protection's website at: www.childprotection.wa.gov.au

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The Department for Child Protection, Western Australia, acknowledges and thanks the Department for Human Services, Victoria for allowing their publication, *Providing support to vulnerable children and their families (2007)*, to inform this publication.

Minister's Foreword

The State Government is committed to protecting and caring for Western Australia's most vulnerable children and young people, and to supporting individuals and families at risk or in crisis.



Providing such protection and support requires a collaborative approach by all agencies working with children, individuals and families, regardless of whether those agencies are from the government or non-government sectors.

A key component of this collaborative approach is the ability for the Department for Child Protection and agencies to share relevant information with each other to ensure the safety and wellbeing of children.

This guide has been developed to assist agencies working with at risk children, young people and their families to share information with the Department for Child Protection, and to provide clarity around the process of information sharing.

Keeping children and young people safe from abuse and neglect is the responsibility of the whole community including professionals working with children and families. That responsibility is paramount.

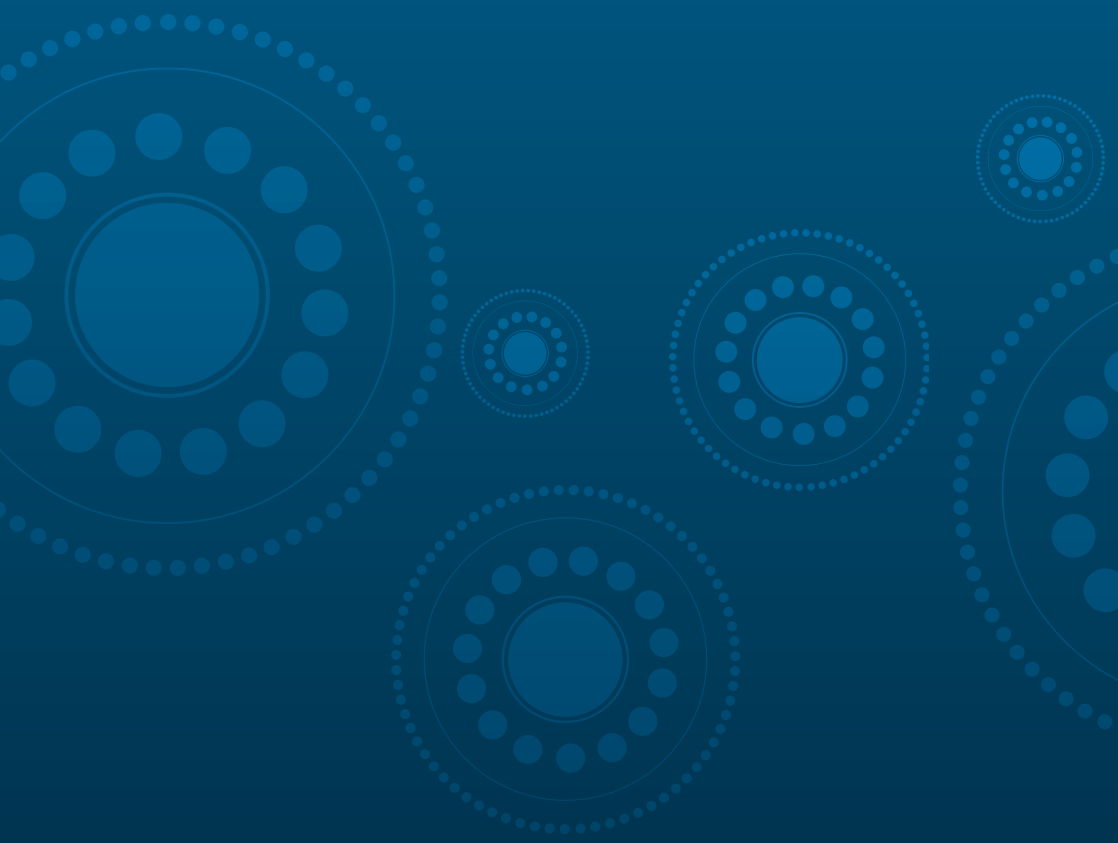
I hope you find this guide a useful resource, and trust that it will assist professionals to ensure that every child has the opportunity to thrive, learn and grow.

A handwritten signature in blue ink that reads "Robyn McSweeney".

Hon Robyn McSweeney MLC
MINISTER FOR CHILD PROTECTION; COMMUNITY SERVICES;
SENIORS AND VOLUNTEERING; WOMEN'S INTERESTS; YOUTH

January 2012

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Who will find this guide useful?

This guide will assist professionals working with at risk children, young people and their families to:

- make the right decisions when sharing information about a child or family with the Department for Child Protection
- provide clarity on the processes for the exchange of information between the Department for Child Protection and other agencies.

This guide should be read in conjunction with existing policies and Memoranda of Understanding between the Department for Child Protection and other agencies.

Contents



Section 1	7
Working together for a better future for at risk children and families	
Section 2	13
Mutual exchange of information	
Section 3	25
Confidentiality and consent	
Section 4	29
Reporting child protection concerns	
Section 5	34
Glossary	
Section 6	38
Other sources of information	
Appendix 1	39
Section 23, <i>Children and Community Services Act 2004</i>	
Section 28, <i>Children and Community Services Act 2004</i>	
Section 240, <i>Children and Community and Services Act 2004</i>	
Department for Child Protection District Office contacts	

Section 1

Working together for a better future for at risk children

The Western Australian Government believes in a society where every child thrives, learns and grows, is respected, and becomes a valued member of the community.

State Coroner's inquiries and other investigations have consistently identified the need for improved mutual exchange of information between government and non-government agencies to prevent unnecessary child deaths.

The Inquiry and Response by Government Agencies to Complaints of Family Violence and Child Abuse (Gordon Inquiry, 2002) noted that the sharing or exchange of relevant information between agencies is a pivotal component of effective service delivery. It also noted that the lack of relevant information sharing between agencies could be detrimental to a child's safety and wellbeing.

The Review of the Department for Community Development (Ford Review, 2007) also found that poor information sharing "*inhibits coordinated service delivery or even worse, results in injury or death of a child or young person*". Respecting a person's right to privacy has, at times, impacted on information sharing and this, in turn, has inhibited coordinated service delivery. Ultimately, this results in negative outcomes for the child.

Children and Community Services Act 2004

The Children and Community Services Act 2004 (the Act) is the legislative basis for child protection responses in Western Australia.

The 'best interests of the child' is the paramount principle for information sharing practices.

As part of section 22 of the Act, the Department for Child Protection must endeavour to work in cooperation with public authorities, non-government agencies and service providers. In addition, a public authority or service provider must endeavour to comply with a request for assistance made by the Department promptly if compliance is consistent with its duties and responsibilities and does not unduly prejudice the performance of its functions.

Section 23 of the Act provides for the exchange of relevant information relating to the wellbeing of a child or a class or group of children between the Department for Child Protection and a public authority, a Commonwealth agency, a corresponding authority, a service provider or an interested person.

Section 24A allows for the exchange of relevant information between prescribed public authorities, provided the information is relevant to the wellbeing of a child or a class or group of children.

State Government policy on information sharing

The State Government has endorsed the *Policy Framework and Standards for Information Sharing between Government Agencies*, which seeks to facilitate information sharing between agencies on a structured basis, particularly where confidential client information is concerned.

The policy framework aims to build on information sharing that already occurs between agencies by recognising that the wider community expects seamless services from agencies. As government agencies have a duty of care to all clients, especially children, information held by other agencies can be crucial to safeguard the wellbeing and safety of clients.

The policy framework sets out the following information sharing principles:

- open and accountable processes and procedures are required for information sharing
- procedures need to provide for security of confidential information

- agencies sharing information do so within the context of their own information policies, procedures and practices, relevant legislation and privacy principles
- there must be clear agreement between agencies about the purpose of information sharing
- agencies should ensure that they are aware of the relevant legal mechanisms that will affect information sharing.

Professional responsibility to share information

Keeping children and young people safe from abuse and neglect is everyone's business. Some professionals provide direct services to children while others provide medical, psychological or psychiatric services to parents. It is the professional responsibility of all service providers to share relevant information about a child to promote their wellbeing.

The *Children and Community Services Act 2004* allows relevant information about a child to be shared, provided that it is done in good faith. The Act allows for

the protection of children to be the paramount consideration that overrides client confidentiality.

Parental Support and Responsibility Act 2008

The *Parental Support and Responsibility Act 2008* (PSR Act) provides the legislative basis for the Department for Child Protection, Department of Education or Department of Corrective Services to make responsible parenting agreements and, on application to the Children's Court, responsible parenting orders where considered in the best interests of a child. The PSR Act allows the sharing of relevant information between government and service agencies, for the purpose of making parental responsibility agreements and orders. However, information must be shared in accordance with the *Parental Support and Responsibility (Disclosure of Information) Guidelines 2009*.

Under the PSR Act, an authorised officer of the Department for Child Protection, Department of Education or the Department of Corrective Services may:

- request disclosure of relevant information from a government or service agency
- disclose relevant information to another officer of the Department, an officer of an information sharing agency, or a prescribed Commonwealth agency.

While authorised officers may disclose relevant information, the PSR Act does not require them to do so.

Information sharing agencies as defined under the PSR Act are:

- Department for Child Protection
- Department of Corrective Services
- Department of Education
- Department of Education Services
- Department of Health
- Department of Housing
- Disability Services Commission
- Each hospital board under the *Hospitals and Health Services Act 1927*
- Western Australian Drug and Alcohol Office
- Western Australia Police.

It is important to note that the information sharing provisions contained in the PSR Act apply

only to information shared for the purposes of making parental responsibility agreements and orders. However, when the information is being shared for purposes other than for making parental responsibility orders or agreements, the same information may be able to be shared under another Act.

More information on the specific information sharing requirements of the PSR Act can be accessed at www.childprotection.wa.gov.au.

Case Study

David is seven years old and lives with his mother, Carol, in a Department of Housing dwelling. David has an intellectual disability, severe communication impairment and significant behavioural issues, including aggression.

This morning, the Local Area Coordinator, John, was advised by the school principal that Carol passed away overnight. The driver of the education support school bus has picked David up and taken him to school. David does not seem to understand what has happened, but is highly distressed. David's father, Brian, lives and works overseas and has no contact with him. David has an aunt and grandmother who have had limited contact with him.

John is aware that there is no one immediately available to make decisions about where David should live, nor is there a family member who is able to take care of him. In consultation with the school principal and other professionals,

John decides to call the Department for Child Protection to inform them of the situation. John knows he and the specialist staff at the Disability Services Commission will need to work closely with Department for Child Protection staff to ensure David is suitably supported until a more permanent solution can be found.

The Department for Child Protection invites John and a Department of Housing representative to attend a meeting at the school to discuss what interagency support can be provided for David and clearly outline what they will do with the information received.

Case Study

Anne Marie, a Department of Health community health worker, was concerned about one of her cases, a young teenager named Stephanie. As Stephanie was six months pregnant and regularly using illicit drugs, Anne Marie was worried that this behaviour would damage the baby's health.

Stephanie had minimal family support and had disclosed that her ex-partner was violent and abusive towards her.

Anne Marie contacted the Department for Child Protection and shared this information. The Department for Child Protection supported Stephanie to obtain a Violence Restraining Order against

her ex-partner and in conjunction with the Department of Health, developed a personal safety plan that included routine visits by Anne-Marie to monitor the situation and assist Stephanie with pre-birth planning.

Some months later, a Department for Child Protection case worker contacted the Department of Health and requested feedback on Stephanie's progress. The Department of Health provided a brief written report indicating that Stephanie was progressing well and no longer used drugs.

Section 2 Mutual exchange of information

Mutual exchange of information, also referred to as information sharing, is an important strategy to strengthen coordinated planning and service delivery, and to ensure better outcomes for children.

Mutual exchange of information is a two way process, of both giving and receiving relevant, client-specific information. The information needs to be relevant to the care, safety, stability and development of a child.

What is relevant information can be revealed through ongoing discussions between the Department and the agency involved. The discussion should reflect whether the changing circumstances of the child and their family have led to the need to share information that has not been exchanged previously.

Effective mutual exchange of information can support other agencies' ongoing assessments and service provision alongside

any assessment and investigation undertaken by the Department.

Where agencies share relevant information, more holistic and integrated provision of services can be provided to families with complex needs.

Coordinated service delivery is particularly critical when families receive services from more than one agency.

There are four levels of information exchange with the Department for Child Protection:

1. Exchanging information to inform assessments or investigations.
2. Reporting a concern for the wellbeing of a child or family.
3. Supporting care planning for children in the care of the Chief Executive Officer (CEO).

Enabling assessments and planning to occur to ensure children are safe and families are provided with the services they need.

Why is information sharing important?

By sharing relevant information between agencies, a more holistic assessment of a child's situation can be made. In addition, information sharing enables several agencies to work together to ensure integrated and seamless support is provided to families with complex needs.

Can I share information with the Department for Child Protection if I work for a community agency?

If you work for a community agency, you should check the legal status of the agency regarding its requirement to comply with Commonwealth privacy legislation. If Commonwealth privacy legislation applies, you should refer to your agency's policy and procedures on information sharing and consult with your line manager. As the Commonwealth privacy legislation overrides State legislation, references to provisions under the *Children and Community Services Act 2004* in this publication may not be applicable.

If Commonwealth privacy legislation

does not apply to your agency, you may share relevant information with the Department for Child Protection, as enabled by s.23 of the *Children and Community Services Act 2004*. As an employee of a community agency, you should always ensure that you work within your agency's policies and procedures when sharing information.

What if my agency operates under the Health Act 1911?

Operating under the *Health Act 1911* is not, in itself, an impediment to sharing information with the Department for Child Protection. The *Children and Community Services Act 2004* allows for information to be shared with agencies operating under other State laws, provided that the information is relevant, provided in good faith and to promote the safety and wellbeing of children or in compliance with a request made by the Department for Child Protection.

When can I share relevant information?

Information can be shared where there is a legitimate purpose to do

so. Legitimate purposes for sharing information include to:

- protect a child from being abused or neglected
- protect groups of children from potential harm
- divert a child from harming himself/herself
- help a service provider deliver more effective services
- alert a service provider to an individual's need for a service
- avoid duplication or compromising of services
- assist with a child protection investigation
- contribute to decisions about the placement of, or planning for, a child
- ensure that children in the care of the CEO receive appropriate services and quality care
- provide positive feedback about a child or family you are working with
- discuss concerns for the wellbeing of a child, group of children or a family you are working with
- provide case-specific information about a child in the CEO's care.

If you work for an agency (for example, an alcohol and drug service) and the information you want to share with the Department

for Child Protection has become known to you in your work at that agency, it is recommended that you consult the policies and protocols of your agency first.

If you are still unsure about sharing information, you may need to seek advice from your manager or professional body.

What sort of information can I share?

When you share information with the Department for Child Protection, you are allowed to disclose any information that you believe is relevant to the care, health, safety, stability and development of a child, or a class or group of children, or is relevant to a function under the *Children and Community Services Act 2004*. This may include information about the child or about the child's family.

Types of information you may share include:

- any known history of the child suffering harm
- any periods in which the child has been cared for by other people
- any significant issues relating to the child's siblings

- the child's physical health, including any treatment needs
- any psychological and emotional difficulties the child may have
- the child's education, including any special educational needs
- any disabilities the child may have, including any care requirements
- any known allergies and dietary requirements of the child
- any significant health problems of the child's parents
- whether a parent's mental illness, substance misuse, disability or history of family and domestic violence may be affecting his/her ability to care for their child
- whether a parent is receiving treatment for any of the above issues and the outcomes of this treatment
- information about a person in the household who may pose a risk to the child.

What is the Department for Child Protection's process for requesting information?

The Department is committed to working cooperatively with agencies when requesting information. As

a result, the Department should provide you with guidance that assists you to determine the type of information to share. For example, if you are contacted by a departmental worker conducting an assessment who requires further information, they should first explain to you the specific concerns about the child and/or the context of the concerns, so that you can determine what information is relevant to share.

Department for Child Protection workers will undertake the following process when requesting information:

- the departmental worker will contact you by telephone, email or letter to discuss the case and the information required
- the reasons for seeking the information will be explained in a professional manner which is specific, clear and concise
- the departmental worker will negotiate a timeframe that is suitable, to enable you to seek consent from the client to disclose the information if this is required, and obtain the information relevant to the case
- you can provide the information to the Department either verbally or in writing. However, in some circumstances you will be

asked to provide the information in writing.

If the departmental worker is not known to you, it is recommended that you check the identity of the person seeking the information. You can do this by, for example, contacting the relevant Department for Child Protection district office to verify the worker's name and role.

Will I receive feedback from the Department for Child Protection?

Wherever possible and appropriate, referrers will be provided with feedback on the Department's planned actions.

The level of detail provided is guided by the nature of the relationship of the referrer with the child and family, and the referrer's ongoing involvement with the case.

If the Department and your agency both have ongoing involvement with a case, you may be asked to participate in case planning meetings that address the ongoing needs of the child. You will be provided with a copy of this plan if you have a direct and significant interest in the wellbeing of the child.

If you do not receive feedback from the Department, you can contact the departmental worker who originally requested the information to find out what is happening.

How do I obtain information from the Department for Child Protection?

The Department for Child Protection provides guidelines to its staff about appropriate information sharing. For example, if a child is in the CEO's care, it is part of the departmental worker's role to advise the child's school about any specific issues or behaviours that may impact on the child's learning outcomes.

If you require information from the Department or would like to discuss a specific family or child you are working with, you can contact the departmental worker or relevant district office if you do not know the departmental worker. If the case is open, you will be referred to the departmental worker, but if the case is closed, you will be referred to the duty officer. You can seek information from the Department either verbally or in writing.

What if I am dissatisfied with the actions taken by the Department for Child Protection?

The Department has developed a three-tiered complaints process.

Tier 1

You are encouraged to discuss any concerns you may have with the departmental case worker in the first instance. If, after discussing the concerns with the departmental case worker, you are still not satisfied, you can contact the case worker's Team Leader or the District Director. It is hoped that as many complaints as possible can be resolved at this level, as it often results in the most positive outcome for all.

Tier 2

The Department's Complaints Management Unit (CMU) can be contacted by telephone on 1800 013 311. The CMU is responsible for effectively managing the ongoing operation, improvement and quality assurance of the Department's complaints handling procedures, including oversight of district and work units' complaint handling procedures. Where matters remain unresolved at this level, complainants will be advised.

Tier 3

You may seek external resolution through independent bodies such as the Ombudsman's Office by telephone on 1800 117 800 or (08) 9220 7555.

Can I be subpoenaed to give evidence in the Children's Court regarding a protection order application?

The majority of reports made to the Department for Child Protection are resolved through effective engagement with families and the provision of services, without the need to apply for a protection order.

It is possible, however, that an application will proceed to a hearing and that you will be subpoenaed to give evidence. If you are called as a witness, you may be asked questions in the witness box under oath by the Department's lawyer, the parents' lawyers (if they have one), the children's lawyer and by the Magistrate. If you receive a subpoena from the Department, prior to you giving evidence you will be able to discuss the process, clarify the reason for you being called to give evidence and arrange (to the extent possible) a suitable time and date for the giving of

that evidence, with the relevant departmental lawyer.

What if I am a mandatory reporter of child sexual abuse?

You are a mandatory reporter of child sexual abuse if you are a doctor, nurse, midwife, police officer or teacher.

The reasons for sharing information, and the types of information to share, are the same for a mandatory reporter as for any other professional or service provider. The legal protection for a mandatory reporter is also the same. Refer to *Section 3 - Confidentiality and consent*, in this document.

Can volunteers working at agencies share information with the Department for Child Protection?

Through working directly with children and families, volunteers can contribute valuable information to assist agency assessments. Clear guidelines are essential to ensure that volunteers understand how and when they may contribute to sharing information about a child or family they are working with. It

is recommended that a volunteer be directly supervised by a senior staff member when they are sharing information.

What happens if I, or the agency I work for, do/does not agree to share information?

In the absence of a subpoena or similar requirement, the decision on whether to share information about a child or family rests with the individual and/or agency. However, this decision must always be based on sound professional judgment about the wellbeing of the child, and in accordance with legal, ethical and professional obligations. You and your agency must be satisfied that a decision not to share information will not compromise the child's wellbeing.

How can agencies enhance information sharing?

The mutual exchange of information between agencies can be enhanced by undertaking one or more of the following.

Memoranda of Understanding

The Department for Child Protection already works with agencies to

develop and maintain Memoranda of Understanding (MOU) to inform good practice in mutual information exchange about children and families at risk, including information about shared clients.

An MOU can include documenting the purpose, principles, procedures and shared practices between the Department for Child Protection and another agency. Regular review of an MOU will allow for operational processes and their effectiveness and efficiency to be discussed, and changes made as required.

The Department for Child Protection has a Memorandum of Understanding (MOU) with the Commonwealth Government: Information Sharing Protocol between the Commonwealth and Child Protection Agencies involving:

- Centrelink;
- Medicare Australia; and
- Child Support Agency.

This MOU facilitates information sharing between the Department for Child Protection and these agencies. The MOU identifies the type of information which may be provided and what information cannot be disclosed. Provisions for disclosing information in the event of

'threat to life, health or welfare' are highlighted.

Interagency networking

Whether on a group or individual basis, networking provides the opportunity for people to meet face-to-face to discuss the agency's role, responsibilities and issues of mutual interest.

Networking can also assist agencies to gain a greater understanding of services that are available, engage with other professionals and to discuss ways of working more collaboratively.

Joint planning and collaborative case management

If you have an ongoing involvement with the child or family, you may be asked to participate in the development and review of a case plan. Similarly, if you have a client who may benefit from the Department for Child Protection's involvement, you can contact the Department to discuss how this can occur.

The Act has strengthened the Department for Child Protection's capacity to respond to concerns about the wellbeing of a child before the child is born (s.33A and 33B).

This supports existing protocols for interagency planning.

Responsible parenting agreements made between the Department for Child Protection and parents

under the *Parental Support and Responsibility Act 2008* are another avenue through which interagency collaboration can occur for the benefit of children and young people.

Case Study

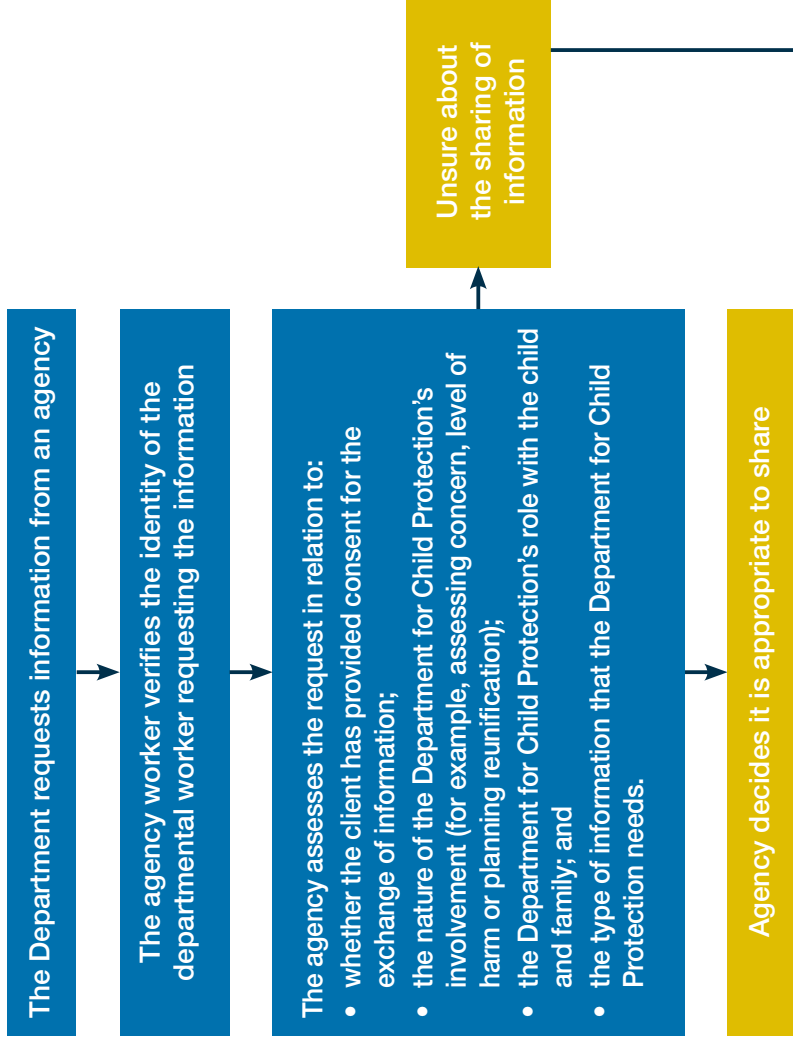
Rose works as a Housing Services Officer for the Department of Housing. During a routine telephone call to a tenant called Amber, Rose hears a child crying in the background and asks if the child is alright. Amber says she thinks her partner has thrown the child down the stairs.

Rose finishes the call and immediately looks through Amber's file. She learns that Amber's partner has a history of family and domestic violence. Rose calls Amber's mother by looking up the next of kin details on the database. The mother mentions that her daughter has a drug problem and that she will not leave her partner due to her dependency. The mother states that she does not want any further involvement.

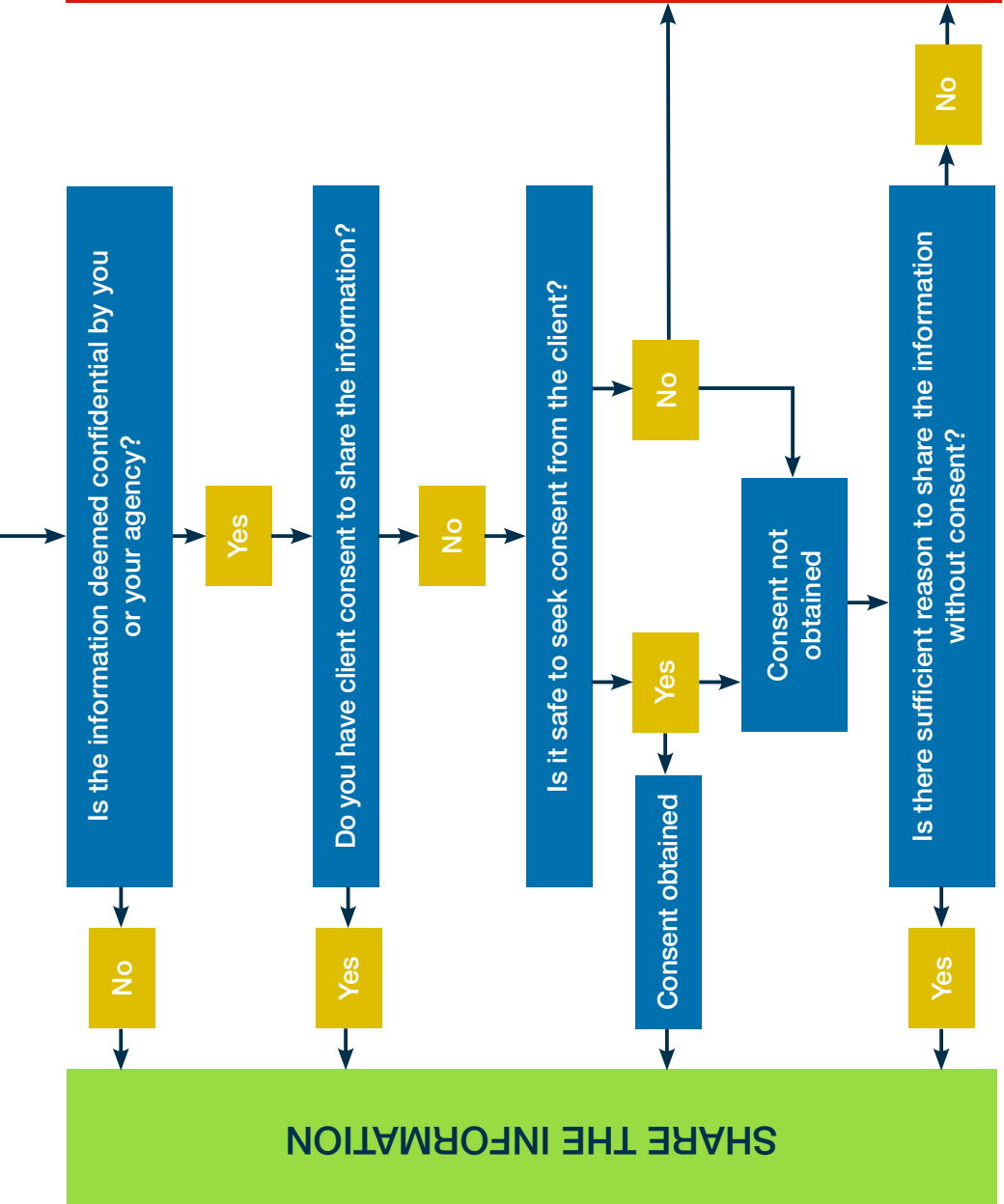
Rose believes that the child is being abused and that she has a professional duty to report the matter. After discussing the matter with her manager, Rose makes a report to the Department for Child Protection and is told that her identity will remain confidential and she will also be legally and professionally protected (subject to legislative requirements).

The Department for Child Protection subsequently applied to the Children's Court for a protection order (time limited) and placed the child with a foster family. A few months later, Rose is summonsed to appear in the Children's Court as a witness and the Department for Child Protection supports her during this process.

Sharing information with the Department for Child Protection: a guide to decision making



SEEK FURTHER CLARIFICATION TO ASSIST WITH THE DECISION TO SHARE INFORMATION



Case Study

Jane is twenty eight years old and has a four year old son, Peter. She has a long history of intermittent heroin use. Jane has commenced opiate replacement pharmacotherapy and is engaged with an alcohol and drug (AOD) service, including maintaining regular appointments with her AOD case manager and medical officer.

Jane was intoxicated when she attended an appointment with her case manager and disclosed that she had been involved in a motor vehicle accident. Peter had been in the car at the time and, following the accident, she had taken him to a park, used heroin and fallen asleep leaving Peter to play without supervision. Jane expressed fear and remorse concerning these events.

Her case manager expressed his concerns and sought Jane's consent to report the matter to the Department for Child Protection.

If Jane had not consented, her case manager would have been allowed to make a confidential referral anyway, but he thought that this would make it harder for Jane to accept support from other services and it might affect client trust.

After joint case planning, the Department for Child Protection responded promptly by telephoning Jane the same day, visiting her the next day, offering support and providing follow-up services.

How am I protected when I make a referral or report, or otherwise share information, with the Department for Child Protection as authorised by legislation?

Protection of identity

With some exceptions, your identity must not be disclosed without your consent.

Legal protection

You are not subject to legal liability under State law providing the information is provided in good faith.

Professional protection

Disclosure of information cannot be held to constitute unprofessional conduct or a breach of ethics. As a result, you cannot be disciplined by your professional body or incur any formal professional negative consequences at your workplace.

For further details, refer to s.124F, s.129 and s.240 of the *Children and Community Services Act 2004* in Appendix 1.

Do I need to give my contact details when giving information?

The Department for Child Protection's preference is that professionals sharing information provide their contact details. This will help the departmental worker to contact you at a later date to clarify any information provided or to give you feedback.

Mandatory reporters of child sexual abuse must provide a written report which contains specific information, including the name and contact details of the mandatory reporter.

What is informed consent?

Informed consent prior to sharing the individual's information should be obtained, unless there are good reasons not to.

Informed consent means that the individual understands the purpose of the request for information, the type of information that will be provided and the likely outcomes of giving consent. Consent can be given verbally or in writing, and this should be documented in the client file.

Where there are concerns about an individual's ability to provide informed consent due to issues such as language barriers or hearing impairment, an interpreter or translator should be used to ensure informed consent is obtained.

If a person has an intellectual disability that may compromise their ability to give informed consent, it is recommended that advice be obtained from a specialist agency such as the Disability Services Commission.

It is useful to explain to the individual why information sharing is important, the intended purpose of

sharing the information and under what circumstances information may be shared without consent. This includes, for example, risk of suicide, disclosure of sexual, physical or emotional abuse, or posing a serious risk to others.

The Department for Child Protection will need to know whether the individual has given consent to the sharing of their information.

When should I seek the consent of the child or their parents to share information?

While it is not a requirement, you should seek consent from the child's parents to share information with the Department for Child Protection wherever possible, provided that it does not place the child or another person at further risk.

Sometimes it may be appropriate not to seek consent. For example, consent is not necessary when:

- it is not in the best interests of the child, for example, the child may be placed at further risk of harm
- you need to make a timely referral to the Department for

Child Protection as you have a significant concern for a child's wellbeing or have a reasonable belief that the child may be in need of protection

- reasonable efforts to obtain consent have failed
- you are unable to contact the parent/s
- it is clear from previous contact that consent would not be given
- the child poses a risk to themselves or is a risk to others.

Agencies are encouraged to document the reasons why consent has not been obtained or why the agency was unable to obtain consent.

There is no definitive age at which a child's consent must be sought. Gaining consent from children partly depends on the maturity of the child, and on the child's

understanding of the particular issues involved. Children over the age of 12 years are generally considered able to give consent on many issues, and many younger children can at least express a view. It is important to try and determine the views and wishes of the child, where possible and appropriate.

What if I am unsure about the information sharing process?

You should exercise professional judgement and use your skills and knowledge to guide your decisions. If you are still unsure about what to do after considering the information in this guide, it is recommended that you consult your manager or professional body.

Maintaining confidentiality is an important aspect in any relationship between a service provider and a client. However, privacy considerations must not compromise the protection and safety of children. The potential loss of trust when confidential information is shared needs to be weighed up with the benefits to the child.

Case Study

Amy, a young Aboriginal girl, is nine years old and currently in the care of the CEO of the Department for Child Protection. Amy was recently placed with an Aboriginal foster family and, although she has now settled, there are educational concerns due to previous gaps in schooling.

A Department for Child Protection social worker has been allocated the case and is developing a care plan with input from Amy and service providers. A meeting has been convened at Amy's school and a range of people have been invited to attend, including Amy's teacher, the school principal, an Aboriginal family support worker who had previously

worked with Amy's family prior to her being placed in care, a Department of Education psychologist and the local nurse.

The attendees were invited to the meeting because they have an ongoing relationship with Amy and were in a position to share information that would be valuable in providing support to Amy. The attendees ensured their information was accurate and complete before it was shared. All attendees are aware that they are allowed to share information about Amy without her consent or the consent of her parents.

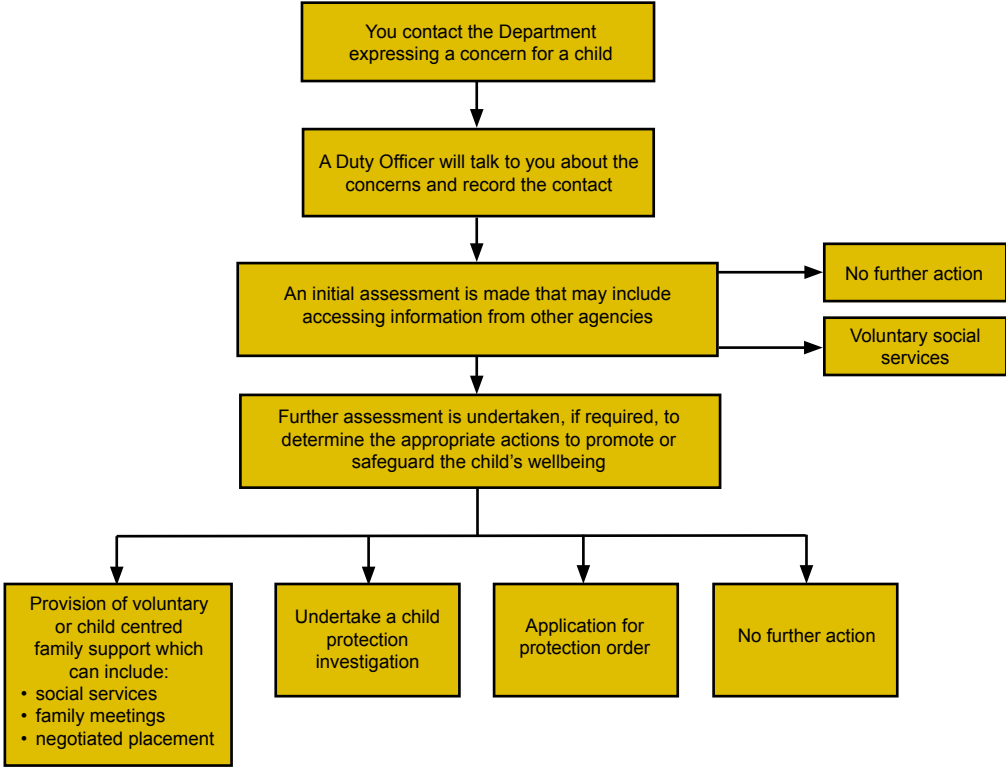
When should I report child protection concerns to the Department for Child Protection?

Circumstances when a report should be made to the Department include:

- concerns about physical abuse of a child, non-accidental or unexplained injury to a child
- a disclosure of sexual abuse by a child or witness, or a combination of factors that suggest the likelihood of sexual abuse
- concerns about emotional abuse and ill treatment of a child impacting on wellbeing
- neglect, poor care or lack of appropriate supervision
- family and domestic violence or parental substance misuse, psychiatric illness or intellectual disability that impact on the parent's ability to provide safe care
- where a child's actions or behaviours may place them at risk of significant harm and the parent/s are unwilling or unable to support or protect the child
- where a child appears to have been abandoned, or where the child's parent/s are dead or incapacitated, and the child has no appropriate caregiver.

What happens when a report of child protection concerns is made to the Department for Child Protection?

The following flow chart describes the process when making a report to the Department for Child Protection.



How does a mandatory reporter of child sexual abuse make a report to the Department for Child Protection?

Once a mandatory reporter forms a belief, on reasonable grounds, that the child has been subject to child sexual abuse on or after 1 January 2009, or that the child is subject to ongoing sexual abuse, they must make a report to the Department for Child Protection's Mandatory Reporting Service on 1800 708 704 or online at www.mandatoryreporting.dcp.wa.gov.au

A verbal report can be made, but this must be followed by a written report as soon as practicable, preferably within 24 hours.

The reporter's agency may have internal reporting procedures, and it is important that reporters check this with their agency.

How does the Department for Child Protection assess risks and safety for children and young people?

The Department has adopted the *Signs of Safety* child protection practice framework.

Signs of Safety is used to determine:

- what supports are needed for families to care for their children
- whether there is sufficient safety for the child to stay within the family
- whether the situation is so dangerous that the child must be removed
- if the child is in the care system, whether there is enough safety for the child to return home.

Central to this approach is the use of specific practice tools and processes, where professionals and family members engage with each other to address situations of child abuse and neglect.

Signs of Safety uses a comprehensive approach to risk that:

- explores harm and danger while simultaneously determining strengths and safety
- clearly articulates professional knowledge while drawing on family knowledge and wisdom
- is designed to undertake the risk assessment process with the full involvement of all stakeholders including children, families and professionals.

At its simplest, *Signs of Safety* can be understood as containing four domains of inquiry:

1. What are we worried about? (past harm, future danger and complicating factors)
2. What is working well? (existing strengths and safety)
3. What needs to happen? (future safety)
4. Where are we on a scale of 0 to 10, where 10 means there is enough safety for child protection authorities to close the case and 0 means it is certain that the child will be abused or re-abused?

Further information about *Signs of Safety* is available at www.childprotection.wa.gov.au

Case Study

Elaine and Mark have two children, Melanie (eight years) and Elliott (twelve years). Elliott is autistic and his school has struggled to support him as he is disruptive in class, makes inappropriate comments and screams and swears in the playground. Mark has recently become unemployed and there are financial strains on the family.

Elaine has disclosed to the Disability Services Commission's social worker, Anne, that she is at 'breaking point' and stated that she had researched 'Asperger's Syndrome' on the internet and believed it described her husband. She stated that Mark was very fixed in his routine, did not help with the children and was impatient with them. He shouted that she was selfish whenever she complained. Managing Elliott's behaviour was Elaine's responsibility, even though she worked full-time. Elaine had started drinking heavily and indicated she was contemplating leaving Mark. Anne has offered a range of supports to Elaine, including advice and information about refuges.

The school rang Anne this morning to advise that Elliott had what appeared to be a cigarette burn on his leg. Anne is aware that the situation has been escalating and Elliott is vulnerable to both physical and emotional abuse. She recognised that she has an ongoing role in supporting Elaine, but knows that she has no authority to investigate this allegation. After discussing her concerns with her manager, Anne decides she must share her concerns with the Department for Child Protection so that they can assess the situation and provide support.

Anne knows that she can share information with the Department for Child Protection not only during an investigation, but also during any subsequent intervention. Following assessment of the situation, the Department for Child Protection relayed information about the outcome of the case back to the referring agency.

Section 5 Glossary

Chief Executive Officer (CEO)

The Chief Executive Officer of the Department for Child Protection (also referred to as the Director General) is responsible for the administration of the *Children and Community Services Act 2004*.

CEO's care

A child is referred to as being "in the CEO's care" when he/she is in provisional protection and care, on a protection order (time limited), protection order (until 18), on a negotiated placement agreement, or provided with a placement service under section 32(1)(a) of the *Children and Community Services Act 2004*.

Child

For the purposes of the *Children and Community Services Act 2004*, a 'child' is a person who is under 18 years of age. In the absence of positive evidence as to age, it

means a person who is apparently under 18 years of age.

The term 'child' is used throughout this publication to mean children and young people under the age of 18 years.

Children and Community Services Act 2004 (the Act)

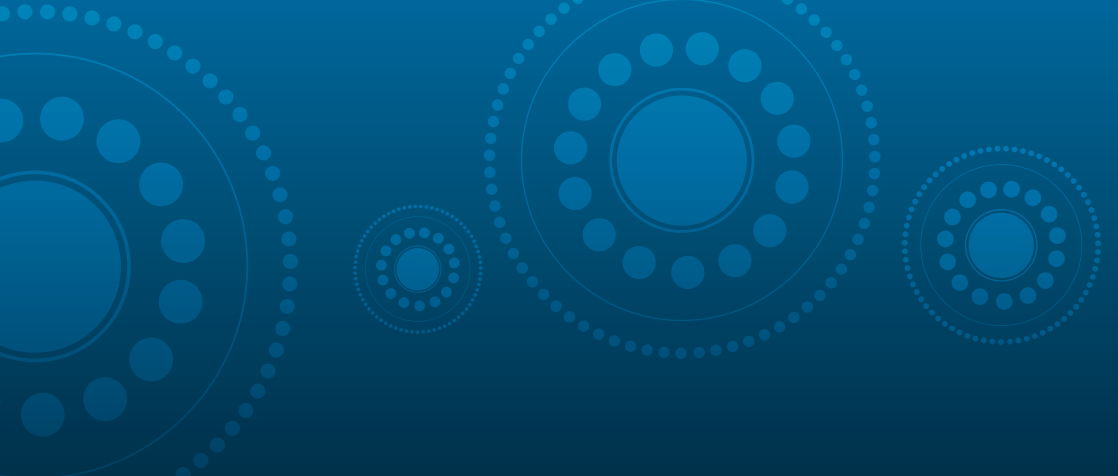
The legislative basis for child protection responses in Western Australia.

Corresponding authority

A person or body in another State or Territory, or another country, that has functions corresponding to those of the CEO under the *Children and Community Services Act 2004*.

Department for Child Protection (the Department)

The Western Australian government agency that provides for the



protection of, and care for, children and young people, and supports at risk individuals and families in resolving crises.

Harm

'Harm' in relation to a child includes harm to the child's physical, emotional or psychological development.

Interested person

A person, corporate, or body, who or which, in the opinion of the CEO, has a direct interest in the wellbeing of a child or a class or group of children.

Mandatory report

A report made to the Department for Child Protection by a mandatory reporter (doctor, nurse, midwife, teacher or police officer) that is based on a reasonable belief that a child has been, or is being, sexually abused.

Negotiated placement agreement

A negotiated placement agreement for a specified period of time can be made when the parents of the child are unable to care for the child and the parents, acting together with the Department, make a placement arrangement for the child. A negotiated placement agreement cannot be used if there are protective concerns.

Parental Support and Responsibility Act 2008 (PSR Act)

The legislative basis for making a responsible parenting agreement or a responsible parenting order and the sharing of relevant information between agencies for this purpose.

Protection order

An order made by the Children's Court when it determines that a child is in need of protection. There

are four types of protection orders:

- protection order (supervision)
- protection order (time limited)
- protection order (until 18)
- protection order (enduring parental responsibility).

Protection order (supervision)

A protection order (supervision) is an order issued when a child stays with their parents and the parents retain responsibility for the child, with supervision by the Department for Child Protection, for the period specified in the order.

Protection order (time limited)

A protection order (time limited) is an order that gives the CEO of the Department for Child Protection parental responsibility for a child for the period specified in the order, not exceeding two years.

Protection order (until 18)

A protection order (until 18) is an order that gives the CEO of the Department for Child Protection parental responsibility for a child until the child reaches 18 years of age.

Protection order (enduring parental responsibility)

A protection order (enduring parental responsibility) is an order giving a person or two persons

jointly, parental responsibility for a child until the child reaches 18 years of age. This order cannot give parental responsibility for a child to the CEO of the Department or a parent of the child.

Public authority

A public authority is a department of the public service, a state agency or instrumentality, a local government or regional local government, or a body corporate or unincorporate, or the holder of an office, post or position, established or continued for a public purpose under a written law.

Prescribed authority (s.24A)

Prescribed authority means a public authority, other than the Department for Child Protection, prescribed for the purposes of section 24A.

The following agencies are prescribed public authorities under regulation 20A of the *Children and Community Services Regulations 2006*:

- WA Health (Department of Health, Metropolitan Health Services, WA Country Health Service, Peel Health Service)
- Drug and Alcohol Office
- Mental Health Commission
- WA Police Service

- Department of Education
- Department of Housing
- Department for Communities
- Department for Corrective Services
- Department of Education Services
- Department of the Attorney General
- Disability Services Commission
- Department of Indigenous Affairs.

Relevant information

Information that, in the opinion of the CEO of the Department for Child Protection, is, or is likely to be, relevant to the wellbeing of a child or a class or group of children, or relevant to the performance of a function under the *Children and Community Services Act 2004*.

Subpoena

A written legal order summoning a witness or requiring evidence to be submitted to court.

Wellbeing

'Wellbeing' of a child includes the care, development, health and safety of the child.

Section 6 Other sources of information

www.childprotection.wa.gov.au

For information about child protection including the Department for Child Protection's Casework Practice Manual.

Information on the *Parental Support and Responsibility Act 2008* and associated information sharing guidelines can also be accessed at the above website.

www.mandatoryreporting.dcp.wa.gov.au

For information on the mandatory reporting of child sexual abuse.

www.slp.wa.gov.au

To access the *Children and Community Services Act 2004* (Section 23 refers to 'Exchange of Information').

www.dotag.wa.gov.au and www.publicsector.wa.gov.au

To access the Public Sector Commissioner's Circular 2009-29: Policy Framework and Standards for Information Sharing between Government Agencies.

www.health.wa.gov.au

The Department of Health has developed a publication called *Working with Youth - A legal resource for community based health workers*. Access this publication at the above website, or order the resource free of charge from Health Info on telephone 1300 135 030. Quote item code HP0102834 (a maximum of five copies are available per order).

Section 22 of the *Children and Community Services Act 2004* - Cooperation and assistance

- (1) In performing functions under this Act, the CEO must endeavour to work in cooperation with public authorities, non-government agencies and service providers.
- (2) The CEO must promote the establishment, implementation and regular review of procedures that facilitate such cooperation particularly in relation to the protection and care of children and the provision of financial or other assistance.
- (3) If the CEO considers that a public authority or service provider can assist in the performance of functions under this Act, the CEO may request the assistance of that authority or provider, specifying the assistance that is sought.
- (4A) In subsection (3) –
assistance includes the provision of advice, facilities and services.
- (4) A public authority or service provider must endeavour to comply with the request under subsection (3) promptly if compliance is consistent with its duties and responsibilities and does not unduly prejudice the performance of its functions.
- (5) Nothing in this section is to be taken to limit the operation of section 23.

Section 23 of the *Children and Community Services Act 2004* - CEO etc. may disclose or request relevant information

(1) In this section—

Commonwealth agency means —

- (a) a department of the Public Service of the Commonwealth; or
- (b) Commonwealth agency or instrumentality; or
- (c) a body, whether corporate or unincorporate, or the holder of an office, post or position, established or continued for a public purpose under a law of the Commonwealth;

corresponding authority means a person in another State or a Territory, or another country, who has functions corresponding to those of the CEO under this Act;

interested person means a person who, in the opinion of the CEO, has a direct interest in the wellbeing of a child or a class or group of children;

relevant information means information that, in the opinion of the CEO, is, or is likely to be, relevant to —

- (a) the wellbeing of a child or a class or group of children; or
- (b) the performance of a function under this Act.

(2) The CEO or an authorised officer may disclose relevant information to a public authority, a Commonwealth agency, a corresponding authority, a service provider or an interested person.

(3) The CEO or an authorised officer may request a public authority, a Commonwealth agency, a corresponding authority, a service provider or an interested person who or which holds relevant information to disclose the information to the CEO or authorised officer, as the case requires.

- (4) Information may be disclosed under subsection (2), or in compliance with a request under subsection (3), despite any written law relating to secrecy or confidentiality.
- (5) If information is disclosed, in good faith, under subsection (2) or in compliance with a request under subsection (3) —
 - (a) no civil or criminal liability is incurred in respect of the disclosure; and
 - (b) the disclosure is not to be regarded as a breach of any duty of confidentiality or secrecy imposed by law; and
 - (c) the disclosure is not to be regarded as a breach of professional ethics or standards or any principles of conduct applicable to the person's employment or as unprofessional conduct.
- (6A) Subsection (5) does not apply to the disclosure of information by a Commonwealth agency or a corresponding authority in compliance with a request under subsection (3).
- (6) The CEO must establish procedures for the disclosure of information under subsection (2).
- (7) The regulations may include provisions about —
 - (a) the receipt and storage of information disclosed under this section; and
 - (b) the restriction of access to such information.

**Section 24A of the *Children and Community Services Act 2004*
- Authorities other than the Department may disclose or request
information**

- (1) In this section —
CEO, of a prescribed authority, means-

- (a) for an entity referred to in paragraph (a), (b) or (c) of the definition of **public authority** in section 3 – the principal officer (however described) of that entity; or;
- (b) for a body referred to in paragraph (d) of the definition of **public authority** in section 3 the principal officer (however described) of that body; or
- (c) for the holder of an office, post or position referred to in paragraph (d) of the definition of **public authority** in section 3 – that holder.

prescribed authority means a public authority, other than the Department, prescribed for the purposes of this definition.

- (2) The CEO of a prescribed authority (**the disclosing CEO**) may disclose information to the CEO of another prescribed authority if, in the opinion of the disclosing CEO, the information is, or is likely to be, relevant to the wellbeing of a child or class of children.
- (3) The CEO of a prescribed authority (**the requesting CEO**) may request the CEO of another prescribed authority to disclose information to the requesting CEO, if, in the opinion of the requesting CEO, the information is, or is likely to be, relevant to the wellbeing of a child or a class or group of children.
- (4) Information may be disclosed under subsection (2) or in compliance with a request under subsection(3), despite any written law relating to secrecy or confidentiality.
- (5) If information is disclosed in good faith, under subsection (2) and in compliance with a request under subsection (3)
 - (a) no civil or criminal liability is incurred in respect of disclosure; and
 - (b) the disclosure is not to be regarded as a breach of any duty or confidentiality or professional ethics/standards and
 - (c) the disclosure is not to be regarded as a breach of professional ethics or standards or any principles of

conduct applicable to a person's employment or as unprofessional conduct.

- (6) The CEO of a prescribed authority may, in writing, delegate to an officer or employee of the prescribed authority the powers in subsection (2) and (3).

Section 28 of the *Children and Community Services Act 2004* - when a child is in need of protection

Section 28(1)

In this section:

'harm' in relation to a child, means any detrimental effect of a significant nature on the child's wellbeing;

'neglect' includes failure by a child's parents to provide, arrange, or allow the provision of

- (a) adequate care for the child; or
- (b) effective medical, therapeutic or remedial treatment for the child.

Section 28(2)

For the purpose of this Part, a child is 'in need of protection' if:

- (a) The child has been abandoned by his or her parents and, after reasonable inquiries:
 - (i) The parents cannot be found; and
 - (ii) No suitable adult relative or other suitable adult can be found who is willing and able to care for the child;
- (b) The child's parents are dead or incapacitated and, after reasonable inquiries, no suitable adult relative or other suitable adult can be found who is willing and able to care for the child;
- (c) The child has suffered, or is likely to suffer, harm as a result of any one or more of the following:
 - (i) Physical abuse;
 - (ii) Sexual abuse;
 - (iii) Emotional abuse;

- (iv) Psychological abuse;
 - (v) Neglect,
and the child's parents have not protected, or are unlikely or unable to protect, the child from harm, or further harm, of the kind; or
- (d) The child has suffered, or is likely to suffer, harm as a result of:
- (i) The child's parents being unable to provide, or arrange the provision of adequate care for the child; or
 - (ii) The child's parents being unable to provide, or arrange the provision of, effective medical, therapeutic or other remedial treatment for the child.

Section 31 of the *Children and Community Services Act 2004* - CEO may cause inquiries to be made about child

If the CEO receives information that raises concerns about a child's wellbeing, the CEO may cause any inquiries to be made that the CEO considers reasonably necessary for the purpose of determining whether action should be taken to safeguard or promote the child's wellbeing.

Section 33A of the *Children and Community Services Act 2004* - CEO may cause inquiries to be made before a child is born

If, before a child is born, the CEO receives information that raises concerns about the child's wellbeing after the child is born, the CEO may cause inquiries to be made that the CEO considers reasonably necessary for the purpose of determining whether action should be taken to safeguard or promote the child's wellbeing after the child is born.

Section 33B of the Children and Community Services Act 2004 - CEO's duties if action needed before child born to safeguard etc. child after birth

If the CEO determines that action should be taken before a child is born to safeguard or promote the child's wellbeing after the child is born, the CEO must do one of the following:

- (a) provide or arrange for provision of, social services to the pregnant woman;
- (b) arrange or facilitate a meeting between an officer and any one or more of the following people:
 - (i) the pregnant woman;
 - (ii) a representative or service provider;
 - (iii) a representative of a public authority;
 - (iv) any other person the CEO considers appropriate, for the purpose of developing a plan to address the needs of the child after the child is born in a way that ensures the best outcomes for the child.
- (c) cause an investigation to be conducted by an authorised officer for the purpose of assessing the likelihood that the child will be in need of protection after the child is born.

Section 240 of the Children and Community Services Act 2004 – Confidentiality of notifier's identity

240. Confidentiality of notifier's identity

(1) In this section —

identifying information, in relation to a notifier, means information —

- (a) that identifies the notifier;
- (b) that is likely to lead to the identification of the notifier; or
- (c) from which the identity of the notifier could be deduced;

notifier means a person who —

- (a) in good faith gives information, or causes information to be given, to the CEO or another officer that raises concerns about the wellbeing of a child; or
- (b) notifies the CEO of an allegation in accordance with a requirement to do so under regulations made under the *Child Care Services Act 2007*; or
- (c) in good faith provides information on the basis of which the CEO is notified as mentioned in paragraph (b); or
- (d) in good faith is otherwise concerned in notifying the CEO as mentioned in paragraph (b) or causing the CEO to be so notified, but does not include a reporter as defined in section 124A;

the child means the child about whom information is given by the notifier, being the child —

- (a) in respect of whose wellbeing concerns are raised; or
- (b) believed to be the victim in respect of an allegation.

2. A person who, in the course of duty, becomes aware of the identity of a notifier, must not disclose identifying information to another person unless —

- (a) the disclosure is made —
 - (i) for the purpose of, or in connection with, performing functions under this Act or the *Child Care Services Act 2007*; or
 - (ii) with the written consent of the notifier; or
 - (iii) to or by a police officer for the purpose of, or in connection with —
 - (I) an investigation of a suspected offence under a written law in relation to the child; or
 - (II) the conduct of a prosecution of an offence under a written law in relation to the child; or

- (iv) for the purpose of, or in connection with, the prosecution of an offence under —
 - (I) section 240(2) in relation to the notifier; or
 - (II) section 244 in relation to the notification; or
 - (III) the *Child Care Services Act 2007* that is prescribed for the purposes of this subparagraph and that is in relation to the child or the notifier; or
- (v) by an officer for the purposes of protection proceedings in relation to the child; or
- (vi) by an officer for the purposes of an application under section 94 for the review of a decision relating to the child; or
- (vii) by an officer for the purposes of a matter or proceedings relating to the child arising under the *Family Law Act 1975* of the Commonwealth Part VII or the *Family Court Act 1997* Part 5; or
- (viii) by an officer for the purposes of an application to, or appeal from a decision of, the Family Court under the *Adoption Act 1994* that relates to the child; or
- (ix) by an officer for the purposes of any other legal proceedings of a kind prescribed for the purposes of this paragraph and relating to the child; or
- (x) in legal proceedings with the leave of the court or tribunal concerned; or
- (b) the identifying information has already been disclosed in legal proceedings and the court or tribunal concerned has not made an order prohibiting further disclosure.

Penalty: \$24 000 and imprisonment for 2 years.

3. In any legal proceedings a person must not disclose, or be asked to disclose, identifying information in respect of a notifier unless —

- (a) the proceedings are for the prosecution of an offence mentioned in subsection (2)(a)(iv); or
 - (b) the person is an officer and the proceedings are of a kind mentioned in subsection (2)(a)(v) to (ix) inclusive; or
 - (c) leave of the court or tribunal concerned has first been obtained.

- 4. The court or tribunal must not grant leave unless —
 - (a) it is satisfied that —
 - (i) the identifying information is of critical importance in the proceedings; and
 - (ii) there is compelling reason in the public interest for disclosure of the identifying information; or
 - (b) the notifier consents to the disclosure of the identifying information.

- 5. An application for leave to disclose, or to ask a person to disclose, identifying information —
 - (a) must not, except as authorised by the court or tribunal, be heard in public; and
 - (b) must be dealt with in a way that protects, as far as practicable, the identity of the notifier pending a decision on the application.

Department for Child Protection District Office contacts

Country

Goldfields
Tel: (08) 9022 0700

Great Southern
Tel: (08) 9841 0777

Kimberley East
Tel: (08) 9168 0333

Kimberley West
Tel: (08) 9192 1317

Murchison
Tel: (08) 9965 9500

Peel
Tel: (08) 9583 6688

Pilbara
Tel: (08) 9185 0200

South West
Tel: (08) 9722 5000

Wheatbelt
Tel: (08) 9621 0400

Metropolitan

Armadale
Tel: (08) 9497 6555

Cannington
Tel: (08) 9351 0888

Fremantle
Tel: (08) 9431 8800

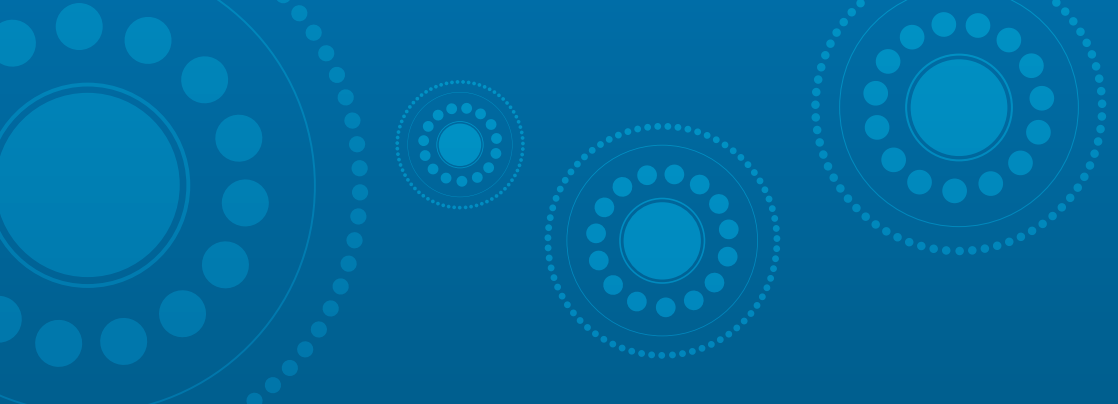
Joondalup
Tel: (08) 9301 3600

Midland
Tel: (08) 9274 9411

Mirrabooka
Tel: (08) 9344 9666

Perth
Tel: (08) 9214 2444

Rockingham
Tel: (08) 9527 0100



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