

## New defence provisions for mandated notifiers

New defence provisions for mandated notifiers commenced on 28 April 2014.

The defence provisions apply when a mandated notifier has failed to notify a reasonable suspicion of neglect or abuse of a child because:

- the mandated notifier only became aware of such circumstances as a result of information imparted to them by a police officer acting in the course of their official duties or
- the mandated notifier only became aware of the child's situation from another mandated notifier who has already made a report with regard to the situation.

The defences do not apply in situations where a mandated notifier possesses additional knowledge of the child's circumstances beyond that reported to them by a previous notifier or police officer. In these circumstances the mandated notifier must make their own report to the Families SA Child Abuse Report Line (CARL).

### Example 1 - Information from a police officer

You attend a Family Care Meeting. During discussion, a representative from South Australia Police (SAPOL) discloses that he had left his last visit with the family seriously concerned about the impact the parents' drug use and domestic violence was having on the youngest child, Jarrod, who presented as scared and withdrawn.

The information causes you to suspect on reasonable grounds that Jarrod has been, or is being, abused or neglected. However, you do not have any additional information relating to Jarrod's situation.

If you do not report your concerns to CARL and are subsequently charged with the offence of failing to notify, you can rely on the defence that you only became aware of the circumstances as a result of information imparted to you by a police officer.

### Example 2 – Information from another mandated notifier

During a shift changeover meeting, your colleague raises concerns about her patient, Emily. Emily is 11 years old and demonstrating concerning sexualised behaviours. Your colleague advises you she has called CARL and documented this call as required by your workplace policy.

The information causes you to suspect on reasonable grounds that Emily has been, or is being, abused or neglected. However, you do not have any additional information relating to Emily's situation.

If you do not report your concerns to CARL and are subsequently charged with the offence of failing to notify, you can rely on the defence that you only became aware of the sexualised behaviours reported by your colleague during the shift change-over meeting and you knew your colleague had reported her suspicion to CARL.

However, if the information provided by your colleague causes you to reflect in a different light on previous interactions you have had with Emily, or if you observe further concerning behaviour during your shift, you must report this additional information to CARL.

## Frequently asked questions

### Why were these defences introduced?

These defences were introduced in response to recommendations 26 and 27 of the Independent Education Inquiry report (the Debelle Inquiry). Information about the Debelle Inquiry is available from <http://www.decd.sa.gov.au/educationinquiry/>.

### Will the defence regarding information from another mandated notifier apply if another mandated notifier tells me they intend to make a notification?

No. In order for the defence to apply, you must be satisfied that the other mandated notifier has already made a report to the Child Abuse Report Line and that you have no additional information relating to the child's circumstances.

### What if I have additional information?

You must make a report to the Child Abuse Report Line.

### Can I make a report even if I do not hold additional information?

Yes. The new provisions create a defence in the event that a person is subject to proceedings for failing to notify. The defence provisions do not remove the requirement to report that is established by Section 11 of the *Children's Protection Act 1993*.

The new defence provisions should not deter you from reporting your suspicion that a child has been, or is being, abused or neglected. As a mandated notifier, you make an important contribution to the care and protection of children across our State. Even if a notification has been made with respect to a child's circumstances, your additional report may provide professional observations or other information that can contribute to a more comprehensive assessment of the child's circumstances.

### Where do I find further information?

Further information about the obligations of mandated notifiers is available from Families SA:

Website: [www.families.sa.gov.au/childsafes](http://www.families.sa.gov.au/childsafes)

Email: [DECDFamiliesCSETrainingEnquiries@sa.gov.au](mailto:DECDFamiliesCSETrainingEnquiries@sa.gov.au)

To obtain a copy of the *Children's Protection Act 1993*, go to [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).