



Fact Sheet 3 - CONFIDENTIALITY ISSUES AND MANDATORY REPORTING

Mandatory reporting legislation in Western Australia offers significant legal protections to persons involved in making reports.

Who is protected?

- A person who makes a mandatory report (the reporter).
- A person who provides information which forms the basis of the report or causes a report to be made (the informant).

What are they protected from?

Reporters and informants who act in good faith will be protected from:

- civil or criminal liability
- breach of a duty of confidentiality
- breach of professional ethics, standards, codes of conduct or from engaging in unprofessional conduct, which would normally arise from the actions involved in making a mandatory report.

Will the reporters identity be protected?

As a general rule, both the reporter's and informant's identities must not be disclosed to others and penalties of up to two (2) years imprisonment and a \$24,000 fine could be imposed for doing so. This includes disclosing information which does not directly name the reporter or informant, but might allow others to work out who they are.

There may be cases where disclosing identifying information is necessary to protect a child or is unavoidable. The legislation has made allowances for these cases.

However, identifying information should not be revealed just because the legislation allows it. People still need to carefully consider whether a person's safety would be put at risk by revealing their identity.

When might a reporter's identity be disclosed?

Revealing identifying information about a reporter or informant will be allowed where:

- it is provided to the Western Australia Police so they can investigate or prosecute a suspected offence relating to the child
- a person is performing functions under the *Children and Community Services Act 2004*
- a Department for Child Protection officer finds it necessary to do so during child protection, family law or adoption proceedings relating to the child
- a person is being prosecuted for an offence relating to mandatory reporting (for example, making a misleading report), or
- the person consents in writing to the identifying information being revealed.

In other cases, a Court must give permission for identifying information to be revealed and can only do so where satisfied that:

- it is necessary to safeguard and promote the wellbeing of the child, or critically important in the proceedings and there is compelling reason in the public interest to make the disclosure, or
- the person has consented to the disclosure.

Similar limits apply to the use of the report as evidence and the questioning of persons about the report during legal proceedings.

Even where disclosure of identifying information is allowed, a Department officer can object where they believe that the disclosure endangers, or is likely to endanger, a person's safety or psychological health.

What about reports of other abuse?

The legislation provides consistent protection to people reporting any concern for a child's wellbeing to the Department for Child Protection, regardless of whether the report is about sexual or other abuse.

Further information

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