

Child Safety POLICY

Title: Disclosing notifier details to police

Policy No.: 649

Policy Statement:

The Department of Children, Youth Justice and Multicultural Affairs (Child Safety) has a legislative responsibility to maintain the confidentiality of a notifier's identity or information from which the notifier's identity can be deduced (notifier information), except in limited circumstances. Notifier information is confidential regardless of whether the report is recorded as a child concern report or a notification.

The confidentiality requirements recognise the potential negative repercussions an individual may experience if they report a suspicion that a child has been, is being or is likely to be harmed or an unborn child may be at risk of harm after he or she is born. Strictly maintaining notifiers' confidentiality supports the continuation of the protective relationship a notifier may have with a child and willingness to report future concerns should they arise. The requirements are also critical for maintaining community confidence in being able to safely report concerns to Child Safety.

Notifier information should only be disclosed when it is necessary to ensure the safety, best interests and wellbeing of a child. Disclosing notifier information to a police officer can assist with ensuring the safety, best interests, and wellbeing of a child as it can support police to carry out a function under the *Child Protection Act 1999* (CP Act) or assist police to reach timely and reliable conclusions and support prosecution of persons who have committed crimes against children.

Disclosure requested by senior police officer for an enforcement action

A senior police officer (of at least the rank of Sergeant) may make a request in writing for notifier information to be disclosed (CP Act, section 186B(1)(a)) if it is required for the prevention, detection, investigation, prosecution or punishment of a criminal offence against a child (an enforcement action). The senior police officer may be from the Queensland Police Service or another jurisdiction.

A person authorised under the CP Act section 186B (generally the Regional Director) may disclose notifier information to the senior police officer if reasonably satisfied the disclosure is necessary to ensure the safety, wellbeing or best interests of the child to whom the notification relates, or of another child.

If the written request does not provide sufficient information to satisfy the authorised person that the information is required and the disclosure is necessary, the authorised person may request further information from the senior police officer to assist their consideration. It is preferable to seek further information from the senior police officer rather than refusing the request on the basis that there is not enough information available.

The Regional Director will consider whether the disclosure is necessary to ensure the safety, wellbeing or best interests of a child and respond to a request in a timely manner. The following factors are relevant for considering whether disclosure of notifier information is necessary to ensure the safety, wellbeing or best interests of a child:

- the notifier, child or another person has previously provided information to Child Safety about possible safety implications for them or any other person should the notifier's identity become known;
- the disclosure may increase risk of harm to a child or to another child or person, such as a sibling or family member;
- the disclosure may prevent a notifier from being able or willing to report concerns in the future;
- the disclosure may have a negative effect on the notifier's ability to maintain a protective relationship with a child;
- the enforcement action may prevent, or reduce the likelihood of, future harm to the child or another child; and
- the enforcement action may assist a child to pursue compensation, access services and assistance through Victim Assist Queensland or otherwise access redress for harm suffered.

When deciding to disclose or not disclose notifier information, the Regional Director will also consider their obligations under the *Human Rights Act 2019*. This includes considering whether the disclosure would unreasonably or unjustifiably limit a human right, such as a notifier's right to not have their privacy unlawfully or arbitrarily interfered with or a child's right to the protection that is needed, and is in their best interests, because of being a child. Where there is a conflict between the child's safety, wellbeing and best interests and the interests of an adult, the conflict must be resolved in favour of the child's safety, wellbeing and best interests (CP Act, section 5A).

When notifier information is disclosed to a senior police officer, police will manage this information in line with relevant confidentiality requirements of the CP Act, section 188A, other relevant legislation and their agency's privacy obligations.

Child Safety will ensure a person authorised under the CP Act, section 186B(2), informs the notifier that their information has been disclosed to police, unless it is not possible or practicable (for example, if Child Safety does not have and is not able to obtain the notifier's contact details) or if informing the notifier may prejudice an enforcement action.

Disclosure required to perform a function under the CP Act

Police in Queensland or another jurisdiction may ask Child Safety for notifier information in the course of carrying out a function under the CP Act or an interstate law or child welfare law. This is different from information required for an enforcement action.

The Regional Director will consider if disclosing the notifier information is necessary for the police to perform the relevant function under the CP Act and whether the disclosure is necessary for promoting the safety, wellbeing or best interests of a child. The information will be provided to the extent necessary to enable the police to carry out the function under the CP Act.

Principles:

- The safety, wellbeing and best interests of the child, both throughout childhood and the rest of the child's life, are paramount.
- A child has a right to be protected from harm or risk of harm.

- Notifier information is confidential and should only be disclosed in accordance with sections 186A and 186B of the CP Act.
- Disclosing notifier information to police as provided for in sections 186A and 186B of the CP Act can promote a child's safety, wellbeing and best interests by assisting police to reach timely and reliable conclusions and supporting the prosecution of persons who have committed crimes against children.
- A child has the right to express views about what is, and is not, in the child's best interests.
- Child Safety staff will act and make decisions in a way that is compatible with human rights and obligations under the *Human Rights Act 2019*.
- Every child has the right, without discrimination, to the protection that is needed by the child, and is in the child's best interests, because of being a child.
- A person has the right not to have their privacy unlawfully or arbitrarily interfered with.

Objectives:

This policy aims to:

- safeguard the best interests, safety and wellbeing of children by maintaining notifier confidentiality while facilitating limited release to police in certain circumstances; and
- ensure requests for the disclosure of notifier information from police are appropriately considered and responded to in a coordinated and timely way.

Scope:

This policy applies when police ask for information about a notifier's identity, or information from which the notifier's identity can be deduced, to be disclosed to them under the CP Act, chapter 6, part 6, division 2. It does not apply to other information disclosed under the CP Act. It does not apply to requests for notifier information required for an enforcement action relating to an adult.

Roles and Responsibilities:

Upon receiving a written request for notifier information from a senior police officer that clearly outlines why the disclosure of notifier information by Child Safety is required for the prevention, detection, investigation, prosecution or punishment of a criminal offence against a child:

- The Office of the Regional Executive Director or Child Safety After Hours Service Centre (CSAHSC) (in urgent circumstances outside business hours) is responsible for sending requests received to the relevant Regional Director.
- A Regional Intake Service or Child Safety Service Centre (CSSC) that receives a request for notifier information from police is responsible for forwarding the request to the Office of the Regional Executive Director as soon as possible for response.
- The Regional Director is responsible for considering relevant factors to determine if the disclosure of notifier information is necessary to ensure the safety, wellbeing or best interests of a child.
- The Regional Director is responsible for ensuring their decision, including the reasons for the decision, is recorded in the Integrated Client Management System (ICMS).
- The Regional Director is responsible for providing:
 - notifier information to the senior police officer in writing, and

- written advice that the information is confidential and is being provided under the provisions of the CP Act, section 186B, in response to their request; and
- written advice that the information is being disclosed only for the specified enforcement action detailed in their request.
- Where notifier information is not available or is incomplete, the Regional Director is responsible for including this advice, or the incomplete information and any information recorded that may assist police identify the notifier, if applicable, in their response to police.
- The Regional Director is responsible for ensuring the Manager, CSSC, Manager, CSAHSC, Senior Team Leader, CSSC, Senior Team Leader, CSAHSC or Senior Practitioner inform the notifier of the disclosure as soon as it is practicable to do so after the disclosure.
- The Regional Director is responsible for deciding if it is not possible or practical to inform a notifier that information has been disclosed (for example, because they do not have or are not able to obtain the notifier's details) or if a notifier will not be informed because doing so may prejudice the enforcement action. The Regional Director is also responsible for recording that decision and the reasons for the decision.

Authority:

Child Protection Act 1999, chapter 6, part 6, division 2.

Delegations:

Refer to instruments of authorisation for authorisations relevant to disclosing notifier information to a senior police officer and to informing a notifier of the disclosure.

Records File No.:

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Office: Office of the Chief Practitioner

Help Contact: Child Protection Practice

Procedures

Child Safety Practice Manual, Procedure: Receive and respond at intake

Related Legislation

Child Protection Act 1999

Human Rights Act 2019



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