



## Practice Update

---

### Information for Persons in Governance Roles

#### Church Legal CP Obligations

I have a Governance Responsibility. What are the relevant legal requirements that apply to my organisation? .....	2
<i>Reporting Requirements</i> .....	2
<i>Criminal Conduct</i> .....	2
<i>The welfare of a child (Mandatory Reporting Requirements)</i> .....	2
<i>Suitability of existing staff who work with children (responding to allegations)</i> .....	2
<i>Checking that prospective staff are suitable (Screening)</i> .....	3
What are the child protection legal requirements in my jurisdiction? .....	4
<i>Reporting Criminal Conduct</i> .....	4
<i>Failure to report</i> .....	4
<i>Failure to Protect</i> .....	5
<i>Children at risk</i> .....	5
<i>Screening (wwcc)</i> .....	5
<i>Responding to Allegations of Staff conduct</i> .....	5
<i>Child Safe Standards or Principles</i> .....	6
How is alleged criminal conduct affecting a child handled in the Church? .....	7
How is a Reportable Allegation handled in the church? .....	8



## I have a Governance Responsibility. What are the relevant legal requirements that apply to my organisation?

Your organisation will have a number of legal obligations only some of which relate to the Child and Vulnerable Person Protection (CVPP) framework. This response will focus on just the CVPP requirements.

CVPP is a community wide responsibility not just something that is palmed off on government agencies. Adsafe and the SDA church recognises its part in the protection of these vulnerable groups. For this reason the church makes a commitment to share information about concerning incidents with the police and child protection agencies that will assist these agencies to make informed decisions about the ongoing protection of these vulnerable groups.

While actual requirements will vary across jurisdiction you will find below a description of the approaches taken. For a full description of the legal obligations in your jurisdiction refer to the this table [<Legal Requirements by Jurisdiction>](#).

### Reporting Requirements

#### *Criminal Conduct*

In some jurisdictions it is a crime to know about criminal offences that would harm a child and not report it. This is referred to as **Failure to Report**.

It is also a crime in some jurisdictions to be in a position of authority where you have the power to act and you are aware that a child is being or likely to be abused and you fail to take action (to protect). This is referred to as **Failure to Protect**.

In all jurisdictions the SDA church has a policy for persons appointed to roles in the church to report allegations of criminal conduct against a child to police and to the church's Child Protection agency. While you are free to do this directly with police, this could be done in coordination with Adsafe or an Adsafe Responsible Officer in the local church or Conference.

If you have concerns and need advice on making a police report contact Adsafe.

#### *The welfare of a child (Mandatory Reporting Requirements)*

This is about the welfare of a child. In many jurisdictions persons appointed to ministry roles are **mandatory reporters** and are required to report a reasonable belief that a child has been or will be abused to the relevant child protection agency.

In all jurisdictions the SDA church has a policy for persons appointed to roles in the church to report a reasonable belief that a child has been or will be abused to the relevant child protection agency.

If you concerns and need advice on making a "child at risk" report contact Adsafe

#### *Suitability of existing staff who work with children (responding to allegations)*

As an organisation we protect children by responding when allegations are raised about the conduct of existing staff. In some jurisdictions this is a legal requirement called a **Reportable Conduct** Scheme. Allegations of a certain type need to be reported to an oversight agency,



investigated by the organisation, the findings and recommendations reported at the conclusion of the investigation, action taken on any sustained findings and any recommendations implemented.

In all jurisdictions the SDA church has a policy to investigate allegations of a certain type about the conduct of persons appointed to roles in the church. These allegations should be reported to Adsafe who will assist providing guidance in the handling of allegations including oversight to any investigation

If you concerns about the conduct of staff and need advice on the matter contact Adsafe

### Checking that prospective staff are suitable (Screening)

In most jurisdictions it is a legal requirement to check new staff before they commence working with children for suitability. This is a mechanism where the person's criminal history is reviewed to ascertain whether they represent a heightened risk with children. In most jurisdictions this is done with a designated government agency who does the risk assessment and reports the person's status to the checking organisation. This the process is variously referred to as the Blue Card, DHS screening, the Ochre Card, Working With Children Check, Working with Vulnerable People, or Working with Vulnerable People Registration.

This process can also be done by the organisation by reviewing the person's criminal history report. This can be done in Australia with a National Police History Check or in New Zealand using either the Police Vetting or the Ministry of Justice Vetting.

People who fail the check should not be give unsupervised access to children.



## What are the child protection legal requirements in my jurisdiction?

The following table applies specifically to local churches and church entities (conferences etc) but not affiliated entities such as schools. The table focuses just on the legal requirements that relate to the protection of children or vulnerable persons.

Table 1: Child Protection Legal Requirement by jurisdiction

	Reporting Criminal Conduct to Police <a href="#">&lt;more info&gt;</a>	Persons in authority required to Protect a child at risk <a href="#">&lt;more&gt;</a>	Reporting Children at Risk <a href="#">&lt;more info&gt;</a>	Screening Prospective Staff to wwc <a href="#">&lt;more info&gt;</a>	Responding to allegations about staff conduct <a href="#">&lt;more info&gt;</a>	Compliance to Child-safe Principles or Standards <a href="#">&lt;more&gt;</a>
NZ	Adsafepolicy		Adsafepolicy	Adsafepolicy	Adsafepolicy	Adsafepolicy
ACT	Adsafepolicy		Adsafepolicy	WWVPR	RC scheme	Adsafepolicy
NSW	Legally Required	Legally Required	Mandatory Reporters	WWCC	RC scheme	Adsafepolicy
NT	Adsafepolicy		Mandatory Reporters	Ochre Card	Adsafepolicy	Adsafepolicy
Qld	Adsafepolicy		Adsafepolicy	Blue Card	Adsafepolicy	Blue Card Req
SA	Adsafepolicy		Mandatory Reporters	DHS Screening	Adsafepolicy	Child safe environs
Tas	Adsafepolicy		Adsafepolicy	WWVPC	Adsafepolicy	Adsafepolicy
Vic	Legally Required	Legally Required	Mandatory Reporters	WWCC	RC scheme	Legally Required
WA	Adsafepolicy		Adsafepolicy	WWCC	Adsafepolicy	Adsafepolicy

### Reporting Criminal Conduct

#### *Failure to report*

Any person who is aware of allegations of criminal conduct is to report these allegations to the police. This is particularly important when it represents the abuse of a child. In NSW and Victoria it is a criminal offence if that person doesn't report the allegations to police.



The Seventh-day Adventist Church takes its responsibility to the protection of Children and Vulnerable persons seriously. It recognises that it has responsibility to assist the police and child protection agencies in each jurisdiction by sharing information that will assist these agencies to make informed decisions. For this reason the Church through Adsafes has a policy to report incidents and allegations of abuse to the appropriate agencies including police.

If you have concerns and need advice on making a police report contact Adsafes.

### *Failure to Protect*

Any person who has authority and the power to act and who is aware that a child is likely to be abused is required to take action to protect that child. In NSW and Victoria it is a criminal offence if this person fails to take appropriate action. This applies particularly to persons who are appointed to leadership positions or in the church's child related services or activities

If you have concerns and need advice on making a police report contact Adsafes.

### Children at risk

If a Mandatory Reporter has a reasonable belief that a child has been or will be abused this belief is to be immediately reported to the appropriate child protection agency. Ministers and persons appointed to child related roles are mandatory reporters in NSW, SA and Vic. All other jurisdictions encourage persons with these concerns to make an optional report.

It is part of the SDA churches policy in all other jurisdictions for persons appointed to roles who have a reasonable belief that a child has been or will be abused to report this belief to the appropriate agency.

If you have concerns and need advice on making a child at risk report contact Adsafes for assistance.

### Screening (wwcc)

There is a legal requirement in all jurisdictions except NZ for the church to screen persons who work in child related roles to undergo screening prior to that person being allowed unsupervised access to children. This is done through a designated government agency that performs a risk assessment around the risk that person poses to children. This assessment is done by reviewing the name in a database of known convictions, findings and incidents. These agencies will return a check request with a cleared or barred notice. It is an offence resulting in serious fines for an organization not to check or once being notified of bar allowing the person to have continued access to children.

In Victoria it is a requirement that persons in governance roles also have a cleared check. In all other jurisdictions this is an Adsafes Policy requirement for people in these roles to be screened. In Queensland and Western Australia the agency's check can only be used for roles that it designates. This doesn't include a Board role. All other jurisdictions allows a person in non-designated roles to optionally be checked. For Board Roles in Queensland and Western Australia Adsafes uses alternate screening measures.

If you concerns on a screening matter and need advice contact Adsafes.

### Responding to Allegations of Staff conduct

There is a legal requirement in the ACT, NSW and Victoria for the organisation to respond to certain allegation raised about the conduct of employees and volunteers. This is referred to as a Reportable Conduct Scheme. These schemes require the organisation (including the church) to notify an oversight agency when allegations of a certain type have been received, Investigate the



allegations and make a finding and recommendations, report these findings and recommendations at the conclusion of the investigation to this agency and if sustained take action and implement the recommendations.

In other jurisdictions it is an Adsafe policy that certain allegation raised about the conduct of employees and volunteers be investigated.

If you concerns about the conduct of staff and need advice on the how to handle the matter contact Adsafe

## Child Safe Standards or Principles

Better practice in child protection has moved from a small number of minimum standard legal compliance requirements to a larger number of standards that allows an organisation some flexibility on how the standards are achieved. Victoria were early adopters of this approach when they made it a requirement for all their organisations that offered services to children to show compliance to the 7 Victorian Child Safe Standards.

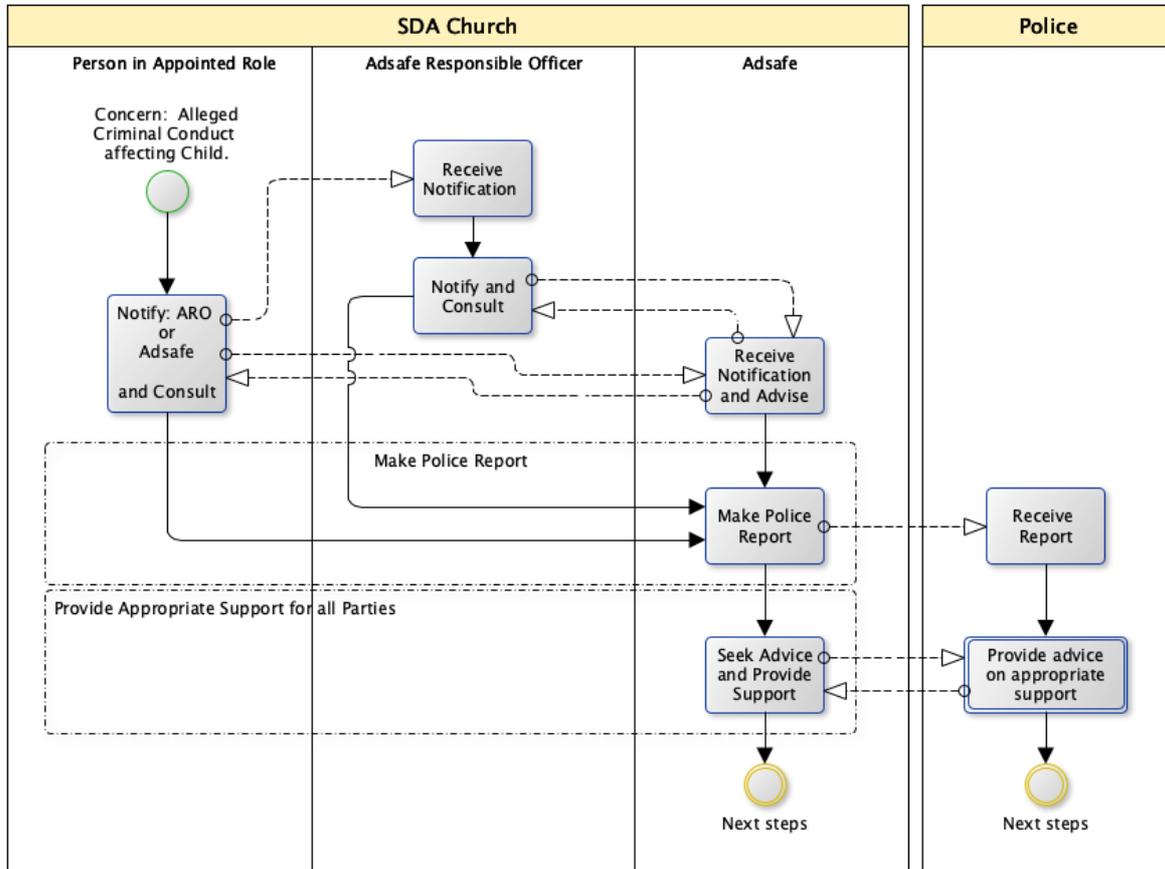
As a result of the Australian Royal Commission into Institutional Responses to Child Sexual Abuse all Australian states and the federal government have committed to the ten National Principles for Child Safe Organisations. Some of these jurisdictions have made some or all of these principles a legal requirement for organisations to show compliance while others have signalled their intent to adopt the principles for all organisations that provide services to children.

Adsafe, and Safe Place Services before it, has taken a best practice approach to child protection rather than just attempting to meet just the legal requirements in each jurisdiction. Because of this the church's policy already meets many of the principles found in Child Safe Standards or Principles. Adsafe has adopted these principles and will work toward assisting churches and affiliated entities to be compliant to these principles as it continues to develop, review and implement policy, guidelines and practices.



## How is alleged criminal conduct affecting a child handled in the Church?

The process is represented in the following diagram





## How is a Reportable Allegation handled in the church?

The process is represented in the following diagram

