

SIU Fact Sheet

SPECIAL INVESTIGATIONS UNIT | DEPARTMENT FOR FAMILIES AND COMMUNITIES | NOVEMBER 2004

The Department for Families and Communities, in partnership with Alternative Care Service Providers (Support Agencies) and carers, has a legal and moral obligation to ensure the safety and wellbeing of all children and young people placed in alternative care. Further, when children and young people are removed from their birth families and placed under the care and protection of the state, they have a right to be placed in a safe environment, which offers a higher standard of care than the circumstances from which they were removed.

There has been an increased concern regarding allegations of harm, inadequate care or improper conduct towards children and young people placed in alternative care. The investigations of these allegations have been called Special Investigations and have previously been conducted by senior staff from within the relevant agencies.

Consistent with the results of several reviews, and in recognition of the complexity of these issues related to the care and protection of children, the Special Investigations Unit has been established.

Special Investigations Unit (SIU)

The SIU is responsible for investigations into complaints/allegations of harm, risk of harm, inadequate care or improper conduct towards children and young people in receipt of a service provided or funded by the Department for Families and Communities.

The SIU operates and is managed independently to the activities of Children, Youth & Family Services and reports directly to the Chief Executive of the Department for Families and Communities. All investigations focus on issues of concern within a variety of situations throughout the system, either within programs or locations.

Who might make an allegation/complaint to the SIU?

Under the *Children's Protection Act 1993*, allegations of abuse and neglect can be made by anyone in the community including the child/young person or their birth family. However, certain people are required by law to report any suspicion based on reasonable grounds of child abuse and neglect. These people include carers, teachers, doctors, health workers, nursing staff, childcare workers, psychologists and social workers.

How is an allegation/complaint made to the SIU?

There are three main ways for making an allegation/complaint to the SIU. These are

- > **Child Abuse Report Line – Telephone 13 14 78** (24 hours a day)
- > **Yaitya Tiramangkotti Aboriginal Child Abuse Report Line – Telephone 08 8203 0470** (24 hours a day) or
- > **Direct referrals to the SIU – Telephone (08) 8226 6965** (normal business hours)

What happens when an allegation/complaint is made?

The SIU will make a decision as to whether the allegation/complaint will be responded to as a **Care Concern** or a **Special Investigation**. This decision may require consultation with relevant sources such as the Children, Youth & Family Services District Centre Manager, Alternative Care Service Provider or the South Australian Police (SAPOL), and also the collation of additional supporting information.

In the assessment to determine whether an allegation/complaint becomes a Special Investigation or remains a Care Concern there are several key factors including

- > the seriousness of the allegation (ie, any matter that warrants a police investigation)



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- will constitute a special investigation)
- > the number of previous Special Investigations or Care Concerns involving the carer, staff member or volunteer and the period of time in which they have been raised, and
 - > the actual harm or significant risk of harm for the child or young person and other children in the placement.
- Responsibility for the final decision is with the Manager of the SIU.

What is a Care Concern?

Care Concerns are defined as acts or situations that indicate there has been a failure to meet the agreed or minimum standards of care, which may jeopardise the wellbeing of a child or young person in care. Care Concerns are referred to the relevant Children, Youth & Family Services District Centre and the Alternative Care Service Provider for attention with progress/outcomes reported back to the SIU.

What is a Special Investigation?

A Special Investigation is the name given to the response by the SIU into complaints/allegations of harm, risk of harm, inadequate care or improper conduct towards children and young people in receipt of a service provided or funded by this department.

If it is assessed that a Special Investigation is warranted, the SIU Manager will appoint a team of people from the SIU to conduct the investigation.

The team will focus on the circumstances surrounding the complaint/allegation, the seriousness of the situation and any ongoing risks to the child or young person. All parties, including carers will be given the opportunity to talk about their understanding of the complaint/allegation. Other information that may be relevant to the situation will also be obtained from other agencies or persons involved in the child or carer's life.

For the time being a temporary postponement on further placements will occur until completion of the enquiry.

How are decisions made?

The Investigation Team will make decisions and recommendations based on whether or not there is a 'reasonable belief that abuse or neglect has occurred'. The decision does not require the type of substantial evidence required by a criminal court but needs to be backed up with a sound rationale based on known facts.

What action will be taken?

Depending on the type of allegation and the outcome, recommendations will be made to address any ongoing risks for the child or young person; the capacity of the carer, staff member or volunteer to provide continued care, and the support required to maintain the placement. The SIU will also make recommendations to the Chief Executive in relation to any program or systems deficiencies identified during the investigation.

Formal advice in the form of a written report will be forwarded to all relevant parties. An opportunity will be provided for the person who is the subject of the allegation to provide a written response to the content of the report.

Will the children in care be removed?

Every effort will be made to maintain the child in the placement unless it is assessed that the child or young person's safety cannot be guaranteed. Children will be removed from the placement if, based on information available at the time, there is a belief that the child or other children are at risk of further abuse and/or neglect, and their safety is in jeopardy.

Short term removal may occur whilst the investigation is taking place – however, each case is different and will be assessed accordingly.

If removal of the child is warranted at any stage of the investigation, it will occur in a caring and sensitive manner with both the carer and the child being informed about what will happen. An exception to this would only be if the child's immediate safety was in jeopardy.

Criminal Investigation

If the allegations of harm constitute a possible criminal offence, the matter will be referred to SAPOL for their immediate assessment. In cases where SAPOL is involved in any investigation, the SIU investigation will be made in direct consultation with SAPOL to ensure integrity of evidence is maintained.

The Children, Youth & Family Services District Centre, Carer Approval and Registration Services (CARS) and the Alternative Care Service Provider will be advised if the police are involved. Consultation will then occur regarding safety issues for all children currently in that placement.

SAPOL may refer a matter to the Director of Public Prosecutions to proceed in the criminal justice system. Unlike the SIU which makes decisions and recommendations based on whether or not there is a reasonable belief that abuse or neglect has occurred, the Director of Public Prosecutions makes an assessment in respect of a reasonable prospect of conviction, rather than the perceived guilt or innocence of a person who has allegations made against them. If there is a SAPOL investigation, neither the SIU nor the Support Agency will be able to provide the carer, staff member or volunteer with any details of the allegations until the criminal investigation is concluded.

What records are kept?

A Special Investigation file and the outcomes of all Care Concerns will be securely stored in the SIU. A separate report will be placed on the Carer file held centrally by CARS.

These files will detail the outcome of the Special Investigation and any recommendations made relating to the carer and any monitoring or review arrangements.

Carers can make a request under the *Freedom of Information Act 1991* for access to files containing information pertaining to them.

What are children and young people's rights during a Special Investigation?

The *Children's Protection Act 1993* stipulates that the child and/or young person will remain the principal focus of all investigatory processes – their safety will be the paramount consideration. Children and young people have a right to

- > safe and reasonable care
- > professional and objective investigatory processes
- > appropriate information – to assist them to understand the process, decision making and outcome of the investigation
- > be heard - a right to have their say without fear of prejudice
- > appropriate and relevant support throughout the investigatory process (children and young people have the right to choose an appropriate support person independent of the process)
- > complain about the process, and
- > access information held by the government pertaining to the *Freedom of Information Act 1991* and the *Code of Fair Information Practice*.

What are carer's rights when they are the subject of a Special Investigation?

Carers and volunteers are afforded the same degree of natural justice as any other person in the community. Further, carers have a unique relationship with this Department in providing care for children and young people in the care of the Minister. The Department recognises the difficult and demanding job of carers and expects

that any investigation or enquiry carried out by the SIU adheres to the following

- All carers have a right to
- > professional and objective investigatory processes
- > information – a right to know what the allegations are, the basis or rationale for decision making and written information pertaining to outcome decisions and recommendations. However if there is a SAPOL investigation, neither the SIU nor the Support Agency will be able to provide the carer, staff member or volunteer with any details of the allegations until the criminal investigation is concluded
- > be heard – a right to have their say without fear of prejudice and an opportunity to respond to the allegations
- > appropriate and relevant support throughout the investigatory process (carers have the right to choose an appropriate support person independent of the process)
- > seek personal legal advice (at carer's expense)
- > complain about the process
- > lodge an internal and external appeal regarding the recommendations, and
- > access information held by the government pertaining to the *Freedom of Information Act 1991* and the *Code of Fair Information Practice*. Carers also have the right to access personal records held by Support Agencies.

What are the rights of staff members during a Special Investigation?

Where allegations are made that involve a staff member, the staff member is afforded the same degree of natural justice as any other person in the community and is encouraged to choose an appropriate support person independent of the process.

Where an employee has been charged with an offence relating to

an alleged misconduct or where allegations relate to possible criminal charges requiring referral to SAPOL, any disciplinary process or Special Investigation is conducted in accordance with the *Public Sector Management Act, 1995*.

What are the procedures for a right to appeal the decision?

All carers, staff members or volunteers have the right to lodge an appeal in relation to the Special Investigation recommendations.

If you are a carer, to lodge an appeal you will need to write to the Chief Executive of the Department within 28 days of receipt of official notification of the outcome of the investigation. Write to the Chief Executive as follows

**Chief Executive
Department for Families
and Communities
GPO Box 292
ADELAIDE SA 5001**

Your letter should outline your grounds for appeal, your concerns regarding the process of investigation or additional information previously not considered. The Chief Executive will consider your reasons for dispute and initiate an appeal process.

Carers can also contact the South Australian Ombudsman's Office and make a complaint about the administrative actions or services provided by the Department. The Ombudsman can make recommendations and assist the parties in coming to a reasonable agreement. The Ombudsman has the power to table any concerns in Parliament.

If you are a staff member involved in an investigation, the Grievance and Appeal processes are in accordance with the *Public Sector Management Act, 1995* and you should seek information from the Office for the Commissioner for Public Employment or your union representative for further advice.

Contact Details

Special Investigations Unit

Telephone (08) 8226 6965

Email DFC:SpecialInvestigationsUnit@dfc.sa.gov.au

Child Abuse Report Line

Telephone 13 14 78 (24 hours)

Yaitya Tiramangkotti Aboriginal Child Abuse Report Line

Telephone (08) 8203 0470

Information Support and Advocacy - Independent

> Foster Carer Advocate Service

PO Box 288, Kilburn SA 5084

Telephone (08) 8269 9300

> Legal Aid – Legal Services Commission

Telephone 1300 366 424 free legal advice

> South Australian Ombudsman's Office

Telephone (08) 8226 8699

Toll Free 1800 182 150

E-mail ombudsman@agd.sa.gov.au

> Aboriginal Legal Rights Movement (ALRM), Adelaide Office

Telephone (08) 8113 3777

Department for Families and Communities

> Children Youth and Family Services – Local District Centre

(contact details for each location in White Pages Telephone Directory)

> Children Youth & Family Services – Consumer Advocate

Telephone (08) 8226 6930

Freecall 1800 003 305

> Children Youth & Family Services – Freedom of Information Liaison Officer

Telephone (08) 8226 6707

Alternative Care Service Providers

Contact your Agency support worker for placement support, information and training.

Aboriginal Service Providers

For further support or information regarding Aboriginal specific issues, contact

> Aboriginal Family Support Services (AFSS)

Telephone (08) 8212 1112

> Port Lincoln Aboriginal Health Services

Telephone (08) 8683 0162

For access to general carer support groups in your local area, contact your support agency, or nearest District Centre, Children, Youth & Family Services.

For information regarding this publication contact

Department for Families and Communities, Special Investigations Unit

Telephone (08) 8226 6965

Email DFC:SpecialInvestigationsUnit@dfc.sa.gov.au