

APPENDIX B. Legal protection and support for employees who report child abuse

Under Sections 124F and 240 of the *Children and Community Services Act 2004*, the identity of the person making a report to the Department of Communities is protected.

However, the identity of the reporter may be released under these circumstances:

- for the purpose of assessment by the Department of Communities;
- for investigative purposes by a WA Police officer
- with the written permission of the reporter
- purposes of court protection proceedings.

The WA Police will be aware of the identity of the mandatory reporter as all mandatory reports are sent to them for assessment.

Disclosure of a reporter's identity carries a maximum fine of \$24,000 and 2 years' imprisonment.

All staff and third-party providers, engaged through a formal service agreement with the Department of Education, are protected from civil, criminal and disciplinary liability by providing information to Department of Communities, WA Police or the Department's Standards and Integrity Directorate (SID) for the purpose of investigating child abuse.

Under s129 of the *Children and Community Services Act*, if reports are made in good faith and with the best interests of the child in mind, the Act protects the reporter from:

- civil or criminal liability in respect of the disclosure
- a breach of any duty of confidentiality or secrecy imposed by law
- a breach of professional ethics or any principles of conduct applicable to the person's employment
- a breach of professional conduct.

Where there is suspected or alleged abuse or misconduct, school counsellors must not disclose or make use of the information in a manner that breaches confidentiality under Sections 23 and 129 of the Children and Community Services Act and s242 of the School Education Act.

A staff member or third-party provider, engaged through a formal service agreement with the Department of Education, who attempts to threaten, intimidate, coerce or take reprisal against an employee or third-party provider, who has disclosed or intends to disclose unethical or unlawful behaviour, may face disciplinary action (refer to the Staff Conduct and Discipline policy).

When there is concern for the safety of the reporter, it is important that the school has a risk management plan in place. The principal advises the Department of Communities and/or the WA Police and contacts the Regional Education Office for further advice. Third party reporters should consult with their employer.

Department of Education staff are entitled to seek counselling through the Employee Assistance Program (staff only). Third-party providers may be eligible to seek counselling through their Employers Employee Assistance Program.