

# HAVE YOU BEEN DIRECTED TO ATTEND AN ASSESSMENT?



This information is general and is not a substitute for legal advice. The Legal Service Commission provides free advice for most legal problems. Contact the [Legal Helpline on 1300 366 424](tel:1300366424) [www.lsc.sa.gov.au](http://www.lsc.sa.gov.au) [www.lawhandbook.sa.gov.au](http://www.lawhandbook.sa.gov.au)

## WHY DO I HAVE TO ATTEND AN ASSESSMENT?

If the Department for Child Protection (the Department) suspects that your child is at risk of harm, the Department may tell you to attend an assessment.

The law says that children are at risk of harm if their parents are unable or unwilling to care for them. The law gives the Department authority to investigate if they suspect a child is at risk. The Department is also authorised to take any action necessary to protect children.

## WHAT IF I DON'T AGREE WITH THE NEED FOR AN ASSESSMENT?

Even if you don't agree with the need for the assessment, it is important to attend and cooperate. You can be charged with an offence if you refuse to attend. The maximum penalty for the offence is 6 months' imprisonment.

If you don't attend an assessment as directed by the Department, then the Department may seek a court order for the assessment. If the court has ordered the assessment, and you still refuse to attend, this is also an offence. The maximum penalty for this offence is 2 years' imprisonment.

Be aware that a parenting capacity assessment can still go ahead without you. If you don't attend, you won't have the chance to show why there was no need for the assessment.

You can make a complaint about the need for the assessment. However, the assessment will not be put on hold because of your complaint. See 'How can I make a complaint?'

## HOW WILL I KNOW WHERE AND WHEN TO ATTEND?

If you are directed to do an assessment, you will receive a notice setting out:

- what kind of assessment it is
- the name and contact details of the person or body who is going to do the assessment

- that you need to contact the person or body within a set timeframe and do what they lawfully tell you, for example, to attend the assessment at a set place, date and time
- the contact details of someone you can talk to about the assessment
- information about what will happen if you do not attend the assessment
- the contact details of the Legal Services Commission

You can get free legal advice from the Legal Services Commission. Contact the Legal Help Line on 1300 366 424.

## HOW DOES THE DEPARTMENT DO A PARENTING CAPACITY ASSESSMENT?

The assessment must be done by a professional with the skills and knowledge to make a parenting capacity assessment. You should not already know the professional doing your assessment. They should be new to your family and have had no other previous dealings with your family.

They will look at all documents already held by the Department relating to your family. They will interview you, your child and anyone else they think may be relevant, such as other family members, or other professionals who have had dealings with your family. If they think it is necessary, they may observe you and/or others with your child.

The professional doing the assessment will provide a detailed report to the Department setting out:

- what they looked at
- who they interviewed or observed
- their opinions about your capacity to provide safe care for your child
- their recommendations for action, if any.

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## HOW DOES THE DEPARTMENT DO A DRUG AND ALCOHOL ASSESSMENT?

A drug and alcohol assessment is done by Drug and Alcohol Services South Australia (DASSA) or another agency recognised by DASSA as a provider of these assessments.

You will be interviewed about your past drug and alcohol use, your current use and any treatments you have undertaken. You will also be asked to discuss your motivation to stop using drugs and alcohol, how your use affects you and your capacity to parent and meet the needs of your child. The assessment may include recommendations for your drug and alcohol rehabilitation.

## DO I HAVE TO PARTICIPATE IN RANDOM TESTING?

Yes. If you have had a drug and alcohol assessment in the last 5 years, you must also take part in random drug and alcohol testing. You will be given a written notice that you need to do the testing. The notice will set out:

- that it is for you
- what law it is based on
- what material is to be collected from you i.e. urine, hair, saliva and/or blood
- where to attend for the testing
- the person or body who will be collecting your material for testing
- who will contact you with instructions about when you will need to attend for testing
- how you will need to verify your identity when you attend for testing
- information about what will happen if you do not attend testing
- who has given the notice to you and their contact details
- how long you have to participate in random testing

It is an offence to refuse, without a reasonable excuse, to take part in testing. The maximum penalty is 6 months' imprisonment.

Your urine, hair, saliva and/or blood cannot be used for any other purpose. This means it cannot be used by police to obtain a search warrant or as evidence in any other proceedings. It can only be used in the proceedings relating to the care and protection of your child or children.

## CAN THE DEPARTMENT MAKE ME ATTEND REHAB?

Yes. If you have had a drug and alcohol assessment in the last 5 years,

you can be directed to participate in a drug and alcohol rehabilitation program.

You will be given a notice that will set out:

- what law it is based on
- the name and nature of the program
- where to attend for the program
- the date and time of the program
- the contact details of someone you can talk to about the program
- information about what will happen if you do not attend the program

Programs are run by Drug and Alcohol Services South Australia (DASSA) or another agency recognised by DASSA or SA Health as a provider of these programs.

The program provider will consider your parental responsibilities, the needs of your child and your relationships with other family members. It is a therapeutic intervention which you may be directed to attend as either an inpatient or outpatient.

It is an offence to refuse, without reasonable excuse, to take part in a rehabilitation program. The maximum penalty is 6 months' imprisonment.

## HOW CAN I MAKE A COMPLAINT?

If you have a complaint about the actions of the Department, you should tell the case worker, their supervisor or the local office manager. Even though it may be stressful for you, do your best to stay calm and courteous with Departmental staff at all times.

If you are unable to resolve your complaint with them, you can lodge your complaint with the Department's Central Complaints Unit online or by telephoning 1800 003 305. If you are still unable to resolve your complaint, you can make a complaint to the Ombudsman SA. The Ombudsman also has an online complaints form or can be contacted on (08) 8226 8689.

Complaints must usually be made to the Ombudsman within 12 months of the Department's action that you are complaining about. The Ombudsman may investigate and can recommend the Department reconsider a decision or provide reasons for the decision. The Ombudsman can also recommend change to practices, procedures or to the law.

## CONTACTS

Free Legal Helpline  
1300 366 424

Central Complaints Unit  
1800 003 305

Ombudsman SA  
(08) 8226 8689