



creating a better life
for children and young
people in care

Response to the South Australian Children and Young People (Safety) Regulations 2017

south australia office

CREATE Foundation Limited ABN 69 088 075 058

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About CREATE Foundation

Vision

All children and young people with a care experience reach their full potential.

Mission

Creating a better life for children and young people in care.

CREATE Foundation does this through:

Connect children and young people to each other, CREATE and their Community **to**
Empower children and young people to build self-confidence, self-esteem, and skills that enable them to have a voice and be heard **to**
Change the care system, in consultation with children and young people, through advocacy to improve policies, practices and services, and increase community awareness

Core principles

- Children and young people are the centre of the work we do
- Our practice is inclusive and respectful of culture and diversity
- Our advocacy is independent, non-partisan, evidence based and driven by the voices of children and young people
- We believe that meaningful participation is essential for engaging children and young people
- Partnerships with government, NGO's and individuals are pivotal to success
- We are enthused by creativity and fun
- We invest in our people

CREATE Foundation is a national peak consumer body for over 48,000 children and young people in care; who are arguably one of the most disadvantaged groups in Australian society. CREATE embodies through its interactions with children and young people a deep abiding commitment to social justice principles. Moreover, CREATE champions the rights of children and young people through advocacy, programs, activities, policy and practice. It also encourages and facilitates the participation of children and young people in key decisions that affect their lives.

CREATE welcomes the opportunity to provide a submission regarding the *South Australian Children and Young People (Safety) Regulations 2017*. We have focused on select sections of the proposed regulations to provide feedback or seek further clarification, in reference to what children and young people with a care experience have disclosed to CREATE in the past in South Australia and in other jurisdictions across Australia.

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Children and Young People (Safety) Regulations 2017

Procedures at family group conferences: Section 24(4)(c)

The proposed amendments to this section of the regulations requires clarity as to the age where a child or young person may be deemed appropriate to accept or decline the decision of a co-ordinator. CREATE appreciates that a child or young person's age and level of development will be taken into consideration. However, it is recommended that a minimum age limit be stated in this regulation to provide clarity and consistency of when a child or young person has the ability to accept or decline a decision on their own behalf.

It is also recommended that the regulation clearly articulates the rights and appeal process for a child or young person if they choose to decline the decision of a co-ordinator. It is recommended that more detail be provided in the case of when a child or young person, being deemed as inappropriate in their age or development, does not accept the decision.

Additionally, it is noted that this amendment prevents parents and guardians from having the ability to accept or decline the decision of a coordinator, who is making a decision on the child or young person's behalf. CREATE Foundation recognises the importance of parents and guardians consenting to decisions made during family group conferences.

Reporting of suspicion that a child or young person may be at risk: Section 31(2)(c)

CREATE is concerned about the amendment to this regulation as it is generally not possible for a responder to know the information or detail that the Department holds in relation to child or young person. The amendment has the potential for responders to not disclose harm or provide additional information that may be relevant regarding the child or young person's case.

Random drug and alcohol testing scheme: Section 37(2)


CREATE acknowledges that this regulation does not allow children or young people an option to provide consent to random drug and alcohol testing. The welfare of children and young people in care is compromised by the testing not requiring consent, its random nature and the lack of acknowledgement relating to the protections afforded to children and young people selected for testing. This practice has the potential to stigmatise, humiliate and isolate an already highly vulnerable cohort and reduce the level of trust between children and young people in care and the South Australian authorities.¹

Notice relating to rehabilitation program under section 38 of Act: Section 38(3)

CREATE acknowledges that this regulation does not provide children and young people an option to consent to a direction by the Chief Executive to undertake a drug and alcohol rehabilitation program. Scientific evidence, on the whole, does not suggest that compulsory rehabilitation programs are effective in achieving improved outcomes for patients, with some providing evidence of harm.² Due

¹ Barrett, D. (2015). *The Impacts of Drug Policies on Children and Young People*. New York: Open Society Foundations. Retrieved from: <https://www.opensocietyfoundations.org/sites/default/files/impact-drug-policies-children-and-young-people-20151029.pdf>

² Werb, D., Kamarulzamen, A., Meacham, M. C., Rafful, C., Fischer, B., Strathdee, S.A., & Wood, E. (2016). The effectiveness of compulsory drug treatment: A systematic review. *International Journal of Drug Policy*, 28, 1-9. doi: 10.1016/j.drugpo.2015.12.005



to these findings, in addition to concerns relating to the rights of children and young people, it is recommended that the Act only allows for non-mandatory treatment to be made available for children and young people in care.

Destruction of forensic material: Section 40

CREATE is concerned about the rights of children and young people in relation to the forensic material that is taken from them. The amendment to this regulation lacks transparency in relation to how forensic material is stored, destroyed or returned to the child or young person. It is recommended that the Chief Executive discloses the scheme/s that are referred to in this amendment.

Information to be provided to children and young people: Section 80

CREATE supports the amendments to this regulation in providing more detailed information to children and young people about their approved carer. In addition to the information outlined in this amendment, further details are recommended to be made available to children and young people, where relevant:

- The cultural background of the approved carer.
- The religious background of the approved carer.
- The approved carer's preparedness to care for additional siblings to encourage sibling groups to stay together.
- The approved carer's preparedness to support contact visits and provide transport, where required.
- The approved carer's experience in caring for children and young people with a disability or mental illness.

Internal review: Section 157(4)

This regulation requires some clarity whether children and young people are entitled to an internal review process. The section is written without making mention to children and young people and the process they are entitled to if they are aggrieved by a decision of the Chief Executive or a child protection officer under the Act.

Conclusion

CREATE Foundation advocates for the rights and welfare of children and young people with a care experience. We appreciate the opportunity to respond to the *Children and Young People (Safety) Regulations 2017* as robust laws are essential to protecting children and young people from harm and effective systems are required to assist children and young people to reach their full potential.

CREATE supports the South Australian government's willingness to reform the Children and Young People (Safety) Act in a way that reduces the risk of harm and increases the welfare of children and young people in care.

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