



INFORMATION SHARING GUIDELINES

for promoting safety and
wellbeing

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We acknowledge this land that we meet on today is the traditional lands for the Kurna people and we respect their spiritual relationship with their country.

We also acknowledge the Kurna people as the custodians of the greater Adelaide region and that their cultural and heritage beliefs are still as important to the living Kurna people today.



the right to privacy v right to safety

The Law Society of South Australia
9 June 2015







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The need for information sharing.....

Six children who were starved and abused in Adelaide's "house of horrors" were virtually unknown to South Australian authorities.

Ms Rankine said no one government staff member or agency "had the full picture of information or knew that the six children were in the house".

But agencies did have "very small amounts of information" about the large household the children moved into in 2008, the head of the Child Death and Serious Injury Review Committee, Deej Eszenyi, said.

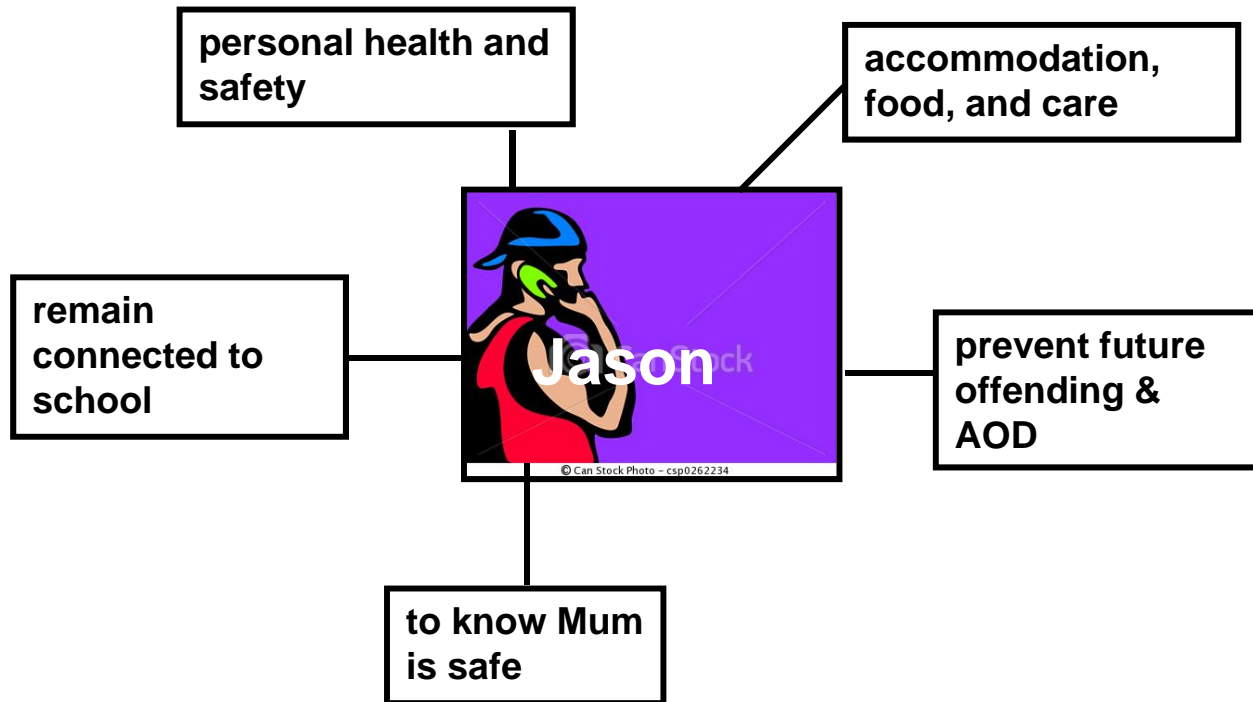
If those government departments had shared the information, "there was a possibility that the house might have been entered before the crimes against these children occurred", she said.



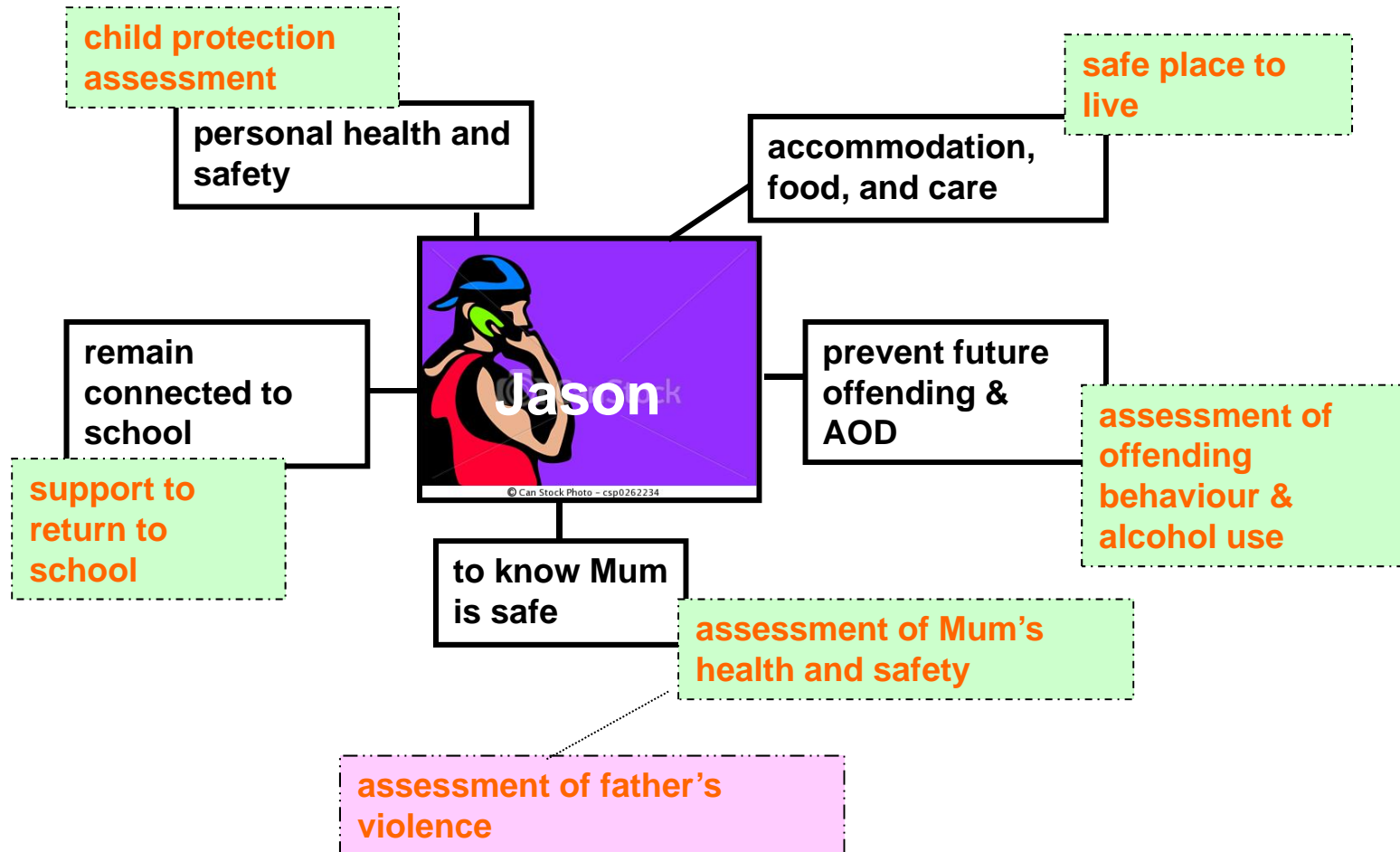
case study.....

- Jason, aged 15, was picked up by the police for a shoplifting offence. The shop owner does not wish to press charges but police took Jason to the station because of concern over his condition: he is thin, smells of alcohol and tells them he has slept rough overnight.
- He has several bruises and his arms also show signs of what looks like self-harm.
- Jason said he does not want to go home because of his father's increasing violence towards him and his mother. His mother has been crying a lot, spending days in bed. There has been very little food in the house, his mother has not cooked anything for weeks.
- Jason is always hungry and has also started missing school...

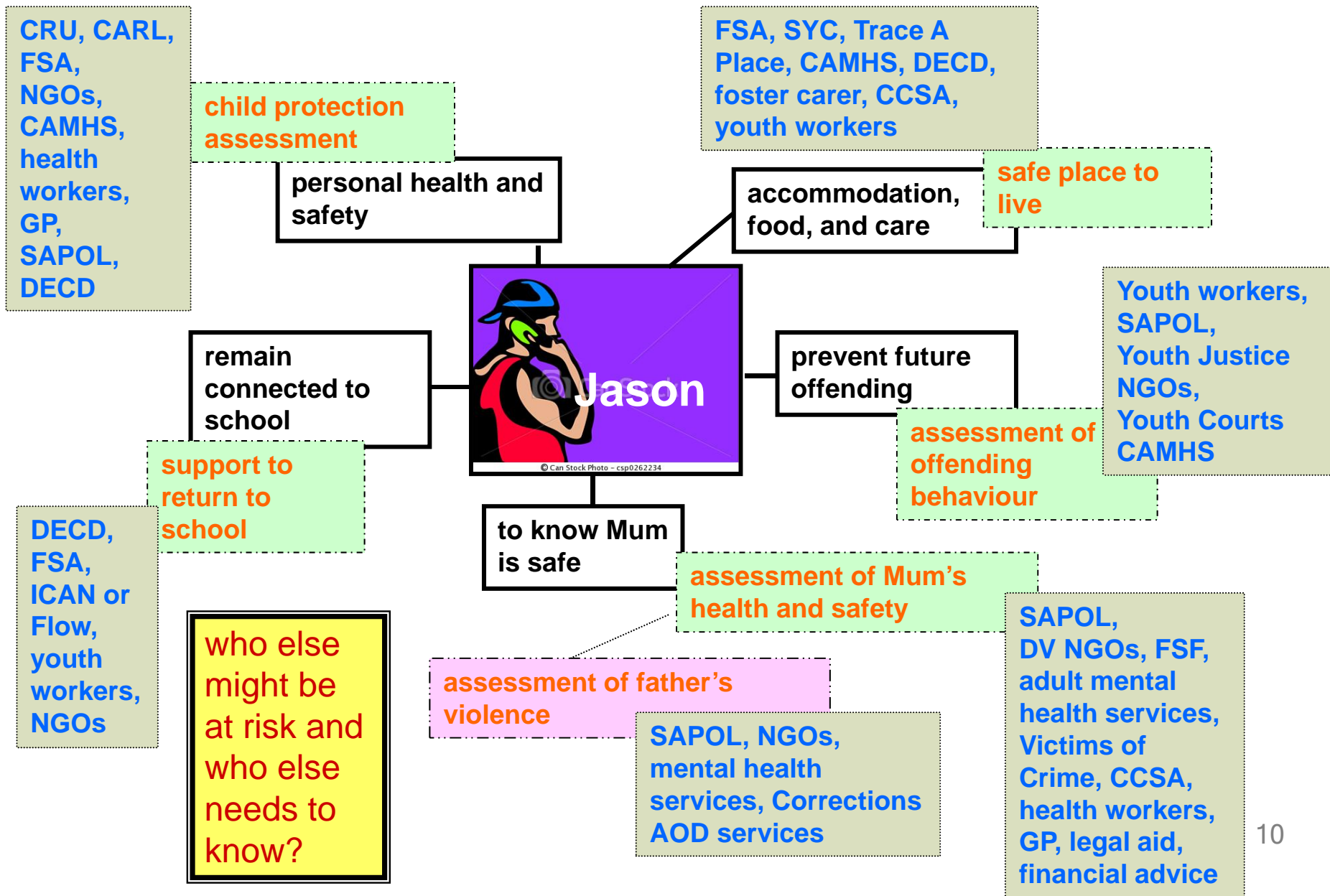
safety and wellbeing.....



what help does he need.....



who might be involved.....





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background to the ISG....

- Layton Report, Mullighan, Keeping Them Safe, National Framework for Protecting Australia's Children
- the *ISG for promoting the safety and wellbeing of children, young people and their families* endorsed by Cabinet in 2008
- an overarching state wide policy framework for early intervention for state government agencies and NGOs
- replaced the need for multiple agreements/MOUs



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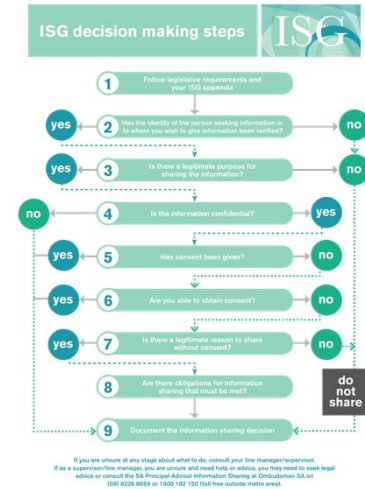
what legislation governs SA service providers decisions about use and disclosure of personal information.....

- Commonwealth Legislation Privacy Act 1988 (Cth)
- Australian Privacy Principles (APPs)
- SA Information Privacy Principles Instruction (IPPI) (DPC Circular 12)
- Other:
 - Children's Protection Act 1993
 - Correctional Services Act 1982
 - Health Care Act 2008
 - Mental Health Act 2009
 - Intervention Orders (Prevention of Abuse) Act 2009



the new ISG for promoting safety and wellbeing.....

- SA Cabinet decision 2013 to broaden scope and relocate to OSA
- applies to both adult and children's services
- aligned with state and commonwealth privacy reform
- promotes pro-disclosure for safety and wellbeing and privacy in context
- evidence based risk assessment for disclosure without consent





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ISG test for disclosure without consent....

Disclosure of information without consent is permitted if:

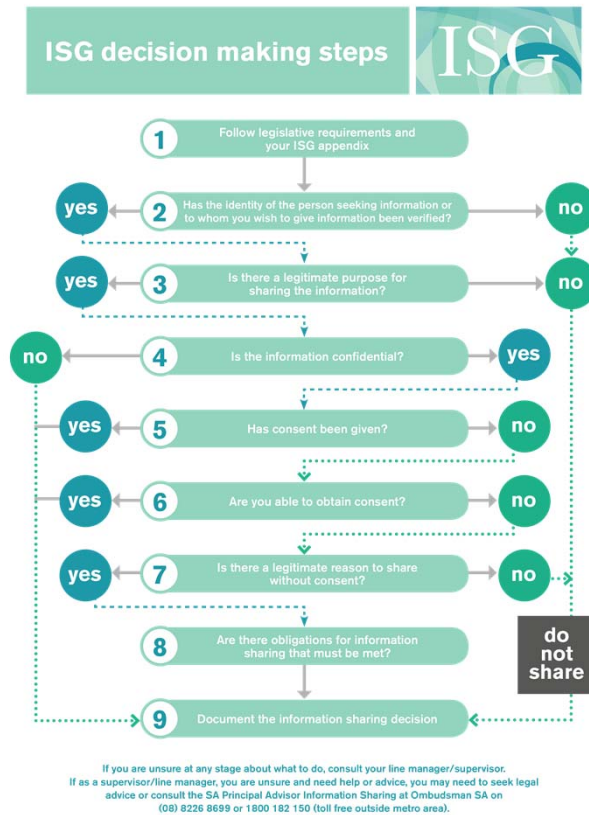
- (1) it is required or authorized by law, or
- (2) (a) it is unreasonable or impracticable to obtain consent; or consent has been refused; and
(b) the disclosure is reasonably necessary to prevent or lessen a serious threat to the life, health or safety of a person or group of people

Mandatory notification obligations still apply.



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distilling the principles....



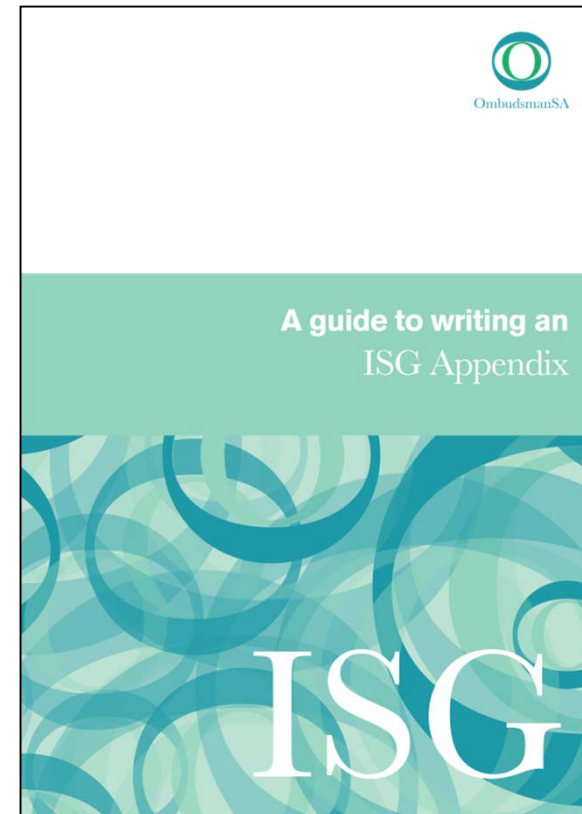
ISG practice guide

- Before proceeding, check your ISG appendix for guidance:**
 - share information in a manner that is consistent with legal obligations and organisational policies and procedures
 - follow the ISG STAR principles to make information sharing Secure, Timely, Accurate and Relevant
 - collaborate with other providers to coordinate services and manage/mitigate risk.
- If you do not know the person seeking information or to whom you wish to provide information, you need to verify who they are and for whom they work before sharing information**
- You have a legitimate purpose for information sharing if you believe it is likely to:**
 - divert a person from offending or harming themselves
 - protect a person or groups of people from potential harm, abuse or neglect
 - protect service providers in situations of danger
 - help service providers more effectively address risks to safety and wellbeing
 - alert other service providers to an individual's need for assistance.
- Generally, information is considered confidential when the person providing it believes it won't be shared with others**
 Assume that people will consider most information about themselves and their families to be confidential unless they have indicated otherwise.
- Seeking informed consent is the first approach**
 This means the person understands the purpose for information sharing, with whom it will be shared, and what might happen as a result of sharing. If informed consent has been obtained, information can be shared.
- It may be unreasonable to obtain consent if you are concerned that in doing so, the person might:**
 - move themselves or their family out of the organisation's or agency's view
 - stop using a service seen to be necessary for the client or their children's safety or health
 - coach or coerce a person to 'cover up' harmful behaviour to themselves or others
 - abduct someone or abscond
 - harm or threaten to harm others
 - attempt suicide or self-harm
 - destroy incriminating material relevant to a person or group's safety.
 It may be impracticable to obtain consent if, for example, after reasonable attempts, you cannot locate the client. Discuss your concerns with a colleague/supervisor.
- There is a legitimate reason to share information without consent if it is believed that failure to share information will lead to risk of serious harm**
 Disclosure of information without consent is permitted if:
 - it is authorised or required by law, or
 - (a) it is unreasonable or impracticable to seek consent; or consent has been refused; and (b) the disclosure is reasonably necessary to prevent or lessen a serious threat to the life, health or safety of a person or group of people.
 The decision to share without consent must be based on sound risk assessment and approved by the appropriate officer in your agency or organisation.
- Situations where you must share information:**
 - eg you hold a suspicion, on reasonable grounds, that a child or young person has or is being abused or neglected, you must report this to CARL (131 478).
 - eg you believe a person poses a serious risk to themselves or others, consider if you should notify SA Police (131 444) or Mental Health Triage Services (131 465) (formerly known as ACIS).
- Keep records – particularly in relation to consent issues**
 As a minimum, document when sharing information is refused or occurs without consent. Follow your organisation's instructions about recording other significant steps.



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implementing the ISG....





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use and disclosure in practice - privacy Vs secrecy.....

- hearing 'privacy or confidentiality' but conceptualising and enacting 'secrecy' - BOTPA

The *keeper of secrets* believes that if they revealed information either accidentally or purposefully, the revelation may cause them harm and harm to those around them (their organisation). Maintaining confidentiality is of utmost importance. The perception that this is the right thing to do frequently overrides a moral and ethical obligation for disclosure – even where they are permitted or authorised to do so.

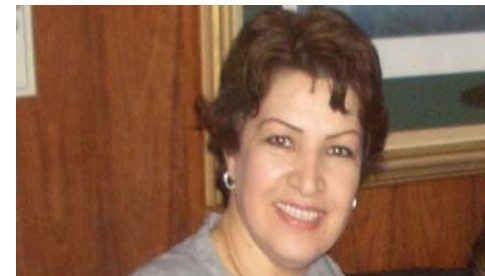
- lack of understanding of relevant legislation and consent and how to obtain it
- explaining limited confidentiality to clients/consumers
- different thresholds of risk for children and adults



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serving the public interest.....

- if no one shares information, what might the consequences be?
- how effective are individual agency risk assessments going to be and how well can services be coordinated for all parties?
- understanding the consequences of breaching privacy
- promotes:
 - pro-disclosure for safety and wellbeing
 - consent where safe and possible for privacy





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how the ISG can help.....

- gathering information is critical for good risk assessment, and risk assessment is key to effective referral, planning and case management
- promotes multi disciplinary and interagency collaboration and early intervention
- confident all organisations using the same, simple process for appropriate use and disclosure of personal information
- decisions are evidence based and enforce record keeping



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the right to privacy

V

right to safety

**there is NO
competition**

the ISG and other resources can be downloaded from
the Ombudsman SA website



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www.ombudsman.sa.gov.au

