

# CHILD RIGHTS: FAQ



## RIGHTS OF CHILDREN: FREQUENTLY ASKED QUESTIONS

### **What is the definition of a 'Child'?**

A child is someone under the age of 18 years, including an unborn child.

### **How old must you be in order to marry?**

You must be 18 years and above to marry, regardless of what is stated in other laws in the Maldives.

### **Can a child work?**

Yes, if the child is above 16 years old and above. For children below 16 years, they must obtain consent from their parents. However, if the work conducted prevents education or has a negative impact on education, work of that nature is not allowed.

### **Can a child be arrested?**

No, except as provided for by the law, and except as a matter of last resort. In the even a child has to be arrested it should be for the shortest period available by law.

### **Can a child be guilty of a crime and be sentenced to jail for criminal offences?**

A child under 15 years cannot be held responsible to criminal offences instead they will be dealt with a special mechanism specially established for Children who have committed acts against the law. It must be noted that any punishment dealt cannot be cruel, inhumane or degrading or involve any form of violence.

### **Can a child be sentenced to death for crimes committed?**

No. This is because Children have not achieved the same level of health and mental growth as adults, and article 35 (a) of the Constitution states that they be given special assistance and special protection from their family, community and the State.

Instead, the death sentence will be replaced with a sentence does not exceed three quarters of the next most severe punishment for that offence.

### **How much information about a child can be shared publicly?**

No one can publish personal information of Children in a manner that would harm their reputation.

For children who are suspected of an offence or requires care and protection, the following information cannot be shared: Any information which could directly or indirectly lead to the identification such as their picture; or personal information (ie name, address, information about school.

However, the court or children's ombudsperson can disclose information about a child, if it is in the interest of the child.

### **What are the circumstances for a child to be deemed to be 'in need'?**

Children who are in the following circumstances are deemed to be in need of care and protection:

- (1) abandoned without the care of anyone;
- (2) living with parents who had neglected to protect the Child or provide a safe environment to the Child;
- (3) experiencing physical or mental abuse from their parents;
- (4) addicted to drugs and have no means to get treatment for it;
- (5) victim to an act of exploitation or live in an environment that could make them a victim to such an act;
- (6) living in an environment where their physical, mental and social well-being is threatened; or
- (7) suffering physically or mentally due to negligence.

If you know someone you could possibly be in need of care and protection, please immediately report the matter to the authorities.

## **Can anyone make a report if they suspect they know of a child in need?**

Yes. In fact, it's your duty to report the matter to Child and Family Protection Service or the Maldives Police Service.

By law the following people may report a case related to a child:

- (a) children (if you are reading this and feel threatened or are experiencing abuse of any kind, do reach out to someone you can trust and seek help)
- (b) parents;
- (c) relatives;
- (d) neighbours;
- (e) employee of the school to which the Child belongs;
- (f) doctor or healthcare professional of the Child; or
- (g) any other person who has information about the Child.

## **As a person reporting a case, what are my duties/responsibilities?**

Not to worry, your privacy will be protected. The Child and Family Protection Service and the Maldives Police Service under this Act cannot share your name, or any other information which can reveal your identity.

As a person who has reported a case, you are entitled to the following protections:

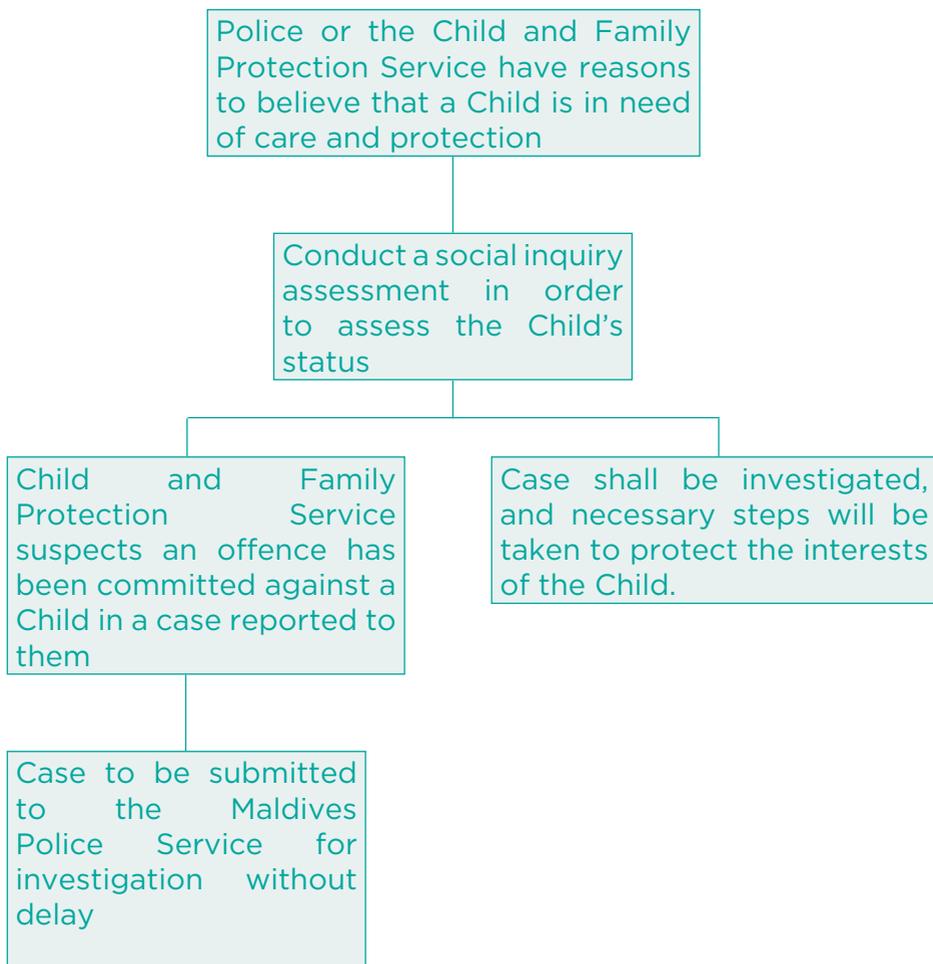
- (a) not presuming that the act of reporting is against the ethics and discipline of the reportee's job; and
- (b) not taking any legal action against the person who reported, for having reported the case.

## **What will happen to the child once a report has been made?**

Once your report is received, the Child and Family Protection Service will also advise you on the next steps. The child will be provided protection if there is a need for it and will provide advice and assistance needed for the Child and the family. If the matter should be referred to other relevant institutions, the Protection Services will conduct case conferencing. The Protection Services also has a duty to record all cases reported.

In circumstances that involve an unborn Child, they will provide assistance and advice to the mother and father; and ensure that the mother receives the assistance of the father in the matter. Should you report the matter to the Maldives Police Service, information of the case will then be shared with the Child and Family Protection Service.

**The investigation process is as follows:**



## **What is an interim assessment?**

When a report is made, the Police or Child Protection Services will conduct a social inquiry assessment in order to assess the Child's status. There may be instances where the Child and Family Protection Service or the Maldives Police Service are not able to obtain consent of a parent and guardian a court order may be obtained for an interim assessment. A court order for an interim assessment cannot exceed 5 days, although there are circumstances where an extension can be granted.

## **What powers do the Police or Child Protection Services have under an interim assessment?**

Under an interim assessment the Police or Child Protection Services may:

- (1) continue maintaining relationship with the Child;
- (2) conduct medical examinations and healthcare as required for the child, if the Child has an illness or has been a victim of violence; and
- (3) in circumstances where the threat of danger is from the parents, the parents or guardians of the Child may be ordered not to have any direct or indirect contact with the Child except with supervision.

## **Can the Police or Child Protection Services enter my home, school or any other premises to conduct an interim assessment?**

Yes they can, with certain requirements that the officer should comply with:

- ✓ Identifies himself/herself to the person in the place
- ✓ provides the owner with a copy of the order allowing the officer to enter and search of the place
- ✓ the officer should explain to the owner that he or she is empowered to enter the place and find the Child specified in the order

## **Can the Police or Child Protection Services remove a child from his or her home/current environment?**

Yes, they may do so as an immediate step if there is reason to believe that child in the investigation is in need of care and protection. Measures that are taken will be with the priority to protect the child, such as: granting a protection order which would result in removing the child from the current situation and place the child under state care or appointing someone else to take care of the child.

## **What is a protection order?**

A protection order is an order issued by the Court allowing the Child to be taken care of by someone until the Child can be returned to the parents or guardians, or any other permanent arrangement that will provide protection to the Child.

## **When can a court issue a protection order?**

The court will issue a protection order only if the court is satisfied that the Child is in need of care and protection, and that the Child may be harmed even more if the Child is kept in the same place of residence.

## **What are the state's responsibilities when there is a protection order in place?**

As long as the protection order is in force, the Child and Family Protection Service must ensure the following:

- ✓ care and assistance is provided to the child
- ✓ perform duties towards the child
- ✓ establishing a relationship with the Child as that of the parents and providing the Child with assistance
- ✓ anything necessary to enforce the order

**If the threat of danger to the child is from the parents or guardians and the child has been removed from their parents, under what circumstances can the child meet with the parent/guardian?**

The Child and Family Protection Service should provide the Child with adequate opportunity to maintain a relationship with their parents during the time the Child is under care their services. The Child or the Child and Family Protection Service may apply to the court for the court to issue an order enabling this. This would depend on what the court deems fit. All parents and guardians have the right to be heard and appeal decisions made by the court.

**In what situations will a child be placed under alternative care facilities?**

Alternative care facilities are residential facilities established by the Ministry in order to provide alternative care services to Children who are provided temporary shelter by the State. Children facing the following circumstances may be placed under alternative care facilities:

- (a) where they are not provided with a safe environment from their parents, guardians, or legal guardians who have exposed them to violence or negligence;
- (b) parents or guardians are serving a prison sentence;
- (c) children with mental disabilities that is so serious and they cannot be in the public or within the family, and where their actions may pose a danger to others and themselves;
- (d) children with disabilities, who have been abandoned by their parents or legal guardians;
- (e) children who require temporary protection in cases of domestic violence;
- (f) children who are under the care of legal guardians who are no longer able to responsibly care for another person;
- (g) poor and orphaned Children without a surviving legal guardian or anyone else to take care of them; and
- (h) Children who have been stipulated under another Act to be taken under State care.

## What is foster care?

When a Child is under state care and raising the Child cannot be handed over to their families for various reasons the Child may then be handed over to some other persons, under foster care to be looked after, brought up and disciplined. Only a person capable of providing the necessary protection, safety and care for the Child will be allowed to do so.

## Under what conditions will a Child be placed under foster care?

Children under the following circumstances may be placed under foster care:

- (a) Children who are brought under State care, but who are abandoned or whose parents or legal guardians refused to look after them;
- (b) Children who are brought under State care, those who cannot live with their family for any reason;
- (c) Children who, during the period in which they were under State care, the records showed that they were not visited and their families had not enquired about them or maintained a relationship with them; or
- (d) Children who, during the period in which they were under State care, although the records showed they were visited by or checked up on by their families or that whose families did maintain a relationship with them, whose families excuse themselves from taking care or assuming the responsibilities of the Children due to their current state of affairs.

Before placing the child under foster care, the following must be completed by the Ministry:

- (a) attempt to contact the parents of the Child brought under State care, or their guardians where the parents are not alive or where the parents are not known; and
- (b) undertake an assessment of the foster parents in accordance to law.

## **For how long can a child be placed under foster care?**

The child may be placed under foster care temporarily or until the child is 18 years old.

## **What is grooming?**

Grooming is when someone builds an emotional connection with a child for sexual abuse or exploitation. This is done by giving the Child money or any other materialistic thing and attempting to secure the Child's trust in order to commit the act. Grooming is an offence punishable by law.

Remember that grooming can happen in person and online. Groomers could very possibly be someone known to the child or family, who has gained the trust of a child's and their parents' trust, in order to gain an opportunity to be alone with the child.