



The Attorney General Falkland Islands

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The Attorney General's Guidance on Child Abduction Warnings and Orders

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The Law and Regulation Directorate

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1. Introduction

1. It is important that adults and children are able to communicate, socialise and enjoy healthy relationships with each other. The vast majority of relationships between adults and children fall within this category and are a source of mutual affection and benefit. It is the case, however, that some adults develop inappropriate relationships or associations with children. These types of relationships can harm a child and where this is the case it is important that effective methods are available to disrupt such relationships and bring them to an end.
2. The Crimes Ordinance 2014 ("the Ordinance") gives the Royal Falkland Islands Police the power to issue a Child Abduction Warning Notice ("CAWN"). A CAWN is an important safeguarding measure to help prevent children and young people from coming to harm as a result of inappropriate relationships or associations with adults. Due to the behaviour of the adult it may be the case that children and young people willingly engage in these relationships. Children and young people, until they reach the age of 18 years, remain in the care and control of their parents and guardians. The reason that CAWNs and CAWOs refer to "abduction" is because there is an absence of consent, from parents or guardians, for the child or young person to engage in the relationship or association in question.
3. A CAWN prohibits a named person from being in the company of a named child or young person for a period of 48 hours. Where a CAWN has been issued by a police officer an application must be made to the court for a Child Abduction Warning Order ("CAWO"). The court will then decide whether it is necessary to make a CAWO to protect the child or young person from harm as a result of association with the adult.
4. CAWNs and CAWOs are intended to be effective to protect children and young people from all harmful relationships. They are commonly used in cases involving sexual exploitation and sexual grooming. Although young people over the age of 16 years are able to consent to sexual activity, the ability to consent does not prevent a child from being sexually exploited or groomed. As such CAWNs and CAWOs are available to protect all children and young people and not just those under the age of consent.
5. This guidance is issued pursuant to section 85H of the Ordinance. There are many different types of situations in which it may be appropriate for the Royal Falkland Islands Police to issue a CAWN and the court to make a CAWO. For example where a child is associating with a person over 18 years and there is cause for concern that that the child is being exposed to alcohol and drug use, or where a child is being exposed to extremist ideology and there is cause for concern that it is leading to harmful or criminal behaviours.

6. Due to the common use of CAWNs and CAWOs in cases involving sexual abuse this guidance sets out some of the associated behaviours that may give rise to significant cause for concern in cases involving sexual exploitation and grooming. This part of the guidance is designed to assist individuals and organisations who are responsible for the welfare of children and young people to recognise the types of behaviour associated with sexual abuse.
7. This guidance also sets out the procedure that will be followed in respect of issuing a CAWN and the procedure that applies when the court is deciding whether to make a CAWO.
8. Issuing a CAWN can have a significant impact on a person's life and as such there are a number of safeguards that are built into the procedure to ensure that CAWNs are only issued in appropriate cases. A CAWN can only be authorised by a police officer holding at least the rank of Inspector and this guidance stipulates that advice from the Attorney General or Crown Counsel must be sought before the issue of a CAWN is authorised. This ensures that the authorising officer has the benefit of legal advice before deciding to issue a CAWN.
9. A CAWN issued by a police officer prohibits a named person from associating with a named child. A CAWN only lasts for a limited period of time, 48 hours, and an application must be made to the court for a CAWO within this period of time.
10. The Attorney General has conduct of an application for a CAWO and on hearing the application the court will decide whether it is necessary to impose a CAWO and the prohibitions to be attached.
11. Breaching a CAWO is a criminal offence which carries a maximum penalty of 5 years imprisonment or a fine or both.

2. Sexual Exploitation and Grooming

Sexual exploitation

12. Sexual exploitation is the sexual abuse of children and young people through the exchange of sex or sexual acts for gifts, money, alcohol, drugs, food, shelter, protection and other basics of life. Sexual exploitation includes involving children and young people in sexual activities, creating pornography and involving them with sexually explicit websites.
13. Sexual exploitation can occur exclusively online which means that even a small, remote and generally law abiding jurisdiction must be vigilant in order to protect children and young people from sexual exploitation.
14. Any child or young person can be lured, tricked or forced into being sexually exploited. Regardless of the child's personal history and life experience it is important to recognise that any sexual act between a child under 16 years and an adult is abuse. A child between 16 years and 18 years can consent to sexual activity but they can still be the victim of sexual exploitation.
15. When sexual exploitation happens online, young people may be persuaded, or forced, to send or post sexually explicit images of themselves, take part in sexual activities via a webcam or smartphone and have sexual conversations by text or online. Adults engaged in sexual exploitation of children and young people may threaten to send images, video or copies of conversations to the child or young person's friends and family unless they continue to take part in sexual activity. Images or videos may continue to be shared long after the initial sexual abuse has stopped.

Grooming

16. Sexual offences committed against children and young people often involve the process known as grooming. The grooming process involves an adult building an emotional connection with a child or young person in order to gain their trust for the purpose of offending against them.
17. A child or young person who has been subjected to grooming is often incapable of understanding the level of control that the adult exercises over them and will often take active steps to protect the adult from being investigated by safeguarding organisations.
18. Children and young people can be groomed online or face-to-face, by a stranger or by someone they know; for example a family member, friend or professional. Adults who engage in grooming children may be male or female, young or old.

19. In many cases the child genuinely believes that the adult loves and cares for them and cannot recognise the danger that the adult poses. Many children and young people don't understand that they have been groomed or that what has happened is abuse. This can often make it difficult to adequately protect the child in question.
20. Grooming happens both online and in person. The adult engaged in grooming will hide their true intentions and may spend a long time gaining a child or young person's trust. The adult may try to gain the trust of a whole family to manufacture opportunities for them to be left alone with a child or young person. If the adult works with children or young people they may use similar tactics with their work colleagues.
21. Common techniques used by adults who are grooming children or young people include:
 - (a) Pretending to be someone they are not, for example saying they are the same sex or the same age when communicating online.
 - (b) Offering the child or young person advice or understanding in order to gain trust.
 - (c) Buying gifts and giving presents to the child or young person.
 - (d) Giving the child or young person a large amount of time and attention.
 - (e) Using their professional position or reputation to gain access to the child or young person.
 - (f) Taking the child or young person on trips, outings or holidays.
 - (g) Using secrets and intimidation to control the child or young person.
22. Grooming can affect any child or young person but some children or young people may be more at risk than others, such as children who are disabled or in care. Adults engaged in grooming behaviour will exploit any vulnerability to increase the child or young person's dependence on them, and reduce the likelihood of the child or young person speaking out.

Recognised behaviours

23. It is often the case that children and young people, who are being sexually exploited, or subjected to grooming behaviour, do not speak out. Reasons for this include:
 - (a) The child or young person feels ashamed or guilty.
 - (b) The child or young person is unaware that they are being exploited or groomed.
 - (c) The child or young person believes that they are in a loving relationship with a 'boyfriend' or 'girlfriend'.

24. The secretive nature of a relationship that involves sexual exploitation or grooming means that such relationships can be difficult to detect. Adults who engage in these behaviours are often adept at manipulating others and disguising the true nature of their actions.
25. Parents, guardians, educational and health professionals and any adult who has cause to care for a child should be vigilant in order to detect whether there is any evidence that the child is in a relationship with an adult that may involve sexual exploitation or grooming behaviour.
26. An indication that a child is involved in an inappropriate relationship that involves sexual exploitation or grooming is often discovered as a result of the behaviour of the child rather than through external evidence.
27. Some of the common recognised behaviours that are found in children who are involved in inappropriate relationships with adults include:
 - (a) The child or young person is very secretive, including about what they are doing online.
 - (b) The child or young person has older boyfriends or girlfriends.
 - (c) The child or young person goes to unusual places to meet friends.
 - (d) The child or young person has new things, such as clothes or mobile phones, which they cannot or will not explain.
 - (e) The child or young person has access to drugs and/or alcohol.
 - (f) The child or young person appears to be withdrawn.
 - (g) The child or young person has a sudden behavioural change.
 - (h) The child or young person appears anxious or clingy.
 - (i) The child or young person appears depressed.
 - (j) The child or young person becomes aggressive.
 - (k) The child or young person develops problems sleeping.
 - (l) The child or young person develops eating disorders.
 - (m) The child or young person begins to wet the bed or soils clothes.
 - (n) The child or young person begins to start taking risks.
 - (o) The child or young person begins to miss school.

- (p) The child or young person displays a change in eating habits.
- (q) The child or young person develops obsessive behaviour.
- (r) The child or young person begins to have nightmares.
- (s) The child or young person begins to self-harm.
- (t) The child or young person expresses thoughts about, or shows an interest in suicide.

3. Child Abduction Warning Notices

Introduction

28. When the Royal Falkland Islands Police become aware of a relationship between an adult and a child or young person, which appears to give rise to a significant cause for concern, the matter will be investigated.
29. Whether it is appropriate to issue a CAWN in any given case will depend on the individual circumstances of the case. If it becomes apparent as a result of the investigation that a criminal offence may have been committed then the adult can be arrested as a suspect. Thereafter the management of the relationship or association with the child or young person may be able to be managed through appropriate conditions attached to police bail rather than through the use of a CAWN.
30. Where an arrest and bail conditions are not available a CAWN may be issued by the authorising officer in order to disrupt an inappropriate relationship or association.
31. If a parent, guardian or other adult has any concern at all about the welfare of a child or young person and about the nature of a relationship or association between the child or young person and an adult, then the advice is to report the concern to a police officer. The Royal Falkland Islands Police can then take action where appropriate, give advice as to how the deal with the concern and monitor the situation in the future.

Grounds for issuing

32. A CAWN can only be authorised by a police officer holding at least the rank of Inspector. A CAWN can be issued in relation to a named child or young person under the age of 18 years ("the child") to a person who is aged 18 years or over ("the adult") if the authorising officer:

has reasonable grounds for believing that A has without lawful authority or reasonable excuse been found in the company of a child under the age of 18 years ("C"); and

has reasonable grounds for believing that C has, on at least two occasions been reported missing and subsequently found to be in the company of A; or

has reason to suspect that C's behaviour is, by reason of association with A, a significant cause for concern.

33. Before issuing a CAWN the authorising officer must take reasonable steps to gather and consider the wishes of the person with lawful authority for the child. Although the final decision as to whether to issue a CAWN is a decision for the authorising officer, parents and guardians play a crucial role in the making of the decision. The reason for this is because the main evidence of the relationship or association with the adult will be provided by parents and guardians, who will not have given their consent for this relationship or association to continue.
34. It will often be the case that the relationship or association under investigation will have been reported to the police by a parent or guardian of the child. Other common scenarios include a report being made by an educational or health care professional, who may have seen behaviour that the parents or guardian of the child, have not seen. Unless there is a specific reason the police will always consult with parents and guardians before authorising the issue of a CAWN.
35. The authorising officer must also take reasonable steps to gather and consider the representations of the adult involved in the relationship or association with the child in question. It may be the case that there is a reasonable explanation for the relationship or association and the Royal Falkland Islands Police will investigate the case objectively, make assessments according to the representations received and take into account all the relevant circumstances.
36. A police officer should keep a full written record of any representations that are made concerning the issuing of a CAWN. When gathering evidence upon which the CAWN and CAWO may be based this should be taken in witness statement format, signed by the person making the statement, and with a declaration as to the truth of the statements contents.
37. When gathering representations from the adult against whom a CAWN may be issued the adult should be informed that they do not have to make representations. The adult should be warned against self-incrimination. The adult cannot be detained for the purposes of obtaining representations unless they are being arrested on suspicion of having committed a criminal offence and interviewed under caution in the normal way.
38. Where the adult does wish to make representations it is appropriate to invite the adult to take part in a recorded interview that is conducted in accordance with Code of Practice C (the police code of conduct that governs the questioning of people). The adult can be legally represented if they so wish.
39. Any interview conducted in order to obtain representations is entirely voluntary. The investigating officer should conduct the interview with the same safeguards in place as an interview under caution in respect of alleged offending. This will ensure that the rights of the adult are protected and preserve the integrity of any information obtained.

Procedure prior to Issue

40. Before issuing a CAWN the authorising officer **must** seek the advice of the Attorney General or Crown Counsel to ensure that the CAWN is being issued in accordance with the relevant law and following the correct procedure.
41. The Attorney General has conduct of applications for Child Abduction Warning Orders and so must be informed of the intention to issue a CAWN so that arrangements can be made for the application to be made in court.
42. Once a CAWN has been issued the application for a CAWO is heard within 48 hours. This means that the evidence upon which the application will be based must be prepared prior to the issuing of the CAWN. In practice this will be standard because the CAWN will not be issued before consultation with the Attorney General or Crown Counsel, who will advise on the manner of the presentation of the evidence relied upon.
43. In most cases the evidence relied upon will be in the form of witness statements from parents, guardians, health and educational professionals and police officers who give accounts capable of establishing the grounds for issuing a CAWN.
44. Before issuing a CAWN the authorising officer must ensure that each witness will be available to give evidence to the court hearing the application for the CAWO.

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45. A CAWN will be issued in writing and will prohibit the named adult from being in the company of the named child.
46. The CAWN must state:
 - (a) the grounds on which it has been issued;
 - (b) that a constable may arrest the adult without warrant if the constable has reasonable grounds for believing that the adult is in breach of the CAWN;
 - (c) that an application for a child abduction warning order will be heard by the court within 48 hours of the time of service;
 - (d) that the CAWN continues in effect until that application for a CAWO has been determined; and
 - (e) details of the type of provisions that a court may include in a CAWO

47. A CAWN must be served on the adult personally by a police officer and upon service of the CAWN the police officer must ask the adult for an address for the purposes of being given a notice of the hearing of the application for the CAWO.
48. Where a CAWN is issued it will be standard for the authorising officer to have obtained a hearing date and time from the court, within the 48 hour period, so that the notice of hearing can be included on the CAWN.
49. If, for any reason, the details of the hearing are not provided on the CAWN then a separate written notice must be served on the adult, or left at the given address, which states the time and place of the hearing.

Breach

50. If an adult is made the subject of a CAWN and then breaches the CAWN the adult will be arrested and must be held in custody to be produced before the court within 24 hours of the time of the arrest.
51. In the above circumstances a police officer has no power to grant bail, conditional or otherwise, to an adult arrested in breach of a CAWN. The adult must be held in custody. The reason for this is that a breach of a CAWN is a serious matter that indicates that a child may be at significant risk from the adult. Where a CAWN has been breached it is proportionate for the adult to be detained in custody.
52. The adult will be produced before the court allocated to consider the application for the CAWO. The court can hear the application for the CAWO at that stage or adjourn the application to a different date and time. If the application is adjourned the court can remand the adult in custody until the application is determined.
53. Breach of a CAWN is not a criminal offence but it does provide a police officer with grounds to arrest and detain the adult in order for the adult to be produced before the court.

4. Child Abduction Warning Orders

The hearing

54. The Attorney General has conduct of the proceedings in respect of an application for a CAWO. Where a CAWN has been issued an application must be made to the court so that the court can consider whether to make a CAWO.
55. Prior to a CAWN being issued the authorising officer will have consulted the Attorney General or Crown Counsel for advice on the law. If this has not been done or the Attorney General considers that a CAWN has been issued incorrectly then the Attorney General can ask that the application for a CAWO be dismissed. This must be done in court so that the court has oversight of the situation. This provides a safeguard that ensures that CAWNs are issued correctly and requires an explanation to be given where the Attorney General decides that it would not be proper to pursue the application for a CAWO.
56. The application for a CAWO must be heard no later than 48 hours after the CAWN was issued. At the hearing the court may adjourn the application to a later date, in which case the CAWN continues in force until the application is decided.
57. The child named in the application for a CAWO cannot be compelled to give evidence in relation to the application. The child cannot be summonsed or arrested to secure their attendance. It remains open to the parties to call the child to give evidence but there is no obligation for this to be done. This protects children from having to give evidence where the circumstances of the case make that inappropriate. For example in cases involving grooming the child may not be able to recognise the abusive nature of the relationship or association they have with the adult and compelling their attendance to give evidence may cause further harm.

Conditions for making an order

58. The court may make a CAWO if two conditions are met:

- (1) Firstly the court must be satisfied, on the balance of probabilities, that:

There are reasonable grounds for believing that A has without lawful authority or reasonable excuse been found in the company of a child under the age of 18 years ("C"); and

There are reasonable grounds for believing that C has, on at least two occasions been reported missing and subsequently found to be in the company of A; or

There is reason to suspect that C's behaviour is, by reason of association with A, a significant cause for concern.

- (2) Secondly the court thinks that making a CAWO is necessary to protect the child from harm as a result of association with the adult.

Effect and contents

59. A CAWO prohibits the adult from doing anything described in the order. Any prohibition imposed by the court must be necessary to protect the child from harm as a result of association with the adult.
60. A CAWO must state that a police officer can arrest the adult without warrant if there are reasonable grounds for believing that the adult has breached any of the prohibitions contained in the CAWO.
61. A CAWO may be in force for no fewer than 14 days beginning with the day on which it is made and until the date of the 18th birthday of the child. The period for which the CAWO is in force must be stated in the CAWO.

Breach of a CAWO

62. If the adult breaches the prohibitions contained in the CAWO they commit a criminal offence and can be imprisoned for 5 years or made to pay a fine or both.
63. Alleged breaches of CAWOs will be investigated by the Royal Falkland Islands Police in the same manner as any other suspected criminal offence.

Document Control

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