

# REPORTABLE CONDUCT SCHEMES IN AUSTRALIA

## Notifying and Reporting Allegations of Workplace Child Abuse – Reportable Conduct Schemes in Australia.

In 1999, the New South Wales (NSW) Reportable Conduct Scheme was established to provide independent oversight by the Ombudsman of the handling of child abuse and neglect allegations against employees. On the 1st July 2017, the Victorian Commission for Children and Young People and the ACT Ombudsman, administered new Reportable Conduct Schemes in the related jurisdictions, to oversee how organisations prevent and respond to allegations of child abuse and misconduct by workers and volunteers. All three Reportable Conduct Scheme's address employment-related child protection.

On the next page is a summary of the three Schemes across NSW, ACT and Victoria. Although all three schemes have the similar responsibilities, there are differences in the management of the reporting and assessment processes.

### Please note:

1. The reportable conduct schemes do not interfere with mandatory reporting obligations. If employers suspect criminal conduct has occurred, they should report to child protection or the police in the first instance.
2. The information provided above is a summary for general reference only. If you are unsure of your reporting obligations you should seek direction from the ombudsman/commissioner in your jurisdiction.

### Sources:

NSW Ombudsman <https://www.ombo.nsw.gov.au/what-we-do/our-work/employment-related-child-protection>

Victoria Commissioner for Children and Young People <https://ccyp.vic.gov.au/reportable-conduct-scheme/>

ACT Ombudsman <http://www.ombudsman.act.gov.au/reportable-conduct-scheme>

Jurisdiction	What is reportable conduct?	Organisations required to report	Report to	How and when to report	Investigations
<p><b>ACT</b> - from 1<sup>st</sup> July 2017</p> <p><i>Reportable Conduct and Information Sharing Legislation Amendment Act 2016</i></p> <p>Click <a href="#">here</a> for further information</p>	<ul style="list-style-type: none"> <li>• Ill-treatment of a child (including emotional abuse, and hostile use of force)</li> <li>• Neglect</li> <li>• Psychological harm</li> <li>• Misconduct of a sexual nature</li> <li>• Sexual or physical offences and convictions where a child is a victim or is present</li> <li>• Inappropriate discipline or offences relating to protecting children from harm in accordance with the provisions of the Education and Care Service National Law (ACT) Act 2011.</li> </ul>	<p>Employers covered by the scheme are referred to as ‘designated entities’ and include:</p> <ul style="list-style-type: none"> <li>• all ACT Government Directorates</li> <li>• health service providers</li> <li>• kinship and foster care</li> <li>• residential care organisations</li> <li>• government and non-government schools</li> <li>• child care services</li> <li>• education and care service providers, such as after school care.</li> </ul>	Ombudsman	<p>Employers in the reportable conduct scheme need to notify the Ombudsman about any reportable conduct allegations or convictions involving an employee by submitting a <a href="#">s 17G Notification</a> as soon as possible, but no later than 30 days after the employer becomes aware of the conduct.</p>	<p>The employer must investigate any allegations of reportable conduct and provide a final report to the Ombudsman</p> <p>They must also report to other entities as required (for example, ACT Policing, CYPS, Access Canberra, Teacher Quality Institute, Children’s Education and Care Assurance, Human Rights Commission etc.)</p> <p>The employer must adjust their policies and procedures to reflect their new responsibilities under the scheme and educate employees about these.</p>
<p><b>NSW</b> - from 1999</p> <p><i>Part 3A Ombudsman Act 1974</i></p> <p>Click <a href="#">here</a> for further information</p>	<ul style="list-style-type: none"> <li>• Any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence or an offence involving child abuse material),</li> <li>• Any assault, ill-treatment or neglect of a child,</li> <li>• Any behaviour that causes psychological harm to a child, whether or not, in any case, with the consent of the child.</li> </ul>	<p>There are three types of agencies that must notify the Ombudsman of reportable allegations or convictions against employees</p> <ol style="list-style-type: none"> <li>1. designated government agencies, includes, but is not limited to, the Departments of Education, Family and Community Services, Health, and Justice.</li> <li>2. all other public authorities</li> <li>3. designated non-government agencies including schools, child care centres, out of school hours’ services and agencies providing substitute residential care.</li> </ol>	Ombudsman	<p>The head of relevant agencies must notify the Ombudsman of reportable allegations and convictions as soon as practicable and, in any event, within 30 days of becoming aware of them.</p> <p>Agencies are encouraged to call the dedicated <b>Employment-Related Child Protection Line on 02 9286 1021</b> to seek guidance on whether an allegation requires notification to the Ombudsman or make an initial verbal notification. The formal notification can be made by completing and submitting the <a href="#">Ombudsman’s Part A Notification form</a>.</p>	<p>Agencies are expected to respond to allegations by conducting an investigation, and undertaking any risk management or other action which may be required.</p> <p>Any findings of workplace misconduct must be reported to the <a href="#">Office of the Children’s Guardian</a></p>
<p><b>VIC</b> - from 1<sup>st</sup> July 2017</p> <p><i>Children Legislation Amendment (Reportable Conduct) Act 2017</i></p> <p>Click <a href="#">here</a> for further information</p>	<p>Any offence or misconduct involving children, including:</p> <ul style="list-style-type: none"> <li>• Sexual offences committed against, with or in the presence of a child</li> <li>• Sexual misconduct committed against, with or in the presence of a child</li> <li>• Physical violence against, with or in the presence of a child</li> <li>• Any behaviour that causes significant emotional or psychological harm to a child</li> <li>• Significant neglect of a child.</li> </ul>	<p>The scheme is being introduced in three phases:</p> <p><b>Phase 1 – From 1 July 2017 the scheme will apply to:</b></p> <ul style="list-style-type: none"> <li>• Government and non-government primary and secondary schools;</li> <li>• Organisations registered or accredited to provide senior secondary education and training;</li> <li>• Registered overseas student exchange organisations;</li> <li>• Registered schools and senior secondary providers that provide approved education and training courses to students from overseas;</li> <li>• Disability service providers that provide residential services for children with a disability;</li> <li>• Mental health service providers that provide in-patient beds for children and young people;</li> <li>• Drug or alcohol treatment services that provide in-patient beds for children and young people;</li> <li>• Housing or homelessness services that provide overnight beds for children and young people, such as youth refuges;</li> <li>• Child protection services;</li> <li>• Out-of-home care services; and</li> <li>• Government departments providing services to children (including youth justice and corrective services).</li> </ul> <p><b>Phase 2 – From 1 January 2018 the scheme will apply to:</b></p> <ul style="list-style-type: none"> <li>• Religious organisations;</li> <li>• Residential facilities of boarding schools;</li> <li>• Overnight camps for children;</li> <li>• Public, denominational and private hospitals; and</li> <li>• Other disability service providers that provide services for children, including those registered with the National Disability Insurance Scheme.</li> </ul> <p><b>Phase 3 – From 1 January 2019 the scheme will apply to:</b></p> <ul style="list-style-type: none"> <li>• Approved education and care services (e.g. kindergartens, after hours care services);</li> <li>• Children’s services (e.g. occasional care providers); and</li> <li>• Statutory bodies that have responsibility for children, such as public museums and galleries.</li> </ul>	Commission for Children and Young People	<p>The person in a relevant position of authority (such as the Chief Executive Officer) in the organisation is made aware of and reports any allegation of reportable conduct made against a worker or volunteer to the Commission for Children and Young People through the designated <a href="#">webform</a>.</p> <p><b>In all circumstances, allegations of criminal conduct must be reported to Victoria Police as the first priority.</b></p>	<p>The organisation must ensure an appropriate independent* investigation of the allegation is undertaken.</p> <p>Any findings and the reasons for the outcome of an investigation must be reported to the Commission for Children and Young People at the conclusion of the investigation.</p> <p><i>*independent body or person with appropriate qualifications, training or experience to investigate reportable allegations.</i></p>