



resource sheet

NATIONAL CHILD PROTECTION CLEARINGHOUSE

Mandatory reporting of child abuse and neglect

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This resource sheet examines legal provisions requiring specified people to report suspected child maltreatment to statutory child protection services in Australia.

What is mandatory reporting?

The legal requirement to report suspected cases of child abuse and neglect is known as mandatory reporting. All jurisdictions possess mandatory reporting requirements of some description. However, the people mandated to report and the abuse types for which it is mandatory to report vary across Australian states and territories.

Who is mandated to make a notification?

The groups of people mandated to notify their concerns, suspicions or beliefs to the appropriate statutory child protection authority range from a limited number of specified persons in specified contexts (Queensland) through to every adult (Northern Territory).

The relevant Acts and Regulations in the Australian Capital Territory, New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia contain lists of particular occupations that are mandated to report. Some states have a limited number of occupations listed, such as Queensland (doctors, departmental officers, and employees of licensed residential care services) and Victoria

(police, doctors, nurses and teachers). Other jurisdictions have more extensive lists (Australian Capital Territory, South Australia, Tasmania) or use generic descriptions such as “professionals working with children”.

Many commentators have suggested that Western Australia is the only Australian jurisdiction without mandatory reporting requirements. However, Western Australia does possess targeted legislative requirements for the reporting of child abuse. Court personnel, counsellors and mediators are required to report allegations or suspicions of child abuse in Family Court cases, and licensed providers of child care or outside-school-hours care services are required to report abuse in a child care service. From January 1 2009, the legislation covering mandatory reporting of child sexual abuse in the *Children and Community Services Amendment (Reporting Sexual Abuse of Children) Act 2008* became part of the *Children and Community Services Act 2004*. This extended mandatory reporting requirements to doctors, nurses, midwives, police officers and teachers in circumstances where they have reasonable grounds to believe that a child has been, or is, the subject of sexual abuse.

Table 1 (pp. 2–4) provides an overview of who is legally mandated to report suspected child maltreatment to statutory child protection services in each state and territory.

Who is mandated to notify?	What is to be notified?	Maltreatment types mandatory to report	Relevant sections of the Act/Regulations
<p>QLD</p> <p>An authorised officer, employee of the Department of Communities (Child Safety Services), a person employed in a departmental care service or licensed care service</p> <p>A doctor or registered nurse</p> <p>The Commissioner for Children and Young People</p>	<ul style="list-style-type: none"> ■ Awareness or reasonable suspicion of harm caused to a child placed in the care of an entity conducting a departmental care service or a licensee ■ Awareness or reasonable suspicion during the practice of his or her profession of harm or risk of harm ■ A child who is in need of protection under s10 of the <i>Child Protection Act</i> (i.e., has suffered or is at unacceptable risk of suffering harm and does not have a parent able and willing to protect them) 	<ul style="list-style-type: none"> ■ Physical abuse ■ Sexual abuse or exploitation ■ Emotional/psychological abuse ■ Neglect 	<p>Section 148 of the <i>Child Protection Act 1999</i> (Qld)</p> <p>Sections 191–192 and 158 of the <i>Public Health Act 2005</i> (Qld)</p> <p>Section 20 of the <i>Commission for Children Young People and Child Guardian Act 2000</i> (Qld)</p>
<p>SA</p> <p>Doctors; pharmacists; registered or enrolled nurses; dentists; psychologists; police officers; community corrections officers; social workers; teachers; family day care providers; employees/volunteers in a government department, agency or instrumentality, or a local government or non-government agency that provides health, welfare, education, sporting or recreational, child care or residential services wholly or partly for children; ministers of religion (with the exception of disclosures made in the confessional); employees or volunteers in a religious or spiritual organisations</p>	<ul style="list-style-type: none"> ■ Reasonable grounds that a child has been or is being abused or neglected; and ■ the suspicion is formed in the course of the person's work (whether paid or voluntary) or carrying out official duties 	<ul style="list-style-type: none"> ■ Physical abuse ■ Sexual abuse ■ Emotional/psychological abuse ■ Neglect 	<p>Section 11 of the <i>Children's Protection Act 1993</i> (SA)</p>
<p>TAS</p> <p>Registered medical practitioners; nurses; dentists, dental therapists or dental hygienists; registered psychologists; police officers; probation officers; principals and teachers in any educational institution; persons who provide child care or a child care service for fee or reward; persons concerned in the management of a child care service licensed under the <i>Child Care Act 2001</i>; any other person who is employed or engaged as an employee for, of, or in, or who is a volunteer in, a government agency that provides health, welfare, education, child care or residential services wholly or partly for children, and an organisation that receives any funding from the Crown for the provision of such services; and any other person of a class determined by the Minister by notice in the Gazette to be prescribed persons</p>	<ul style="list-style-type: none"> ■ A belief, suspicion, reasonable grounds or knowledge that: ■ a child has been or is being abused or neglected or is an affected child within the meaning of the <i>Family Violence Act 2004</i>; or ■ there is a reasonable likelihood of a child being killed or abused or neglected by a person with whom the child resides 	<ul style="list-style-type: none"> ■ Physical abuse ■ Sexual abuse ■ Emotional/psychological abuse ■ Neglect ■ Exposure to family violence 	<p>Sections 13 and 14 of the <i>Children, Young Persons and Their Families Act 1997</i> (Tas.)</p>
<p>VIC</p> <p>Registered medical practitioners, registered nurses, a person registered as a teacher under the <i>Education, Training and Reform Act 2006</i> or teachers granted permission to teach under that Act, principals of government or non-government schools, and members of the police force</p>	<ul style="list-style-type: none"> ■ Belief on reasonable grounds that a child is in need of protection on a ground referred to in Section 162(c) or 162(d), formed in the course of practising his or her office, position or employment 	<ul style="list-style-type: none"> ■ Physical abuse ■ Sexual abuse 	<p>Sections 182(1) a–e, 184 and 162 c–d of the <i>Children, Youth and Families Act 2005</i> (Vic.)</p>

Who is mandated to notify?	What is to be notified?	Maltreatment types mandatory to report	Relevant sections of the Act/Regulations
WA Court personnel; family counsellors; family dispute resolution practitioners, arbitrators or legal practitioners representing the child's interests Licensed providers of child care or outside-school-hours care services Doctors; nurses and midwives; teachers; and police officers	<ul style="list-style-type: none"> Reasonable grounds for suspecting that a child has been: abused, or is at risk of being abused; ill treated, or is at risk of being ill treated; or exposed or subjected to behaviour that psychologically harms the child. 	<ul style="list-style-type: none"> Physical abuse Sexual abuse Emotional/psychological abuse Neglect 	Section 160 of the <i>Western Australia Family Court Act 1997</i> (WA);
	<ul style="list-style-type: none"> Allegations of abuse, neglect or assault, including sexual assault, of an enrolled child during a care session 	<ul style="list-style-type: none"> Physical abuse Sexual abuse Neglect 	Regulation 20 of the <i>Child Care Services Regulations 2006</i> ; Regulation 19 of the <i>Child Care Services (Family Day Care) Regulations 2006</i> ; Regulation 20 of the <i>Child Care Services (Outside School Hours Family Day Care) Regulations 2006</i> ; Regulation 21 of the <i>Child Care Services (Outside School Hours Care) Regulations 2006</i>
	<ul style="list-style-type: none"> Belief on reasonable grounds that child sexual abuse has occurred or is occurring 	<ul style="list-style-type: none"> Sexual abuse 	Section 124B of the <i>Children and Community Services Act 2004</i> (WA)

Note: *Section 67ZA of the *Family Law Act 1975* (Cth) applies to all states and territories.

In addition to state and territory law, there are provisions within Commonwealth legislation that relate to mandatory reporting. Under the *Family Law Act 1975* (Cth), personnel from the Family Court of Australia, the Federal Magistrates Court and the Family Court of Western Australia also have mandatory reporting obligations. This includes registrars, family counsellors, family dispute resolution practitioners or arbitrators, and lawyers independently representing children's interests. Section 67ZA states that when in the course of performing duties or functions, or exercising powers, the above court personnel have reasonable grounds for suspecting that a child has been abused, or is at risk of being abused, the person must, as soon as practicable, notify a prescribed child welfare authority of his or her suspicion and the basis for the suspicion (see <www.austlii.edu.au/au/legis/cth/consol_act/fla1975114/s67za.html>).

What types of abuse are mandated reporters required to report?

In addition to differences across jurisdictions in the people who are mandated to report abuse concerns, there are also differences across jurisdictions in the abuse types for which it is mandatory to report. In some jurisdictions it is mandatory to report suspicions of each of the recognised abuse types (i.e., physical abuse, emotional abuse, sexual abuse and neglect), while in other jurisdictions it is mandatory to report only some of the abuse types.

Is the identity of notifiers protected?

In most jurisdictions (Australian Capital Territory, New South Wales, Northern Territory, South Australia, Victoria, Western Australia, Tasmania), the identity of notifiers—whether mandated or not—is

explicitly protected. However, in some jurisdictions there are limits to this protection. For example, in the Northern Territory, the identity of reporters is not disclosed to families, but may be disclosed to the Family Court upon request.

About whom can notifications be made?

Legislation in all jurisdictions except New South Wales requires mandatory reporting in relation to all young people up to the age of 18 (whether they use the terms “children” or “children and young people”). In New South Wales, the legislative grounds for intervention cover young people up to 18 years of age, but it is not mandatory to report suspicions of risk of harm in relation to young people aged 16 and 17.

Although particular professional groups (such as psychologists) or government agencies (such as education departments in some states) may have protocols outlining the moral, ethical or professional responsibility or indeed the organisational requirement to report, they may not be officially mandated under their jurisdiction’s child protection legislation. For example, in Queensland, school principals and teachers are required to report suspected abuse and neglect as per Education Queensland policy, but teachers and principals are not mandated to report under the relevant legislation. Further, in some jurisdictions, agreements between authorities can establish reporting requirements. For example, in Western Australia, there is an agreement between the Department of Health, the Department for Community Development and the Western Australia Police that requires the reporting of all children under 14 years of age with sexually transmitted infections (STI) and the reporting of children 14 and 15 years of age with a STI acquired through abuse.

What type of concerns must be reported and to what must child protection respond?

Mandatory reporting laws specify those conditions under which an individual is legally required to make a report to the statutory child protection service in their jurisdiction. This does not preclude an individual from making a report to the statutory child protection service if they have concerns for the safety and wellbeing of a child that do not fall within mandatory reporting requirements.

A common assumption is that mandatory reporting requirements, the legislative grounds for intervention, and research classifications of abusive and neglectful behaviour are the same. In fact, mandatory reporting laws define the types of situations that *must* be reported to statutory child protection services. Legislative grounds for intervention define the circumstances and, importantly, the threshold at which the statutory child protection service is legally able to intervene to protect a child. Researchers typically focus on defining behaviours and circumstances that can be categorised as abuse and neglect. These differences arise because each description serves a different purpose; the lack of commonality does not mean that the system is failing to work as policy makers had intended.

What are the benefits of mandatory reporting requirements?

Mandatory reporting is considered to be a symbolic acknowledgement of the seriousness of child abuse. Mandatory reporting requirements reinforce the moral responsibility of community members to report suspected cases of child abuse and neglect. The introduction of mandatory reporting aims to overcome the reluctance of some professionals to become involved in suspected cases of child abuse by imposing a public duty to do so.

Mandatory reporting, and the publicity associated with its introduction, has been found to increase public awareness of child abuse, both within mandated professional groups and within the community at large.

Are there problems with the introduction of mandatory reporting?

As the introduction of mandatory reporting requirements within a jurisdiction tends to increase the community’s awareness of child abuse, in many instances it also results in a substantial increase in the number of reports being made to child protection departments. If there are inadequate resources available to the responsible department to respond to the increased demand, then the increasing number of reports may result in services being overwhelmed with cases to investigate, and lacking sufficient staffing to do so.

In order to cope with this influx of reports, some child protection departments have increased the threshold or level of seriousness of reports that give rise to an investigation. For example, in 2010 in New South Wales the threshold for child maltreatment changed from risk of harm to risk of significant harm. When mandated people report suspected cases of child abuse or neglect, they expect the

child protection department to investigate and take action regarding their report. If this does not occur, there is a risk that such people may cease to make reports in the future.

Further details and information about mandatory reporting can be obtained from the relevant statutory child protection authority in each jurisdiction (see Table 2).

Table 2: Statutory child protection authorities

Jurisdiction	Responsible authority	Website
ACT	Office for Children, Youth and Family Support—Department of Disability, Housing and Community Services	www.dhcs.act.gov.au/ocyfs
NSW	Community Services, Department of Human Services NSW	www.community.nsw.gov.au
NT	Children, Youth and Families—Department of Health and Families	www.health.nt.gov.au/Children_Youth_and_Families
QLD	Department of Communities (Child Safety Services)	www.communities.qld.gov.au
SA	Families SA—Department of Families and Communities	www.dfc.sa.gov.au/pub/Default.aspx?tabid=257
TAS	Child Protection—Department of Health and Human Services	www.dhhs.tas.gov.au/health_and_wellbeing/children_and_families/related_topics/child_protection
VIC	Child Protection and Family Services—Department of Human Services	www.cyf.vic.gov.au/child-protection-family-services
WA	Department for Child Protection	www.community.wa.gov.au/DCP

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