

# REPORTABLE CONDUCT SCHEME POLICY (Vic)

Our Service is committed to the safety, wellbeing, and support of all children in our care. From January 1<sup>st</sup>, 2019, the Reportable Conduct Scheme has been implemented in Victoria. This aims to complement the Child Safe Standards and other existing child safety measures and ensure that timely reports are made and investigated should there be allegations against employees, volunteers, or visitors of the Service (State of Victoria [Commission for Children and Young People], 2018).

## NATIONAL QUALITY STANDARD (NQS)

QUALITY AREA 2: CHILDREN'S HEALTH AND SAFETY		
2.2	Safety	Each child is protected.
2.2.1	Supervision	At all times, reasonable precautions and adequate supervision ensure children are protected from harm and hazard.
2.2.3	Child Protection	Management, educators and staff are aware of their roles and responsibilities to identify and respond to every child at risk of abuse or neglect.

EDUCATION AND CARE SERVICES NATIONAL REGULATIONS	
84	Awareness of child protection law
S162 (A)	Persons in day to day charge and nominated supervisors to have child protection training

## OTHER RELEVANT LEGISLATION

<i>Child Wellbeing and Safety Act 2005 (Vic)</i>
<i>Children, Youth and Families Act 2005 (Amended 2014) (Vic)</i>
<i>Commission for Children and Young People Act 2012 (Amended 2014) (Vic)</i>
Failure to Disclose 2014 (Under Section 327 of the <i>Crimes Act 1958</i> [Vic])
Failure to Protect 2015 (Under Section 327 of the <i>Crimes Act 1958</i> [Vic])
<i>The Charter of Human Rights and Responsibilities Act 2006 (Vic)</i>
<i>Working with Children Act 2005 (Vic)</i>
<i>Family Law Act 1975 (Cth)</i>
<i>Crimes Act 1958 (Vic)</i>

## RELATED POLICIES

Child Safe environment policy	
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## PURPOSE

Management, educators and staff are committed to identifying possible risk and significant risk of harm to children and young people at the Service. We understand our duty of care to protect children from all types of abuse, including protecting them from potential abuse that could occur within the service by employees, visitors, students or contractors. It is therefore imperative that all staff have a thorough knowledge and understanding of the requirements of the Reportable Conduct Scheme, which seeks to improve the responses of organisations to allegations of child abuse and neglect by their employees or volunteers.

## SCOPE

This policy applies to management, educators, staff, students, volunteers, contractors and allied health/support staff of the Service.

## DEFINITIONS

### Reportable Conduct

There are five types of 'reportable conduct':

- Sexual offences committed against, with or in the presence of a child.
- Sexual misconduct committed against, with or in the presence of a child.
- Physical violence against, with or in the presence of a child.
- Any behaviour that causes significant emotional or psychological harm to a child.
- Significant neglect of a child.

### Head of the organisation

The structure of the organisation will determine the 'head'. In Early Childhood Services this will likely be the Approved Provider, or Chief Executive Officer (CEO) of larger organisations.

### Failure to disclose

Under the *Crimes Act 1958* (Vic) all adults must make a report to the Victoria Police if they hold a reasonable belief that a sexual offence has been committed by an adult against a child under the age of 16 years.

### Failure to protect

Under the *Crimes Act 1958* (Vic) a person in a position of authority in an organisation must act to reduce or remove a substantial risk to a child under 16 years of age who is under their care or supervision who may become the victim of sexual abuse committed by an adult associated with their organisation.

### Mandatory reporters

Professional groups, including early childhood teachers and workers, who are mandated under the *Children, Youth and Families Act 2005* (CYFA) (s. 182) are mandated to report their concerns for a child to child protection if they form a belief on reasonable grounds that a child is in need of protection (Source: Victorian Government: Child Protection Manual).

### Reasonable grounds

A belief on reasonable grounds is formed if a reasonable person in the same position would have formed the belief on the same grounds. For example,

- a child states they have been physically or sexually abused
- a child states they know someone who has been physical or sexually abused (sometimes the child may be talking about themselves)
- someone who knows the child states the child has been physically or sexually abused
- professional observations of the child's behaviour or development leads the mandated professional to form a belief the child has been abused or is likely to be abused
- signs of physical or sexual abuse leads to a belief the child has been abused.

(Source: Victorian Government, CCYP)

## IMPLEMENTATION

### The Head of the organisation must:

- be fully aware of, and knowledgeable about the responsibilities of the head of an organisation, which include all points below
- sign up and maintain a subscription for Commission updates in order to maintain current knowledge on Child Protection issues in Victoria (See Resources).

- ensure there are systems in place to prevent child abuse
- ensure allegations are brought to the attention of appropriate persons for investigation and response
- ensure that all allegations based on reasonable grounds are reported, including allegations made against employees who do not have direct contact with children, and conduct that allegedly occurred outside of their work
- Contact the Commission if unclear on whether or not a reportable allegation should be made about a person: Phone **8601 5281**
- Email: [childsafestandards@ccyp.vic.gov.au](mailto:childsafestandards@ccyp.vic.gov.au)
- gather the information required to complete the report. *Note: The types of information required can be found in Appendix A.*
- notify the Commission **within three business days** of becoming aware of a reportable allegation, using the online forms found at <https://ccyp.vic.gov.au/reportable-conduct-scheme/notify-and-update/> *Note: You are not able to save the form once commenced: It must be completed in one session.*
- make a report to Victoria Police as soon as you are aware that a reportable allegation may involve criminal conduct (if any reportable allegation involves suspected criminal behaviour, notify both the Victoria police and the Commission)
- understand that police investigations take priority over reportable allegation notifications and as such the organisation's investigation may need to be deferred until the police investigation has been completed
- provide the Commission with details of who is conducting the investigation
- begin an investigation using the CCYP Investigation Guide (see Resources)
- manage risks to children whilst undertaking the investigation
- maintain detailed and objective notes on all aspects of the investigation
- provide the Commission with updates on the organisation's response to the allegation via the online forms
- assess the evidence and make a decision based on the strength of the evidence as to whether or not the Reportable Conduct occurred
- provide the Commission with detailed information on the reportable allegation and any action taken **within thirty calendar days** of the initial notification via the online forms. This should include (Source: CCYP Information sheet 8: Investigation findings.):
  - The findings:
    - **Substantiated** - This finding should be used when a decision maker has decided that the reportable conduct has been proven to have happened on the balance of

probabilities. The evidence suggests it is more likely than not that the reportable conduct happened because there is enough reliable, convincing, evidence of weight.

- **Unsubstantiated - insufficient evidence** - This finding should be used when there was some evidence of weight to support the allegation, but not enough for the decision maker to make a substantiated finding. **The evidence does not suggest that it is more likely than not that the reportable conduct happened.**
- **Unsubstantiated - lack of evidence of weight** - This finding should be used when there is not enough evidence to properly investigate the allegation, or the small amount of evidence available is contradictory or confusing. **There is not enough evidence to establish whether the reportable conduct did, or did not happen.**
- **Unfounded** - This finding should be used when there is strong evidence that the reportable conduct did not happen. **The evidence suggests that it is more likely than not that the reportable conduct did not happen.**
- **Conduct outside scheme** - This finding should be used when the decision maker has investigated the conduct and, although the conduct occurred, **it does not fit any of the types of reportable conduct listed in the Act.** An example of this might be slapping a child's hand away from a hot stove.
  - The reasons for the finding, which should explain:
    - How the investigation was done.
    - The evidence that was collected and how it was assessed.
    - Whether the evidence was relevant and reliable.
    - How the evidence supported or contradicted the allegation of Reportable Conduct.
    - How convincing the evidence was in all of the circumstances.
- Seek help from the Commission if there are any concerns or guidance is required: Phone **8601 5281**.
- Understand that the Reportable Conduct Scheme does not replace the legal requirement to report allegations to the Victoria Police.

#### MANAGEMENT/NOMINATED SUPERVISORS/RESPONSIBLE PERSONS WILL ENSURE:

- that they, and all employees have an in-depth understanding of the Reportable Conduct Scheme.
- all employees are aware of who holds the position of 'head of organisation'
- there are systems in place to prevent child abuse
- that they, and all educators and staff maintain a current Working with Children Check

- that they, and all educators and staff follow policies and procedures concerning Child Protection, Child Safe Environments, and Reportable Conduct
- allegations are immediately brought to the attention of the Head of the organisation
- that they will notify the Commission of any alleged Reportable Conduct if the Head of the organisation fails to do so for any reason.

### EDUCATORS WILL ENSURE:

- that they have a thorough understanding of their duty of care in relation to Child Protection
- that they maintain a current Working with Children Check
- that they have an in-depth understanding of the Reportable Conduct Scheme
- they have a thorough understanding, and follow all policies and procedures concerning Child Protection, Child Safe Standards, and Reportable Conduct
- all allegations are immediately brought to the attention of the Head of the organisation and/or the Nominated Supervisor and/or Responsible Person
- that they will notify the Commission of any alleged Reportable Conduct if the Head of the organisation and/or the Nominated Supervisor and/or Responsible Person fails to do so for any reason
- that they understand that failure to comply with the Reportable Conduct Scheme requirements may lead to their Working with Children Check being revoked.

### Source

Australian Government: Australian Institute of Family Studies. (2018). *Australian child protection legislation* [CFCA resource sheet]. Retrieved from <https://aifs.gov.au/cfca/publications/australian-child-protection-legislation>

State of Victoria (Commission for Children and Young People). (2018). *Investigation findings* [Information sheet 8]. Retrieved from <https://ccyp.vic.gov.au/child-safety/resources/reportable-conduct-scheme-information-sheets/#TOC-8>

State of Victoria (Commission for Children and Young People). (2018). *Reportable conducts scheme*. Retrieved from <https://ccyp.vic.gov.au/reportable-conduct-scheme/>

State of Victoria (Commission for Children and Young People). (2018). *Reporting to the Commission* [Information sheet 7]. Retrieved from <https://ccyp.vic.gov.au/child-safety/resources/reportable-conduct-scheme-information-sheets/#TOC-8>

Victoria State Government. (2018). *Child protection manual*. Retrieved from [www.cpmanual.vic.gov.au](http://www.cpmanual.vic.gov.au)

Victoria State Government: [Health and Human Services](http://providers.dhhs.vic.gov.au/changes-child-protection-law). (2018). *Changes to child protection law*. Retrieved from <http://providers.dhhs.vic.gov.au/changes-child-protection-law>

### RESOURCES

[Subscription to commission updates:](#)

<https://ccyp.vic.gov.au/contact-us/sign-up-for-commission-updates/>

## Information sheets

Available from <https://ccyp.vic.gov.au/child-safety/resources/reportable-conduct-scheme-information-sheets/>

[Information sheet 1: About the Reportable Conduct Scheme](#)

[Information sheet 2: What is reportable conduct?](#)

[Information sheet 3: Responsibilities of the head of an organisation](#)

[Information sheet 4: Investigation overview](#)

[Information sheet 5: Other reporting obligations](#)

[Information sheet 6: Child Safe Standards and Reportable Conduct Scheme](#)

[Information sheet 7: Reporting to the Commission](#)

[Information sheet 8: Investigation findings](#)

[Information sheet 9: Sexual misconduct](#)

[Information sheet 10: Physical violence](#)

[Information sheet 11: Significant neglect](#)

[Information sheet 12: Historical allegations](#)

[Information sheet 13: Workers and volunteers](#)

[Information sheet 14: Commission own motion investigations](#)

[Frequently asked questions](#)

## NOTIFICATION FORMS

Available from <https://ccyp.vic.gov.au/reportable-conduct-scheme/reportable-conduct-scheme-forms/>

- Three-day notification – head of organisation
- 30-day update
- Investigation outcome update
- Investigator update
- Other information update

## REVIEW

POLICY REVIEWED BY:	Nikia Nankervis	Centre Manager	14/12/2021
POLICY REVIEWED	December 2021	NEXT REVIEW DATE	December 2022
MODIFICATIONS	<ul style="list-style-type: none"> <li>• Policy reviewed</li> <li>• minor editing</li> <li>• sources checked for currency</li> </ul>		
POLICY REVIEWED	PREVIOUS MODIFICATIONS	NEXT REVIEW DATE	
NOVEMBER 2019	<ul style="list-style-type: none"> <li>• Policy format updated</li> <li>• Sources checked for currency</li> </ul>	NOVEMBER 2020	
NOVEMBER 2018	<ul style="list-style-type: none"> <li>• New policy drafted</li> </ul>	NOVEMBER 2019	

Appendix A: Information the Commission will require for a Reportable Conduct Notification.

Three business day notification	30 calendar day update	Advice on investigation	Outcomes of investigation	Additional documents
<ul style="list-style-type: none"> <li>• Name of the worker or volunteer</li> <li>• Date of birth</li> <li>• Police report</li> <li>• Organisation contact details</li> <li>• Head of organisation’s name</li> <li>• Initial advice on the nature of the allegation</li> </ul>	<ul style="list-style-type: none"> <li>• Details of the allegation</li> <li>• Details of your response to the allegation</li> <li>• Details about any disciplinary or other action proposed</li> <li>• Any written response from the worker or volunteer about the allegation and the proposed disciplinary or other action</li> </ul>	<ul style="list-style-type: none"> <li>• Name of investigator</li> <li>• Contact details <i>As soon as practicable</i></li> </ul>	<ul style="list-style-type: none"> <li>• Copy of findings and reasons for the findings</li> <li>• Details about any disciplinary or other action proposed</li> <li>• Reasons for taking or not taking action <i>As soon as practicable</i></li> </ul>	<ul style="list-style-type: none"> <li>• The Commission may request further documents from the head of the organisation</li> </ul>

Source: State of Victoria (Commission for Children and Young People). (2018). Reporting to the Commission [Information sheet 7].