

REPORTABLE CONDUCT AUSTRALIAN CAPITAL TERRITORY



The ACT Reportable Conduct Scheme monitors how organisations investigate and report on allegations of certain conduct towards children. The Reportable Conduct Scheme is governed by the Ombudsman Act 1989 (ACT) (Ombudsman Act) and administered by the ACT Ombudsman.

What is the Reportable Conduct Scheme?

The Reportable Conduct Scheme is primarily about providing oversight to ensure organisations, also known as entities, are properly investigating reports of concern regarding their workers (workers also include volunteers). In the ACT Reportable Conduct Scheme leaders of organisations are called Heads. Heads are legally required to report allegations or conduct concerns to the Ombudsman and then proceed with a formal and thorough investigation.

Allegations of criminal behaviour are required to be reported to the Federal Police in the ACT. If the Police commence a criminal investigation, the Head must not proceed with their investigation until advised to do so by the Police.

Reporting to the Ombudsman does not automatically mean that the investigation should meet a certain outcome. The Ombudsman will provide oversight to ensure that the investigation is carried out in a thorough, transparent and child centred manner.

What is Reportable Conduct?

There are six types of 'reportable conduct':

- ill-treatment of a child (such as emotional abuse or use of force)
- neglect
- psychological harm
- misconduct of a sexual nature
- sexual or physical offences and convictions where a child is a victim or is present
- inappropriate discipline or not protecting children from harm.

Sexual offence

A sexual offence is an offence of a sexual nature with or in the presence of a child, such as:

- sexual touching of a child;
- a child grooming offence;
- production, dissemination or possession of child abuse material.

An alleged sexual offence does not have to be the subject of criminal investigation or charges for it to be categorised as a reportable allegation of a sexual offence.

Sexual misconduct

Sexual misconduct to mean any conduct with, towards or in the presence of a child that is sexual in nature (but is not a sexual offence) and provides the following (non-exhaustive) examples:

- descriptions of sexual acts without a legitimate reason to provide the descriptions;
- sexual comments, conversations or communications;
- comments to a child that express a desire to act in a sexual manner towards the child, or another child.

How does the Reportable Conduct Scheme work?

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If a Head receives a report or concern or allegation of child abuse or harm regarding the conduct of one of their workers, they must make a notification to the Ombudsman within 30 days.

As soon as possible the Head or their delegate, must commence an internal investigation or engage an external investigator to do so (unless advised not to do so by Police).

Following an investigation, the Head must provide details to the Ombudsman including findings of the investigation, any risk mitigation strategies which have been implemented or written submissions. The Head must also provide the reasons for the finding and any actions taken.

What will happen during an investigation?

Once a Head has reported an allegation or concern to the Ombudsman, an investigation must commence as soon as possible. The Head must complete risk assessments to ensure children and young people are safe whilst the investigation is underway.

Organisations can conduct an investigation internally if they have personnel with the necessary skill set and do not have a conflict of interest. An external investigator may also be appointed.

The investigation involves interviewing the alleged victim and any available witnesses. Documentation will also be gathered. This may include work rosters, personnel files, reports of previous conduct or complaints, maps and other relevant information. The details of the allegation will be presented to the person subject of the allegation (PSOA), and they will have the opportunity to respond. Once all the relevant information has been collected, the investigator will prepare a report and provide the Head with findings. The Head then has a responsibility to read the full report and act appropriately on the findings.

Organisations have the responsibility to provide support to both the alleged victim and the PSOA throughout the investigation process.

Does my organisation fall under the Reportable Conduct Scheme?

The Reportable Conduct Scheme is aimed at organisations that have a high degree of responsibility for children and/or engage with them in ways that put them at higher risk of harm (e.g., those that conduct overnight camps).

Religious bodies are specifically identified as being included in the Scheme.

Where can I find more information about the Reportable Conduct Scheme?

Further information about the Reportable Conduct Scheme can be located on the ACT Ombudsman website.

<https://www.ombudsman.act.gov.au/accountability-and-oversight/reportable-conduct>

The CRCA Safe Church Unit (SCU) can support organisations throughout the Reportable Conduct process including advice and guidance, coordinating external investigations and ensuring organisations meet their legislative requirements.

SCU can be contacted on scu@crca.org.au