

# REPORTING CHILD ABUSE NEW SOUTH WALES



The health, safety and wellbeing of children is paramount in all organisations providing services to children across Australia. The Royal Commission into Institutional Responses to Child Sexual Abuse highlighted the need for improvement in the processes and outcomes of reporting child abuse to ensure that matters are taken seriously and addressed effectively. This fact sheet provides information on who is required to report child abuse and how to do so.

The responsibility for reporting certain categories of child abuse falls into two main groups: All adults in NSW and Mandatory Reporters.

## 1. ALL ADULTS IN NSW

In 2018 amendments were made to the *Crimes Act (1900)* to strengthen the protection of children from serious abuse. The two additional offences are:

### FAILURE TO REPORT

All adults in NSW are required to report information to Police if:

- they know, believe or reasonably ought to know that a child (under 18 years) has been abused; or
- they know, believe, or reasonably ought to know that they have information that might materially assist in securing the apprehension, prosecution or conviction of the offender.

This offence relates to sexual abuse, serious physical abuse and extreme neglect and carries a maximum penalty of imprisonment for 2 years.

### FAILURE TO PROTECT

An adult working in an organisation that engages workers in child-related work commits an offence if:

- they know that an adult worker engaged by the organisation in child related work poses a serious risk of abusing a child (under 18 years), and
- they have the power or responsibility to reduce or remove the risk, and
- they negligently fail to reduce or remove that risk.

This offence relates to sexual abuse and serious physical abuse and carries a maximum penalty of imprisonment for 2 years.

Reporters should contact their local police station and request the Child Protection team. If a child is in imminent danger, call 000.

Further information on these additional offences can be found [here](#).

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## 2. MANDATORY REPORTERS

### WHO ARE MANDATORY REPORTERS?

NSW has an extensive list of mandatory reporters who are defined as people who deliver the following services, wholly or partly, to children as part of their professional work or other paid employment and those in management positions in these services:

Health care, welfare, education, children's services, residential services, law enforcement, disability services, religious ministry or a person providing religious based activities and registered psychologists.

**A person in religious ministry or a person providing religion-based activities to children (e.g. minister of religion, priest, deacon, pastor, rabbi, Salvation Army officer, church elder, religious brother or sister)**

### WHAT REQUIRES REPORTING?

Mandatory reporters are legally required to report any concerns about the safety, welfare and wellbeing of any child under any of the following categories:

- Neglect
- Sexual abuse
- Physical abuse
- Psychological abuse
- Risk of harm through exposure to domestic violence

It is mandatory to report on a child aged 0 – 15 and at risk of significant harm. It is not mandatory to report on a child aged 16 or 17 or an unborn child, however reports can still be made in these circumstances.

Further information on what to report can be found here: [What to report](#)

### HOW DO I MAKE A REPORT?

NSW has a Mandatory Reporter Guide (MRG). The MRG guides reporters through the reporting process. It begins with a decision tree, in which the reporter selects the most relevant category of harm. From there specific questions will be asked to determine the best course of action. On completion of the MRG, the reporter will receive a decision report which clearly outlines what to do next.

#### [Mandatory Reporting Guide](#)

A separate report must be made each time a mandatory reported has a concern about the safety, welfare and wellbeing of a child.

If a reporter believes the child is in imminent danger and at risk of immediate serious harm, they must call 000.

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## WHAT HAPPENS AFTER A REPORT IS MADE?

A child protection caseworker will assess the report to determine if statutory child protection intervention is required. They may also access additional information from other sources.

The case may be closed if it does not meet the threshold of ROSH (Risk of Significant Harm) or it may be sent to a Child Wellbeing Unit for further assessment.

Organisations must maintain records of all reports made regardless of the outcome of the report. This should be reported as an incident in SMO (Safety Management Online).

## WILL THE CHILD OR FAMILY BE INFORMED THAT I HAVE MADE A REPORT?

The identity of a reporter or referrer must remain confidential unless in the following circumstances:

- the reporter chooses to inform the child or family about the report
- the reporter consents in writing that their identity can be disclosed
- a court or tribunal requests it in order to ensure the safety of a child
- a court or tribunal decides evidence need to be given

## WHAT ARE THE CONSEQUENCES FOR NOT REPORTING CONCERNS ABOUT THE SAFETY, WELFARE AND WELLBEING OF A CHILD?

All adults in NSW are legally bound to report if they have a reasonable belief that a child has been subjected to sexual abuse, serious physical abuse and/or extreme neglect. It is a criminal offence not to report.

If you are a mandatory reporter, you are legally bound to report any concerns you have regarding the safety, welfare and wellbeing of a child.

Mandatory reporting is a legal requirement for organisations providing services directly to children in NSW. Mandatory reporting must be included in child safeguarding policies and procedures including the Code of Conduct. Failing to report regarding concerns about the welfare, safety and wellbeing of a child will also lead to disciplinary action within an organisation.