

Child Abuse - The Law

Mandatory Reporting refers to the legislative or statutory requirement to report suspicions of child abuse and neglect to statutory authorities.

In Victoria, the Children Youth and Families Act 2005, sections 182(1) and 184, states that where the following mandated reporters form the belief on reasonable grounds that a child has suffered, or is likely to suffer, significant harm as a result of physical injury or sexual abuse (and the child's parents have not protected, or are unlikely to protect, the child from harm of that type), they must make a report to Child Protection Services as soon as is practicable:

- Registered Teachers and Early Childhood Teachers
- School Principals
- Registered Medical Practitioners
- Nurses
- Midwives
- Police Officers
- Out of home care workers
- Youth Justice workers
- Registered Psychologists
- Early Childhood Workers
- School Counsellors.
- People in religious ministry

The absence of any mandatory reporting requirements should not remove moral obligations to report any suspicions of child abuse or neglect.

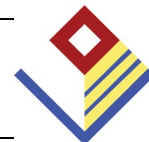
It does not constitute a breach of professional conduct or ethics if a report to Child Protection Services is made in good faith.

As a mandated notifier:

- it is your responsibility to report a belief, based on reasonable grounds, that a child or young person is in need of protection from physical injury or sexual abuse, when you form this belief in the course of practising your profession. In other words, you will not be legally obliged to report if you encounter abuse in your private life or when you are working in a capacity that is not directly related to the professional affiliation under which you are mandated
- you must make a report without delay
- you are required to report each time you become aware of any further reasonable grounds for your belief
- you do not have to be able to prove that the abuse has occurred
- it is your responsibility to report your belief - it is not the responsibility of your supervisor, principal, senior or boss. If you are one of a group of mandated notifiers who share the belief, based on reasonable grounds, that a child or young person is in need of protection from physical or sexual abuse, then only one mandated notifier needs to make the report. However, you must be satisfied that the report was made promptly and that all of the reasonable grounds were included in the notification.

Reasonable Grounds

Mandated professionals who believe on reasonable grounds that a child has suffered, or is likely to suffer, significant harm as a result of physical injury or sexual abuse, and the child's parents have not



protected or are unlikely to protect the child from such harm, must notify Child Protection Services of this belief and of the grounds for it as soon as is practicable.

Reasonable grounds may exist where:

- a child states that he/she has been physically or sexually abused;
- someone else, such as a relative, friend, acquaintance or sibling of the child, advises that the child has been abused;
- observations of the child's behaviour or knowledge of children generally leads to the belief that the child has been abused;
- indicators are present which do not fit with the explanation given by the child or caregivers or a medical explanation seems unlikely; or
- signs or indicators of abuse are present.

Indicators of abuse

Physical abuse consists of non-accidental form injuries inflicted on a child by any caregiver.

Physical abuse indicators may include:

Bruises or welts, often of different ages; burns, scalds, sprains, fractures, dislocations, bites, cuts; lacerations or abrasions; and poisoning.

Child sexual abuse occurs when any person uses his or her power over the child to involve that child in sexual activity. Child sexual abuse includes fondling genitals, masturbation, oral sex, vaginal or anal penetration by a finger, penis or any other object. It may also include exhibitionism and suggestive behaviour.

Indicators of sexual abuse include

- sexual behaviour inappropriate to the child's age, development and vocabulary level;
- sexual themes and fears in the child's conversation, artwork, stories and play;
- complaints of pain or itching in the genital area;
- injury to the genital area; and
- reluctance to go to a certain place or be with a certain person.

Reporting Child Abuse

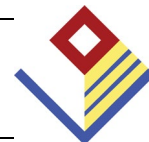
Reports of suspected abuse should be made to the regional Child Protection Services Unit closest to the child's home address.

The contact number for West Division Intake: Rural and regional is: **1800 075 599**

A state wide twenty four (24) hour child protection crisis line can be contacted seven days a week on **131278**.

The intake team is permanently staffed with experienced case workers and case managers and will take all new reports of suspected child abuse. Contact can be made directly with Horsham, Ballarat or Stawell Offices of Department of Human Services for existing clients under investigation or on a court order.

The protective worker who takes the notification will want to know details about the child such as, the child's name, age, address and present location, details of the child's family such as names of



professionals or agencies involved with the family and details about the reporting professional, including the reason for the report (as factual and specific as possible). There is no need to prove abuse is existing in order to report it.

The identity of the notifier is protected by law and is not revealed by the protective worker unless written permission is given by the notifier.

Failure to Disclose Child Sexual Abuse

A new offence for failure to disclose child sexual abuse came into force on 27 October 2014.

This offence has been introduced as part of the *Crimes Amendment (Protection of Children) Act 2014*, in response to a recommendation from the report of the Victorian Parliamentary Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations, *Betrayal of Trust*.

The new offence requires that **any** adult (aged 18 and over) who holds a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child (aged under 16) disclose that information to police (unless they have a reasonable excuse).

The new offence applies to all adults, not just professionals who work with children.

This means that **all DHHS staff and funded organisations are now required to report to police where they hold a reasonable belief that a sexual offence has been committed by an adult against a child in Victoria.**

This obligation applies regardless of:

- the type of service the child is receiving
- whether the offence occurred during service delivery or
- whether the child is a client of the department or funded organisation at all.
- roles and responsibilities.

The new offence differs from mandatory reporting because:

- it applies to all adults, not just certain professionals who work with children;
- it is limited to the reporting of sexual abuse. Mandatory reporters are required to report suspected physical and sexual abuse;
- it requires the person to report a suspected crime to police, rather than reporting a concern about a child needing protection to DHHS (Child Protection); and
- the suspected sexual offence must be reported even if the child's parents are acting to protect the child.

Conclusion

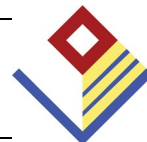
Child sexual abuse and physical injury which results from abuse or neglect are criminal offences.

Mandatory reporting acknowledges the serious nature of physical and sexual abuse of children and places responsibility on mandated professionals to report suspected cases of such abuse.

Legislation specifically requires mandated professionals to report physical or sexual abuse of children when they have formed the belief that a child is being abused or is likely to be abused.

The Penalty for Failure to Report

Prompt Doc No: <#doc_num> v<#ver_num>		
Last Changed: <#revision_issue_date>	Page 3 of 4	Last Reviewed: <#last_review_date>
Version Changed: <#revision_issue_date>	UNCONTROLLED WHEN DOWNLOADED	Review By: <#next_review_date>



The penalty for failure to report is \$1,000.

Definitions:

ABUSE / NEGLECT:

Generic terms used to describe an act or omission that endangers or impairs a child's physical or emotional health and development. It is misuse of power by adults over children, and although abuse is not an accident, neither is it always the intention of the person to inflict harm or injury.

Key Aligned Documents:

[Child Wellbeing & Safety Act 2005 \(amended 2017\)](#)
[The Children, Youth and Families Act 2005](#)
[DHHS Children & Families Website](#)
[DDHS Victoria Child Protection Contacts](#)
[Failure to Disclose Child Sexual Abuse Factsheet 2014](#)
[Mandatory Reporting Victoria 2019 – Fact Sheet](#)

Linked P&P(s):

[Child Safety](#)
[OSHC – Policy and Procedure Manual](#)

Contributors:

	Name	Position	Service / Program
Lead Reviewer:		Executive Director Community Health	
Contributors:		Executive Manager Community Health	
Committee/s:	Quality & Safety Governance		