

|  |
| --- |
| Frequently Asked Questions  Mandatory reporting to child protection |
|  |

Contents

[Introduction 3](#_Toc32421889)

[What reports are received by child protection? 3](#_Toc32421890)

[What if I’m worried about a child’s wellbeing, but I don’t believe the child is in need of protection? 3](#_Toc32421891)

[Child FIRST or The Orange Door 3](#_Toc32421892)

[Mandatory reporting to child protection 3](#_Toc32421893)

[What is mandatory reporting to child protection? 3](#_Toc32421894)

[What is a reasonable belief? 4](#_Toc32421895)

[What guidelines are there as to when the threshold is reached for reporting to child protection? 4](#_Toc32421896)

[Definition of a child 4](#_Toc32421897)

[Obligations and scope 5](#_Toc32421898)

[Why is mandated reporting only about matters relating to child physical and sexual abuse? 5](#_Toc32421899)

[Can I report concerns about types of abuse or neglect other than physical or sexual abuse? 5](#_Toc32421900)

[What if I formed the belief before I was mandated to report? 5](#_Toc32421901)

[What if the child does not know the name of the perpetrator? 5](#_Toc32421902)

[What if the abuse occurred when the child was living outside of Victoria? 5](#_Toc32421903)

[Am I still required to report to child protection if I am concerned that someone other than a parent is placing the child at significant risk of harm (e.g. sexual exploitation by older male)? 5](#_Toc32421904)

[What if someone I’m working with admits to committing acts against children that would constitute sexual abuse, as a mandated reporter am I required to report? Does the age of the person matter? 6](#_Toc32421905)

[New concerns about an existing child protection client 6](#_Toc32421906)

[What happens if the concerns are about an existing child protection client? 6](#_Toc32421907)

[Does making a mandatory report impact on existing reporting requirements such as Client Incident Management System (CIMS) or Victoria Police? 6](#_Toc32421908)

[What happens if it is not an existing child protection client? 6](#_Toc32421909)

[Historical Concerns 7](#_Toc32421910)

[What if the incident of physical or sexual abuse occurred a long time ago? 7](#_Toc32421911)

[Is there a time frame for abuse to be ‘relevant’ for mandatory reporting? 7](#_Toc32421912)

[What if an adult discloses that they were sexually or physically abused as a child, and do not want the abuse reported? Is a mandated reporter obliged to make a report? 7](#_Toc32421913)

[What if the alleged perpetrator is now deceased, is a mandated reporter still required to make a report? 7](#_Toc32421914)

[Reporting information received from a third party 7](#_Toc32421915)

[What if a third party tells a mandatory reporter about concerns for a child or young person? 7](#_Toc32421916)

[What if the information is about a third person that the mandated reporter has no contact with, and there is no way of being able to assess the veracity of the information given (for example where there may be acrimony between the third party and the parent)? 8](#_Toc32421917)

[Some organisations require all mandatory reports to go through one person/role (for example the school Principal). What is the mandated reporter’s obligation in this case? 8](#_Toc32421918)

[What if someone else has made the same report? 8](#_Toc32421919)

[Penalties for not reporting 8](#_Toc32421920)

[Are there repercussions for not reporting? 8](#_Toc32421921)

[Are there any exemptions to mandatory reporting requirements? 9](#_Toc32421922)

[Mandatory reporter groups 9](#_Toc32421923)

[Who is mandated to report in Victoria? 9](#_Toc32421924)

[Out of Home Care workers 9](#_Toc32421925)

[What is an out of home care service? 9](#_Toc32421926)

[How is an out of home care worker defined? 9](#_Toc32421927)

[Who are out of home care workers? 10](#_Toc32421928)

[People working in early childhood settings 10](#_Toc32421929)

[How are people working early childhood defined in legislation? 10](#_Toc32421930)

[Who are early childhood staff members? 10](#_Toc32421931)

[Youth Justice Workers 11](#_Toc32421932)

[Which youth justice workers are mandated reporters? 11](#_Toc32421933)

[How is a youth justice worker defined? 11](#_Toc32421934)

[I work for a community service as a youth justice support worker, am I mandated to report to child protection? 11](#_Toc32421935)

[Registered psychologists 11](#_Toc32421936)

[How is a registered psychologist defined? 11](#_Toc32421937)

[I work in private practice, does this apply to me? 12](#_Toc32421938)

[What about client confidentiality? 12](#_Toc32421939)

[School counsellors 12](#_Toc32421940)

[How is a school counsellor defined? 12](#_Toc32421941)

[People in religious ministry 12](#_Toc32421942)

[How are people in religious ministry defined? 12](#_Toc32421943)

[*Church elder, deacon, granthi, imam, religious minister, monk, nun, pastor, priest, pujari, rabbi, religious brother or sister and Salvation Army officer* 12](#_Toc32421944)

[Do I need to report information received during religious confession? 13](#_Toc32421945)

[Other reporting requirements 13](#_Toc32421946)

[Is mandatory reporting the same as reporting requirements under reportable conduct or child safe standards? 13](#_Toc32421947)

[There are so many reporting requirements, I’m confused. 13](#_Toc32421948)

[How to make a report to child protection 15](#_Toc32421949)

[Is there a helpline mandated reporters can contact to discuss a possible report prior to making one? 15](#_Toc32421950)

[Is there a specific decision-making tool that I can use to decide if I need to make a mandatory report to child protection? 15](#_Toc32421951)

[Who can I consult? 15](#_Toc32421952)

[How do I make a report? 15](#_Toc32421953)

[For immediate help for a child: 16](#_Toc32421954)

[After a report is made 16](#_Toc32421955)

[What happens after I make a report? 16](#_Toc32421956)

[How does child protection decide how to respond to a report? 16](#_Toc32421957)

[Will the family know I have made a report? 16](#_Toc32421958)

[What will happen if the report is investigated? 16](#_Toc32421959)

[What will happen if child protection decides an investigation is not required? 17](#_Toc32421960)

[For more information 17](#_Toc32421961)

# Introduction

## What reports are received by child protection?

Child protection receives reports about children when there are concerns the child is in need of protection from abuse and neglect. Anyone who forms a reasonable belief that a child is in need of protection from abuse and neglect is entitled to make a report to child protection.

To make a report to child protection a person needs to have formed a reasonable belief that a child has suffered or is likely to suffer significant harm as a result of abuse or neglect, and their parent has not protected or is unlikely to protect the child from harm of that type.

Information provided to child protection when a report is made, usually by the person making the report (the reporter), needs to be sufficiently detailed for child protection to identify the child at risk of harm.

Where concerns relate to an alleged perpetrator of abuse, who may pose a risk more generally to all children, the concerns should be reported to Police.

# What if I’m worried about a child’s wellbeing, but I don’t believe the child is in need of protection?

## Child FIRST or The Orange Door

If you have significant concerns for the wellbeing of a child, but do not believe they are at risk of significant harm, and where the immediate safety of the child will not be compromised, a referral to Child FIRST or The Orange Door may be appropriate.

Child FIRST, as the access point for family services, is progressively transitioning to The Orange Door. The Orange Door is the new access point for families who need assistance with the care and wellbeing of children, including an unborn child after their birth and those families experiencing family violence, to contact the services they need to be safe and supported.

Referring to Child FIRST or The Orange Door would be appropriate where families:

* are experiencing significant parenting problems that may be affecting the child's development
* are experiencing family violence
* are experiencing family conflict, including family breakdown
* are under pressure due to a family member's physical or mental illness, substance abuse, disability or bereavement
* are young, isolated or unsupported
* are experiencing significant social or economic disadvantage that may adversely impact on a child's care or development.

Contact numbers to make a referral in each local government area are listed at the [Child and family services information, referral and support teams](https://services.dhhs.vic.gov.au/referral-and-support-teams) <https://services.dhhs.vic.gov.au/referral-and-support-teams>

# Mandatory reporting to child protection

## What is mandatory reporting to child protection?

Mandatory reporting refers to the legal requirement for certain professional groups to report a reasonable belief of child physical or sexual abuse to child protection authorities.

In Victoria, under section 184 of the *Children Youth and Families Act 2005*, mandated reporters must make a report to child protection, if:

* in the course of practising their profession or carrying out duties of their office, position or employment,
* they form a reasonable belief:
  + that a child has suffered or is likely to suffer significant harm, as a result of physical or sexual abuse, **and**
  + the child’s parents have not protected or are unlikely to protect the child from harm of that type.

The report must be made as soon as practicable after forming the belief and after each occasion on which they become aware of any new reasonable grounds for the belief.

The penalty for failing to report is 10 penalty points. The value of a penalty unit is set annually by the Department of Treasury and Finance and is updated on 1 July each year. For up to date information, see the [Department of Treasure and Finance Indexation of fees and penalties](https://www.dtf.vic.gov.au/financial-management-government/indexation-fees-and-penalties) <https://www.dtf.vic.gov.au/financial-management-government/indexation-fees-and-penalties>

## What is a reasonable belief?

A reasonable belief is formed if a reasonable person, doing the same work, would form the same belief on those grounds, based on the same information. Grounds for forming a belief are matters of which the person has become aware of and any opinions in relation to those matters.

For example, a ‘reasonable belief’ might be formed when:

* a child states that they have been physically or sexually abused
* a child states that they know someone who has been physically or sexually abused (sometimes the child may be talking about themselves)
* someone who knows a child states that the child has been physically or sexually abused
* professional observations of the child’s physical condition and/or behaviour or development leads a professional to form a belief that the child has been physically or sexually abused
* signs of physical or sexual abuse leads to a belief that the child has been physically or sexually abused.
* Other circumstances lead you to suspect that a child has been abused.

## What guidelines are there as to when the threshold is reached for reporting to child protection?

The threshold for making a report to child protection is that you have formed a belief the child has suffered or is likely to suffer significant harm, **and** the child’s parents have not protected, or are unlikely to protect, the child from harm as a result of that harm.

## Definition of a child

For the purpose of mandatory reporting, a child is defined as a person who is under the age of 17 years, unless they are subject to a protection order granted by the Children’s Court of Victoria, Family Division, that continues in force until they turn 18 years of age.

# Obligations and scope

## Why is mandated reporting only about matters relating to child physical and sexual abuse?

While mandated reporters in Victoria are required by law to make reports in relation to physical harm and sexual abuse, we encourage all adults and professionals to exercise their duty of care to report concerns of any type of child abuse and neglect.

If you suspect a child has been or is at risk of significant harm as a result of any form of child abuse and neglect you should contact child protection. You do not need to be mandated to make a report to child protection.

## Can I report concerns about types of abuse or neglect other than physical or sexual abuse?

Anyone who forms a reasonable belief that a child is in need of protection from abuse or significant harm can make a report to child protection.

## What if I formed the belief before I was mandated to report?

Mandatory reporting requirements apply to mandated reporters from the date the requirements commence for their group and apply even if their belief was first formed before the relevant commencement date. If you continue to hold the belief and have not already reported it, you are now required to make a report to child protection.

## What if the child does not know the name of the perpetrator?

It is not always possible for children to provide the name of an alleged perpetrator. This may be for a range of reasons, including: fear of threats made by the alleged perpetrator; fear of not being believed; not being ready, not knowing the person’s name; or not willing to say.

If you form a reasonable belief that a child is at risk of significant harm due to physical or sexual abuse, and their parents have not or are unlikely to protect them from harm of that type, you must report this to child protection, despite not knowing the name of the perpetrator.

## What if the abuse occurred when the child was living outside of Victoria?

Where the incident or incidents of abuse took place is not a consideration for mandatory reporters. If the child resides or is currently in Victoria, child protection can still intervene if the child is at risk of significant harm. Making a mandatory report to child protection requires the reporter to have formed a reasonable belief that the child has suffered or is likely to suffer significant harm as a result of physical injury or sexual abuse *and* their parent/s has/have not protected or is unlikely to protect the child from that harm. If you have formed this belief, you must as a mandatory reporter, make a report to child protection.

## Am I still required to report to child protection if I am concerned that someone other than a parent is placing the child at significant risk of harm (e.g. sexual exploitation by older male)?

As a mandatory reporter, you need to make a report to child protection if you form a reasonable belief that a child or young person is at risk of significant harm from physical injury or sexual abuse and the parents have not protected or are unlikely to protect them from that harm. Child protection have existing policies and procedures in place to support practitioners managing cases where there are concerns about sexual exploitation.

## What if someone I’m working with admits to committing acts against children that would constitute sexual abuse, as a mandated reporter am I required to report? Does the age of the person matter?

If you form a belief that a child has suffered or is likely to suffer significant harm as a result of sexual abuse and their parent has not protected them or is unlikely to protect them from that harm you will need to make a report to child protection. The age of the alleged perpetrator is not a consideration.

If the alleged perpetrator is an adult, there are existing community-wide responsibilities in Victoria to report information about child sexual abuse to Police. Failure to disclose the information to Police is a criminal offence. There are a number of exemptions to this offence under the legislation, for more information refer to [Department of Justice and Regulation failure to disclose offence fact sheet](https://www.justice.vic.gov.au/safer-communities/protecting-children-and-families/failure-to-disclose-offence)  <https://www.justice.vic.gov.au/safer-communities/protecting-children-and-families/failure-to-disclose-offence>

One exemption is where you have made a mandatory report to child protection under the *Children Youth and Families Act*. Under existing protocols, child protection informs police of all allegations of child sexual abuse. It is a reasonable excuse for not reporting to police if you have made a report to child protection or reasonably believe a report has been made to child protection.

If the alleged perpetrator is a child or young person, it may also be appropriate to make a Therapeutic Treatment Report (TTR). A TTR is a report made to child protection about a child aged 10 years or over and under 15 years by a person who believes that the child has exhibited sexually abusive behaviours.

In response to a recommendation made by the Royal Commission into Family Violence, legislation to raise the upper age of making a TTR from under 15 years to under 18 years will commence on 29 March 2019.

# New concerns about an existing child protection client

## What happens if the concerns are about an existing child protection client?

If you receive new information in relation to physical or sexual abuse of an existing child protection client, contact the child protection office where the child is case managed and advise that you wish to make a new report about an existing client. You will be forwarded to an appropriate person who can record the information. Advise them you are making a mandatory report, so the information can be correctly recorded.

If you are unsure which child protection office is responsible contact the child protection intake service covering the local government area where the child normally resides. Check the following website for details on the LGAs covered by each intake service at [Child protection contacts](https://services.dhhs.vic.gov.au/child-protection-contacts) <https://services.dhhs.vic.gov.au/child-protection-contacts>

## Does making a mandatory report impact on existing reporting requirements such as Client Incident Management System (CIMS) or Victoria Police?

The CIMS process is separate from mandatory reporting. In addition to complying with the CIMS process you are still required to fulfil your mandatory reporting obligations to make a report to child protection if you form a reasonable belief based on new information that an existing child protection client has suffered or is likely to suffer significant harm as a result of physical injury or sexual abuse.

Reporting a reasonable belief that a child is at risk of significant harm from sexual abuse to child protection, will discharge additional obligations to report to Victoria Police, given requirements for child protection to notify police of such reports.

## What happens if it is not an existing child protection client?

If you form a reasonable belief that a child is in need of protection and the child is not an existing child protection client, make a report to child protection intake.

# Historical Concerns

## What if the incident of physical or sexual abuse occurred a long time ago?

As a mandated reporter, you need to form a belief on reasonable grounds that the child has been or is likely to be at risk of significant harm *and* that the parents have not protected or are unlikely to protect the child from that harm. The incident or incidents of abuse or neglect may have occurred in the past, or you may have formed a reasonable belief that the physical or sexual abuse or harm is likely to occur in future.

Mandatory reporting laws do not specify a timeframe about when the reasonable belief was formed nor when an incident resulting in or likely to result in significant harm to a child occurred. If the reasonable belief relates to current or future harm to the child, you should make a report to child protection.

Once a report is received, child protection will assess the information available to them, including any known pattern and history, and consider the child or sibling’s current and future risk to determine the required response.

## Is there a time frame for abuse to be ‘relevant’ for mandatory reporting?

Any person who forms a belief on reasonable grounds that a child is in need of protection may make a report to child protection. They may do this at the time they form the belief and on any subsequent occasion they form that belief.

Mandatory reporting requirements apply to mandated reports from the date the requirements commence for their group and apply even if their belief was first formed before the relevant commencement date. If you continue to hold the belief and have not already reported it, you are now required to make a report to child protection.

## What if an adult discloses that they were sexually or physically abused as a child, and do not want the abuse reported? Is a mandated reporter obliged to make a report?

If someone is 17 years or older and not subject to a protection order and discloses physical or sexual abuse that occurred when they were a child, a report cannot be made to child protection.

Depending on the circumstances, you may need to consider if a report needs to be made Victoria Police.

If the adult has younger siblings who are children, or children of their own, you may form a reasonable belief that one of these children are likely to be at significant risk of physical or sexual abuse. Your belief may be based on an alleged perpetrator’s pattern and history of behavior or continued concerning behavior and ongoing access to or regular contact with the child who is likely to be at significant risk. In this case, a report must be made to child protection in relation to that child.

## What if the alleged perpetrator is now deceased, is a mandated reporter still required to make a report?

Making a report to child protection requires the reporter to have formed a reasonable belief that the child has suffered or is likely to suffer significant harm as a result of abuse or neglect *and* that their parent has not protected or is unlikely to protect the child from that harm. Whether the alleged perpetrator is deceased or not is not a relevant consideration in forming a reasonable belief.

# Reporting information received from a third party

## What if a third party tells a mandatory reporter about concerns for a child or young person?

Whatever basis on which you form a reasonable belief that a child is at risk of significant harm from physical or sexual harm, your mandatory reporting obligations apply.

Reports can be made to child protection by any person in the community. As a mandated reporter you can encourage a third party to report their concern directly to child protection. However, mandated reporters *must* report concerns to child protection when they form a reasonable belief that a child is in need of protection from physical or sexual abuse. A reasonable belief does not require proof.

## What if the information is about a third person that the mandated reporter has no contact with, and there is no way of being able to assess the veracity of the information given (for example where there may be acrimony between the third party and the parent)?

If the information provided causes you to form a reasonable belief that a child is at risk of significant harm from physical or sexual abuse, your mandatory reporting obligations apply. Acrimony between parties does not mean that there is no risk to the child. A reasonable belief does not require proof.

## Some organisations require all mandatory reports to go through one person/role (for example the school Principal). What is the mandated reporter’s obligation in this case?

In some organisations, there may be multiple mandated reporters having contact with a child or sibling group at risk of significant harm (such as a school or community health center). In these circumstances some organisations have a policy or local process to coordinate information, concerns and communication with child protection.

It is common for child protection practitioners to speak with the professional most closely associated with the child to obtain primary information and observations. As such it may be prudent to make the report together or provide child protection with the contact information of the other relevant professionals at the time of making the report. If another professional in your organization makes the report to child protection, you should verify that a report has been made.

If you are working in an organisation that has such a policy, and the person identified by your organisation to communicate with child protection does not wish to make a report, you are required by law to make the report to child protection.

All mandatory reporters have an obligation under the legislation to make a report to child protection, if:

* in the course of practising their profession or carrying out duties of their office, position or employment,
* they form a reasonable belief, that a child has suffered or is likely to suffer significant harm, as a result of physical or sexual abuse, ***and***
* the child’s parents have not protected or are unlikely to protect the child from harm of that type.

The report must be made as soon as practicable after forming the belief and after each occasion on which they become aware of any further reasonable grounds for the belief.

## What if someone else has made the same report?

If charged with not making a mandatory report, it may be a defence under s.184 (2) for the person charged to prove that he or she honestly and reasonably believed that all of the reasonable grounds for his or her belief had been the subject of a report to child protection made by another person.

# Penalties for not reporting

## Are there repercussions for not reporting?

The penalty for failing to report is 10 penalty units. Penalty units determine the amount a person is fined when they commit an infringeable offence.  For further information on penalties see the [Department of Treasure and Finance Indexation of fees and penalties](https://www.dtf.vic.gov.au/financial-management-government/indexation-fees-and-penalties)  <https://www.dtf.vic.gov.au/financial-management-government/indexation-fees-and-penalties>

## Are there any exemptions to mandatory reporting requirements?

There are no exemptions under the *Children Youth and Families Act* from the mandatory reporting requirements.

Mandated reporters must make a report to child protection, if:

* in the course of practising their profession or carrying out duties of their office, position or employment,
* they form a reasonable belief:
  + that a child has suffered or is likely to suffer significant harm, as a result of physical or sexual abuse **and**
  + the child’s parents have not protected or are unlikely to protect the child from harm of that type.

The report must be made as soon as practicable after forming the belief and after each occasion on which the mandated reporter becomes aware of any further reasonable grounds for the belief.

# Mandatory reporter groups

## Who is mandated to report in Victoria?

The following are mandatory reporters in Victoria:

* registered medical practitioners
* nurses
* midwives
* registered teachers and early childhood teachers
* school principals
* school counsellors
* police officers
* out of home care workers (excluding voluntary foster and kinship carers)
* early childhood workers
* youth justice workers
* registered psychologists
* people in religious ministry.

# Out of Home Care workers

## What is an out of home care service?

An *out of home care service* is defined in the legislation. It is a community service that is registered as an out of home care service or a community service established and operated by the department to provide out of home care services, including secure welfare services.

## How is an out of home care worker defined?

An out of home care worker means a person employed (other than on a voluntary basis) by an out of home care service:

1. as a carer for children
2. as a provider of services to carers for children or the children in their care.

## Who are out of home care workers?

Out of home care workers is a broad term referring to professionals who are working in roles, such as:

* foster care workers
* kinship care workers
* residential care workers
* secure welfare service workers
* adoption and permanent care workers
* labour hire staff working in out of home care settings
* workers supporting children in voluntary child care arrangements
* lead tenant workers
* supervisors and managers of the above

**If** working in a registered out of home care service:

* targeted care package key workers
* disability residential care workers

This list is not exhaustive and may include other roles consistent with the definition. It does not include volunteer carers of children in foster or kinship care arrangements, lead tenant, adoption and permanent care.

# People working in early childhood settings

## How are people working early childhood defined in legislation?

In the *Children, Youth and Families Act*, early childhood staff members are defined as:

* the proprietor of, or a person with a [post-secondary qualification](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s3.html#post-secondary_qualification) in the [care](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s3.html#care), education or minding of [children](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s3.html#child) who is employed by, a [children](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s3.html#child)'s service to which the [Children's Services Act 1996](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/csa1996196/)applies or a person who is a nominee within the meaning of that Act for the [children](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s3.html#child)'s service;
* the approved provider or nominated supervisor of, or a person with a [post-secondary qualification](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s3.html#post-secondary_qualification) in the [care](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s3.html#care), education or minding of [children](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s3.html#child) who is employed or engaged by an education and [care](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s3.html#care) service within the meaning of the Education and [Care](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s3.html#care) Services National Law (Victoria);

## Who are early childhood staff members?

Early childhood workers and other persons are people who work in either:

* a children’s service licensed under the *Children’s Services Act 1996* including occasional care or
* an early childhood education and care service approved under the *Education and care Services National Law Act 2010* including long day care, outside school hours care and family day care

From 1 March 2019, the following persons became mandated reporters*:*

* All educators with post-secondary qualifications in the care, education or minding of children and employed or engaged in an education and care service[[1]](#footnote-1)[1]  or a children’s service[[2]](#footnote-2)[2] ; and
* The proprietor or nominee (including the primary nominee) of a children’s service, or the approved provider or nominated supervisor of an education and care service.

Settings that mandated early childhood staff members work include:

* children’s services
* occasional care
* sports and leisure services
* education and care services
* long day care
* family day care
* outside school hours care
* vacation care
* kindergartens
* pre-schools

Although mandatory reporters have special obligations to report, all early childhood staff have a duty of care to report child abuse and neglect to child protection authorities.

# Youth Justice Workers

## Which youth justice workers are mandated reporters?

* Youth justice officer
* Youth parole officer
* Youth justice custodial workers

## How is a youth justice worker defined?

A youth justice custodial worker means a person:

1. who is employed or engaged by the [Secretary](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s3.html#secretary) to the Department of Justice and Regulation in a [remand centre](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s3.html#remand_centre), a [youth residential centre](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s3.html#youth_residential_centre) or a [youth](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s3.html#youth_justice_centre) [justice centre](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s3.html#youth_justice_centre), and
2. whose duties include duties in relation to [detainees](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s482a.html#detainee) in the custody of the [Secretary](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s3.html#secretary).

A youth justice officer includes the [Secretary](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s3.html#secretary), and every honorary [youth justice officer](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s3.html#youth_justice_officer).

A youth parole officer includes an honorary [youth parole](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s3.html#youth_parole_officer) [officer](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cyafa2005252/s3.html#youth_parole_officer).

## I work for a community service as a youth justice support worker, am I mandated to report to child protection?

While not mandated to report, all people working in community services who form a reasonable belief that a child or young person is in need of protection from abuse or neglect are able to make a report to child protection.

# Registered psychologists

## How is a registered psychologist defined?

A registered psychologist is a person registered (including those provisionally registered) under the Health Practitioner Regulation National Law to practise in the psychology profession (other than as a student, unless the student is a registered psychologist).

## I work in private practice, does this apply to me?

Mandatory reporting requirements apply to all registered psychologists in Victoria, whether you are working in the public sector, an agency, non-government organisation, a school or in private practice.

## What about client confidentiality?

Mandatory reporting is a legal requirement consistent with the Australian Psychological Society *APS Code of Ethics* (Section A.5.2) requires psychologists to comply with any legal obligations regarding the disclosure of confidential information.

# School counsellors

## How is a school counsellor defined?

A ‘school counsellor’ is defined as “a person employed or engaged (other than on a voluntary basis), to provide direct support to school students, at or directly connected with a school, for mental, emotional or psychological wellbeing.”

A school counsellor includes the following:

* Student Support Service staff
* Primary Welfare Officers
* Mental health practitioners in secondary schools
* Student Wellbeing Coordinators
* Chaplains
* School-based health and wellbeing staff, including allied health staff, such as social workers, speech pathologists, youth workers and school counsellors

The definition captures some professionals who are also mandated reporters such as doctors, nurses, registered teachers and registered psychologists. The definition does **not** capture a registered home school, TAFE institution or University.

The above list is NOT exhaustive. You must consider the definition of school counsellor and determine whether your work could mean you are a school counsellor.

# People in religious ministry

## How are people in religious ministry defined?

The term **‘**person in religious ministry**’** means a person appointed, ordained or otherwise recognised as a religious or spiritual leader in a religious institution.

For example:

## *Church elder, deacon, granthi, imam, religious minister, monk, nun, pastor, priest, pujari, rabbi, religious brother or sister and Salvation Army officer*

A religious institution means an entity that operates under the auspices of any faith; and provides activities, facilities, programs or services of any kind through which adults interact with children.

Examples may include dioceses, mosques, parishes, synagogues, local religious congregations, schools, post-secondary institutions and religious institutes that may provide activities, facilities, programs or services such as chaplaincy services, early childhood services, outreach support or care services or residential facilities.

## Do I need to report information received during religious confession?

Yes, if you have formed a reasonable belief a child has suffered or is likely to suffer significant harm as a result of physical injury or sexual abuse. Victoria has implemented the Royal Commission recommendation that people in religious ministry should be mandated to report to child protection authorities without exemption for knowledge or suspicions formed, in whole or in part, on the basis of information disclosed in or in connection with a religious confession.

All mandatory reporters in Victoria are required to report when a belief is formed in the course of practising their profession or carrying out the duties of their office, position or employment. There is no exemption for doctors or other professionals on the basis of their usual legal or ethical confidentiality obligations. Likewise, there is no exemption for religious confessions.

People in religious ministry who are found to have failed to make a mandatory report could face prosecution.

# Other reporting requirements

## Is mandatory reporting the same as reporting requirements under reportable conduct or child safe standards?

No, the reportable conduct scheme and child safe standards govern how organisations are required to keep children safe and respond to allegations of child abuse within organisations.

Making a report to child protection enables the state to investigate reports of child abuse and neglect and to intervene with families to protect children from harm.

## There are so many reporting requirements, I’m confused.

Below is a summary table of various reporting requirements you may be subject to, inclusive of links for further information on which may apply to your profession. Making a report to child protection does not remove other obligations to report to other statutory or regulatory bodies.

Early childhood should note that there are additional reporting requirements that apply.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Scheme | Who must report | What must be reported | Report to | Age of child | Further information |
| Mandatory reporting | Mandatory reporters s.182 CYFA 2005 | Child physical and sexual abuse, actual or likely, parents have not protected or are unlikely to protect | Child Protection | Children under 17 | [DHHS Child protection](https://services.dhhs.vic.gov.au/child-protection-contacts) <https://services.dhhs.vic.gov.au/child-protection-contacts > |
| Reportable conduct | Head of an organisation | Child abuse and neglect by a worker or volunteer | Commission for Children and Young People | Children under 18 | [CCYP Reportable conduct scheme](https://ccyp.vic.gov.au/reportable-conduct-scheme/) <https://ccyp.vic.gov.au/reportable-conduct-scheme/> |
| Failure to protect | Head of an organisation | Risk of sexual abuse by adult associated with the organisation | Police | Children under 16 | [Department of Justice and Regulation failure to protect offence fact sheet](https://www.justice.vic.gov.au/safer-communities/protecting-children-and-families/failure-to-protect-a-new-criminal-offence-to) <https://www.justice.vic.gov.au/safer-communities/protecting-children-and-families/failure-to-protect-a-new-criminal-offence-to> |
| Failure to disclose | All adults | Child sexual abuse by an adult | Police | Children under 16 | [Department of Justice and Regulation failure to disclose offence fact sheet](https://www.justice.vic.gov.au/safer-communities/protecting-children-and-families/failure-to-disclose-offence) <https://www.justice.vic.gov.au/safer-communities/protecting-children-and-families/failure-to-disclose-offence> |
| ADDITIONAL REPORTING REQUIREMENTS FOR EARLY CHILDHOOD | | | | | |
| *Education and Care Services National Law Act 2010* | The approved provider | Serious incidents, circumstances posing a risk to the safety, health and wellbeing of children,  complaints, and allegations relating to physical or sexual abuse occurring at the service. | Quality Assessment & Regulation Division (DET) | Any child being educated and cared for in an education and care service | [DET running a service](https://www.education.vic.gov.au/childhood/providers/Pages/default.aspx) <https://www.education.vic.gov.au/childhood/providers/Pages/default.aspx>  [Australian children’s education and care quality authority](https://www.acecqa.gov.au/%3e)  <https://www.acecqa.gov.au/> |
| *Children’s Services Act 1996* | The proprietor | Serious incidents and complaints relating to contraventions of the law or where the health, safety or wellbeing of any child may have been compromised. | Quality Assessment & Regulation Division (DET) | Any child being cared for or educated by a children’s service | [DET Regulation and quality assessment](https://www.education.vic.gov.au/childhood/providers/regulation/Pages/default.aspx) <https://www.education.vic.gov.au/childhood/providers/regulation/Pages/default.aspx> |
| Early childhood teacher registration | The employer | * A registered teacher is charged, committed for trial or convicted or found guilty of a sexual offence. * Action taken against a registered teacher in response to allegations of serious incompetence, serious misconduct, lack of fitness to teach, a physical or mental impairment that adversely affects the teacher’s ability to teach | Victorian Institute of Teaching | School age | [VIT notifying us about teacher concerns](https://www.vit.vic.edu.au/professional-responsibilities/investigations/notifying-the-institute-about-teacher-concerns)  <https://www.vit.vic.edu.au/professional-responsibilities/investigations/notifying-the-institute-about-teacher-concerns> |

# How to make a report to child protection

## Is there a helpline mandated reporters can contact to discuss a possible report prior to making one?

Child protection intake staff are experienced practitioners skilled in receiving reports and discussing with reporters their concerns about a child. The legislation requires you to make a report to child protection as soon as practicable after forming the belief and after each occasion you become aware of any further grounds for the belief.

## Is there a specific decision-making tool that I can use to decide if I need to make a mandatory report to child protection?

While Victoria does not currently have a decision-making tool, further information can be found at [Department of Health and Human Service’s Reporting child abuse](https://services.dhhs.vic.gov.au/reporting-child-abuse) <https://services.dhhs.vic.gov.au/reporting-child-abuse>

## Who can I consult?

If you work for an organisation or school, there may be a person you can consult in preparation for making a report to child protection, identified through existing organisational policies. If you are a private practitioner, you may wish to discuss your concerns with a supervisor.

As a mandated reporter, the legislation requires you to make a report to child protection as soon as practicable after forming the belief and after each occasion you become aware of any further grounds for the belief.

Any person in Victoria is entitled to make a report to child protection if they believe a child is in need of protection. Child protection staff are experienced practitioners skilled in receiving reports and discussing concerns about a child with reporters.

## How do I make a report?

In Victoria, reports to child protection must be made to a protective intervener, or other appropriately delegated officer. Reports cannot be made via the department’s website or email, as staff who monitor the department’s website are not delegated officers. Almost all reports are made to child protection by phone.

To make a report, you should contact the child protection intake service covering the local government area (LGA) where the child normally resides.

Telephone numbers to make a report during business hours (8.45am -5.00pm), Monday to Friday, are listed below.

North Division intake: 1300 664 977

South Division intake: 1300 655 795

East Division intake: 1300 360 391

West Division intake - metropolitan: 1300 664 977

West Division intake - rural and regional: 1800 075 599

If you are not sure which number to call, check the following website for details on the LGAs covered by each intake service at [Child protection contacts](https://services.dhhs.vic.gov.au/child-protection-contacts) <https://services.dhhs.vic.gov.au/child-protection-contacts>

## For immediate help for a child:

To report concerns that are life threatening, you should contact Victoria Police: 000

To report concerns about the immediate safety of a child outside of normal business hours, you should contact the After Hours Child Protection Emergency Service on 13 12 78.

# After a report is made

## What happens after I make a report?

Child protection will decide when follow up is required and how to classify the report.

This may mean providing advice to the reporter, progressing the matter to an investigation, or referring the family to support services in the community, or taking no further action.

## How does child protection decide how to respond to a report?

Child protection may have access to other information that influences how they respond to a report about a child. They will consider information provided by the reporter, may make further enquiries and review information held by child protection (for example previous reports) to inform their assessment and determine how to respond to each family.

## Will the family know I have made a report?

The identity of a reporter must remain confidential, unless:

* the reporter chooses to inform the child or family of the report
* the reporter consents in writing to their identity as the reporter being disclosed
* a court or tribunal decides it needs this information in order to ensure the safety and wellbeing of the child
* a court or tribunal decides that in the interests of justice the evidence needs to be given.

It is often considered best practice to inform the family that you have made a report, where appropriate. Being transparent about your concerns and making a report to child protection, in circumstances where it is safe and appropriate to do so, it can be beneficial for the child or young person, the family and your ongoing role with them.

However, in some circumstances, discussing your concerns may increase risk of harm for a child or young person, or may compromise a child protection or police investigation. Always seek advice from child protection at the time of making a report.

## What will happen if the report is investigated?

If the report is investigated, child protection practitioners will observe and speak with the child or young person and their parents. They may also speak with relevant professionals, information holders and other significant people in the child’s life who can inform the investigation or provide information to assist child protection to assess if the child is in need of protection. In circumstances involving physical and sexual abuse and serious neglect, investigations may be conducted jointly with Victoria Police.

Reporters may be contacted by child protection to provide further detail to help inform the assessment of a report, inform an investigation or to discuss additional supports that can be offered to the child or family.

Reporter details are confidential and protected under the legislation and child protection will maintain confidentiality of their status as a reporter. However, if the reporter has an ongoing role or relationship with the child or family, practitioners may speak with them regularly about the child or family in their professional capacity and may involve them in joint home visits, case conferences or case planning for the child and seek support in developing community support and safety around the child and family.

Child protection practitioners can be difficult to contact given the unpredictability, complexity and demands of their role. It may be helpful for you to discuss the most appropriate time and way to communicate with an allocated child protection practitioner should child protection remain involved with the family for any length of time (either working with the family by agreement or through legal proceedings).

## What will happen if child protection decides an investigation is not required?

After receiving a report, child protection will assess the information available to them and they may follow up with other professionals involved with the family before deciding how to respond.

If a decision is made not to investigate the report, child protection may provide advice to the reporter, or refer the family to support services in the community (such as Child FIRST or The Orange Door), or they may decide to take no further action.

# For more information

For more information refer to the [Department of Health and Human Service’s at Reporting child abuse](https://services.dhhs.vic.gov.au/reporting-child-abuse) <https://services.dhhs.vic.gov.au/reporting-child-abuse>

|  |
| --- |
| To receive this publication in an accessible format email [mandatoryreporting@dhhs.vic.gov.au](mailto:mandatoryreporting@dhhs.vic.gov.au), using the National Relay Service 13 36 77 if required.  Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne.  © State of Victoria, Department of Health and Human Services February 2019.  Where the term ‘Aboriginal’ is used it refers to both Aboriginal and Torres Strait Islander people. Indigenous is retained when it is part of the title of a report, program or quotation.  Available at [www.dhhs.vic.gov.au](http://www.dhhs.vic.gov.au) |

1. [1] an education and care service approved under the *Education and Care Services National Law Act 2010* including kindergartens, long day care, outside school hours care and family day care services [↑](#footnote-ref-1)
2. [2] a children’s service licensed under the *Children’s Services Act 1996 including occasional care and sports and leisure services*  [↑](#footnote-ref-2)