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| Review of Victoria’s Reportable Conduct Scheme |
| Terms of reference  |
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# Background

The overarching goal of Victoria’s Reportable Conduct Scheme (Scheme) is to make organisations safer for children. The Scheme is established under the [*Child Wellbeing and Safety Act 2005*](https://www.legislation.vic.gov.au/in-force/acts/child-wellbeing-and-safety-act-2005/035) <https://www.legislation.vic.gov.au/in-force/acts/child-wellbeing-and-safety-act-2005/035> (Act) and based on the fundamental principles established under section 16B, including that:

“The protection of children is the paramount consideration in the context of child abuse or employee misconduct involving a child.”

The Scheme commenced in stages from 1 July 2017. It was introduced in response to recommendations of the *Betrayal of Trust* report for the Victorian Parliamentary Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations, which found serious incidences of child abuse in some of our most trusted and important institutions and organisations. In December 2017, the final report of the *McLellan Royal Commission into Institutional Responses to Child Sexual Abuse* also made recommendations for state and territory governments across Australia to implement reportable conduct schemes.

The Scheme works to protect children from abuse and misconduct. It applies to organisations that exercise close care, supervision or authority over children, for example schools, kindergartens, childcare, government departments, religious bodies, hospitals, disability services and overnight camps for children. The Scheme requires organisations to respond to allegations of child-related misconduct (reportable conduct) made against their employees including volunteers, and to report those allegations to the Commission for Children and Young People (the Commission).

Organisations must put systems in place to prevent reportable conduct and enable the notification of reportable conduct to the head of the organisation and to the Commission.

The Commission is responsible for administering, overseeing and monitoring the Scheme.

# Purpose

Section 16ZN of the Act requires the Minister for Child Protection and Family Services to conduct a review of the first five years of operation of the Scheme and consider whether the Scheme should be expanded to apply to any other entities.

The review will examine the operation of the Scheme since it came into effect in July 2017 to understand if it is working as intended. The review will consider whether the Scheme is achieving its overarching objective of making organisations safer for children, by examining the operation of elements of the scheme aimed at achieving the objectives, as outlined in the second reading speech, including:

* ensuring that allegations of reportable conduct by employees are appropriately reported and responded to
* improving oversight of responses to allegations of reportable conduct in organisations that exercise care, supervision and authority over children
* maintaining the primacy of an investigation by Victoria Police of any allegations of criminal misconduct and ensuring suspected criminal conduct is being reported to Victoria Police
* enabling information sharing with the Working with Children Check, relevant professional registration bodies and regulators, in relation to substantiated allegations of reportable conduct, in order to facilitate reassessment of a person’s suitability to continue working or volunteering with children.

# Scope

The review will consider relevant data sources and engage with the Commission and other key stakeholders including representatives of entities required to comply with, or intended to be protected by the Scheme. The review will consider elements in the Act created to achieve the above objectives and the principles of the Scheme including the operation of the:

* provisions requiring organisations to put systems in place to ensure allegations of reportable conduct are reported, as well as reporting and investigation requirements and their impact on reporting and responses to reportable allegations
* oversight provisions and their impact on improving responses to allegations of reportable conduct
* provisions giving police investigations priority and ensuing that potential criminal conduct is reported to Victoria Police
* provisions enabling sharing of information with the Working with Children Check, professional registration bodies and regulators.

The review will also consider:

* the scope of organisations required to comply with the Scheme and whether the scope should be expanded to include additional entities, as per the statutory requirement of the review
* whether there are any opportunities for streamlining processes to reduce duplication. For example, considering alignment with similar schemes in other jurisdictions, the interplay with other regulatory schemes, and whether there are gaps or overlaps in the regulation of sectors subject to multiple regulatory schemes.
* other relevant matters raised throughout the review relating to the operation of the Scheme.

In conducting the review, regard will be given to recommendations from the Betrayal of Trust report and the Royal Commission into Institutional Responses to Child Sexual Abuse as well as the principles of the Scheme (see **Appendix 1**).

# Reporting

The department will prepare and deliver to the Minister for Child Protection and Family Services a final report documenting its methodology, research and data sources, analysis and any recommendations.

The Minister will table the review’s final report in both houses of Parliament on or before 1 July 2023.

## Appendix 1

### Principles of the Reportable Conduct Scheme

Section 16B of the *Child Wellbeing and Safety Act 2005* sets out the principles of the Reportable Conduct Scheme, including:

The Reportable Conduct Scheme is based on the fundamental principles that—

1. the protection of children is the paramount consideration in the context of child abuse or employee misconduct involving a child
2. criminal conduct or suspected criminal conduct should be reported to the police
3. a police investigation into the subject matter of a reportable allegation has priority and, unless the investigation may otherwise be conducted under any other Act, an investigation under the Reportable Conduct Scheme must be suspended or must not be commenced until the police advise or agree that it may proceed
4. the Commission and others involved in the Reportable Conduct Scheme should work in collaboration to ensure the fair, effective and timely investigation of reportable allegations
5. employees who are the subject of reportable allegations are entitled to receive natural justice in investigations into their conduct
6. regulators have specific knowledge of the roles of the entities or the professional responsibilities of the employees they regulate and, if their functions permit, play an important role in the investigation of reportable allegations
7. information should be shared during and after the conclusion of an investigation into a reportable allegation
8. after the conclusion of an investigation into a reportable allegation, the Commission may share information with the Department of Justice and Community Safety for the purpose of a Working With Children Check

The Commission should educate and guide—

1. entities in order to improve their ability to identify reportable conduct and to report and investigate reportable allegations
2. regulators in order to promote compliance by entities with the Reportable Conduct Scheme.

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