

# The ACT Reportable Conduct Scheme: An introduction

The ACT Reportable Conduct Scheme was introduced to improve organisation-related child protection. It does so by providing Ombudsman oversight of how certain organisations prevent and respond to allegations of child abuse and child-related misconduct by employees. This information sheet provides an introduction to the scheme.

Certain organisations who work with children (persons under 18 years old) are covered by the scheme and will need to report to the ACT Ombudsman. Broadly, 'reportable conduct' covers allegations or convictions of child abuse or child-related misconduct.

The scheme does not interfere with reporting obligations to ACT Policing, Child and Youth Protection Services (CYPS) or any other relevant professional bodies. If organisations suspect criminal conduct has occurred, they should report to police in the first instance.

## What is reportable conduct?

Organisations must report allegations or convictions concerning child abuse and child-related misconduct by an employee, including:

- ill-treatment of a child (including emotional abuse, and hostile 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 offences relating to protecting children from harm in accordance with the provisions of the Education and Care Service National Law (ACT) Act 2011.

For more information about reportable conduct, see *The ACT Ombudsman Practice Guide No. 2: Identifying Reportable Conduct* on our website: [ombudsman.act.gov.au](http://ombudsman.act.gov.au)

## What is the difference between reportable conduct and mandatory reporting?

Reportable conduct covers a broader range of conduct compared to the types of child abuse which must be reported to CYPS.

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This means organisations may become aware of an allegation or conviction that is reportable to the Ombudsman, but is not conduct which must be mandatorily reported to CYPs.

Likewise, an organisation may need to report an allegation to CYPs, but if it does not involve an employee (for example, the allegation is against a parent or patient), there is no requirement to report to the Ombudsman.

## Who is an organisation and who is an employee?

### Organisations

Organisations covered by the scheme are referred to as 'designated entities' and include:

- all ACT directorates
- health services<sup>1</sup>
- out of home care, kinship and foster care
- residential care organisations
- government and non-government schools
- a religious body<sup>2</sup>
- child care services
- education and care service providers, including after school care.

Some organisations providing services to children that are **not covered** under the scheme include:

- sporting clubs
- organisations which provide instruction in a particular activity (e.g. ballet, piano, swimming)
- Scouts and Girl Guides
- Universities.

The scheme also does **not cover** personal arrangements made for the education and care of children (e.g. babysitting arrangements or private tuition).

### Employees

All employees under contract of employment with a designated entity are included in scope of the scheme. This includes employees that do not work directly with children. Volunteers, contractors or employees of an organisation providing services on behalf of a designated entity, are also considered to be employees, but only if they are engaged to provide services to children.<sup>3</sup>

For a religious body, an employee includes:

- a minister of religion
- a religious leader or an officer of the religious body
- a person under a contract of employment
- a person engaged by the religious body to provide services, such as a volunteer or contractor (regardless of whether or not they provide services to children).

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<sup>1</sup> Health services means hospital and ambulance services as well as services provided by a public health facility. See s 17EA(2) of the *Ombudsman Act 1989* (ACT).

<sup>2</sup> See the definition of 'religious body' in s 17EA(2).

<sup>3</sup> Note that the requirement to provide services to children does not apply in the case of religious bodies.

The scheme covers the conduct of employees whether or not the allegations or convictions arose in the course of employment with the organisation. For example, an organisation covered by the scheme can consider allegations about the conduct of an employee while the employee was volunteering in a personal capacity for another organisation.

## What is the ACT Ombudsman's role?

The Ombudsman works with organisations under the scheme to build on existing misconduct procedures and reporting obligations. The Ombudsman will:

- monitor organisations' investigations
- provide guidance on best practice, including conducting investigations that are procedurally fair
- monitor the policies, practices and procedures of an organisation for the prevention of child abuse and child related misconduct and for dealing with reportable allegations about an employee.
- share information with police and key organisations to better protect children from abuse
- take complaints about the handling of reportable allegations and convictions reportable conduct
- consider investigating an allegation or conviction, or an organisation's response to an allegation or conviction, in limited circumstances

## What does an organisation need to do?

Organisations in the reportable conduct scheme:

- need to notify the Ombudsman about any reportable conduct allegations or convictions involving an employee by submitting a s 17G Notification as soon as possible, but no later than 30 days after the organisation becomes aware of the conduct
- are expected to investigate any allegations of reportable conduct and must provide a final report to the Ombudsman at the end of any investigation, including the results of the investigation and actions taken
- should report to other entities as required (for example, ACT Policing, CYPS, Access Canberra, Teacher Quality Institute, Children's Education and Care Assurance, Human Rights Commission etc.)
- may need to adjust or introduce policies and procedures to reflect their responsibilities under the scheme and educate employees about these.

## Contact

We encourage early contact with the Office. You can contact us prior to submitting an s 17G Notification using the details below.

**Telephone: 02 5119 5520**

**Email: [act@ombudsman.gov.au](mailto:act@ombudsman.gov.au)**

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More information is available at [ombudsman.act.gov.au](http://ombudsman.act.gov.au).

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