

The Reportable Conduct Scheme (**the Scheme**) makes Western Australian children safer. The Scheme compels heads of organisations that exercise care, supervision or authority over children to notify allegations of, or convictions for, child abuse by their employees to the Ombudsman Western Australia (**Ombudsman**) and then investigate these allegations. The Ombudsman will monitor and oversee the Scheme including reviewing these investigations.

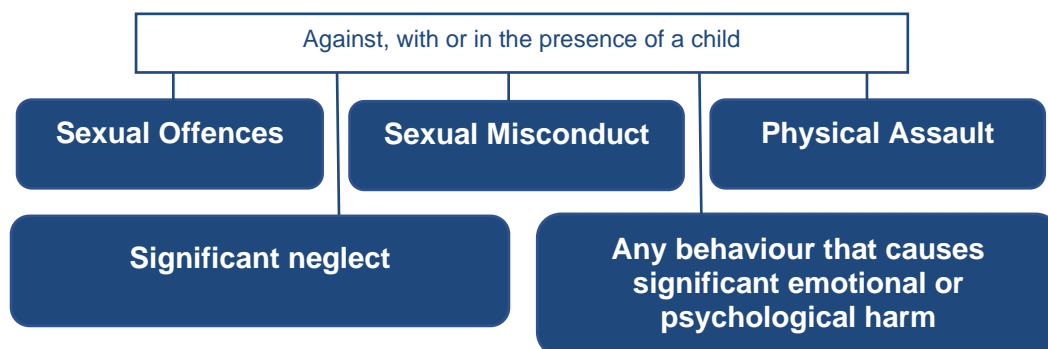
The purpose of this information sheet is to provide guidance to employees on the Scheme.

### What is reportable conduct?

Reportable conduct includes certain criminal convictions (**reportable convictions**) and **reportable allegations**.

A reportable allegation is any information that leads you to **form the belief on reasonable grounds** that an 'employee' of an organisation covered by the Scheme has engaged in reportable conduct.

There are currently five types of 'reportable conduct', namely:



Conduct that forms part of normal professional duties is not included in reportable conduct. For further information, please see our [Frequently Asked Questions](#).

For further information on identifying reportable conduct, reportable allegations and reportable convictions, please see our information sheet, [Identifying Reportable Conduct](#).

### Who is an employee?

Under the Scheme, an 'employee' is defined to include many different types of workers and volunteers. This includes the following persons over 18 years of age:

- an officer or employee of the organisation (whether or not they provide services to children).
- volunteers and contractors for the organisation (only if they provide services to children).
- a minister of religion or a religious leader if the organisation is a religious body.
- other specific types of workers defined in legislation.<sup>1</sup>

If you are an 'employee' of an organisation covered by the Scheme, it is important for you to understand your obligations and how the Scheme may affect your employment. Further information on the organisations covered by the Scheme can be found in our information sheet, [About the Reportable Conduct Scheme](#).

### What are my obligations under the Scheme?

Under the Scheme, 'relevant employees' **must** report reportable allegations or reportable convictions they become aware of to the head of their organisation as soon as practicable. Timely reporting enables the matter to be investigated and appropriate action taken to protect children.

'Relevant employees' under the Scheme are:

- an officer or employee of the organisation;
- a minister of religion or religious leader of a religious body; and
- a police officer or constable.

All other types of employees who become aware of a reportable allegation or reportable conviction, including contractors and volunteers, **may** report this to the head of their organisation. It is important to note that while contractors and volunteers are not obliged to make a report, they are encouraged to do so.

If you are an employee working for an organisation covered by the Scheme, you may wish to:

- seek guidance from your organisation about policies and workplace procedures relevant to the Scheme;
- clarify with your organisation how to appropriately respond to reportable allegations which come to your attention and which relate to an employee; and
- visit the Ombudsman website for more information relating to the Scheme.

If you are in doubt, it is best to make a report. You can also contact the Ombudsman at any stage to seek information.

As an employee, you may also have obligations arising from other legislative schemes or your organisation's policies. Your organisation can provide you with information about these obligations.

### What if the allegation is against the head of the organisation?

If the reportable conduct is about the head of your organisation, the allegation must be reported directly to the Ombudsman, which you can do by sending all relevant details to:

[reportableconduct@ombudsman.wa.gov.au](mailto:reportableconduct@ombudsman.wa.gov.au).

---

<sup>1</sup> These are: a person engaged by the organisation as a carer of a child under a placement arrangement under the *Children and Community Services Act 2004*; a family day care educator or family day care educator assistant engaged by or registered with the organisation; and, a police officer or constable.

### What protections do I have when I make a report?

There are protections under the [Parliamentary Commissioner Act 1971](#) for providing information under the Scheme, including:

- protection from civil and criminal liability for giving information (section 30AA(3)(a));
- protection from breaches of confidentiality or professional standards (section 30AA(3)(b) and (c));
- protection from victimisation (section 30B); and
- a prohibition on publishing information that identifies or is likely to identify a person who has made a report under the Scheme (section 19ZJ).

If you have concerns about the reporting culture in your organisation, or the systems in place to enable reporting, you can contact the Ombudsman.

### What if I report to the head of the organisation but the head of the organisation doesn't notify the Ombudsman?

Your responsibility as an employee is to report to the head of your organisation. If you are aware that the head of your organisation has not fulfilled their reporting obligations or you are not satisfied with their response to your report, it would be appropriate to alert the Ombudsman.

### Should I talk to my colleague about changing their behaviour, to give them a second chance before reporting?

No. Immediate reports protect both children and employees (including you). The earlier a report is received, the earlier steps can be taken to protect a child or children and address the conduct of the employee through proper investigation, training and support. Left unreported, the potential consequences for the child or children and the employee subject to the report can be significant.

### What if someone makes a report about me?

If an allegation is made against you, the head of the organisation must notify the Ombudsman about the allegation or conviction within seven (7) days of becoming aware of it and must also:

- assess and manage risks (including any risks to you);
- conduct an investigation;
- make a finding and take appropriate action; and
- provide a report to the Ombudsman about the finding and action taken.

The Scheme also requires the head of the organisation to provide procedural fairness when responding to any allegation against you.

In undertaking the investigation, the head of the organisation must inform you of certain matters, including:

- that you are the subject of a reportable conduct investigation;
- the reportable allegation or reportable conviction being investigated;
- any proposed adverse findings; and
- any action that is proposed to be taken as a result of the findings.

You must also be given an opportunity to make submissions. This includes providing you with the opportunity to respond when informing you of the reportable allegation, any proposed adverse findings and any proposed action to be taken as a result of the findings.

### What if I wasn't an 'employee' at the time of the alleged conduct?

Historical conduct of a current employee is covered by the Scheme if the head of the organisation becomes aware of the conduct after 1 January 2023, even if the individual was not an employee at the time the conduct occurred. This is because the Scheme is designed to address any current risks a person may pose to children in organisations covered by the Scheme.

The Scheme does not cover historical conduct of former employees.

The head of an organisation is required to notify the Ombudsman of a reportable allegation or reportable conviction made against a **current** employee regardless of whether the reportable conduct occurred:

- **before or during** the person's employment with, or engagement by, the organisation; or
- **outside of the person's role** with the organisation; or
- **prior to the commencement** of the Scheme.

### Who can I contact for guidance about the Scheme?

Your organisation will provide guidance to you about the Scheme. If you are a member of an employee union, your union representative may also be able to give you advice if an allegation is made against you.

### Where to get help

Organisations covered by the Scheme should contact the Ombudsman for clarification and guidance, and to talk through any issues of concern.

- Telephone: (08) 9220 7471
- Email: [reportableconduct@ombudsman.wa.gov.au](mailto:reportableconduct@ombudsman.wa.gov.au)
- Website at [www.ombudsman.wa.gov.au](http://www.ombudsman.wa.gov.au)

**Acknowledgements:** Ombudsman Western Australia wishes to thank the New South Wales Office of the Children's Guardian, the Victorian Commission for Children and Young People and the ACT Ombudsman's office for use of their publications relating to their reportable conduct schemes and their continuing advice and assistance.

