

# Reportable Conduct Scheme

## Background

The *Royal Commission into Institutional Responses to Child Sexual Abuse* (**the Royal Commission**) highlighted the numerous times and ways in which children reported abuse and were not believed, or no action was taken. The Royal Commission recommended that States and Territories establish Reportable Conduct Schemes to prevent harm to children by holding organisations accountable for the conduct of their staff.

Western Australia's Reportable Conduct Scheme (**Scheme**) commenced on 1 January 2023, following amendments to the *Parliamentary Commissioner Act 1971* (**Act**). The Scheme expanded significantly on 1 January 2024 to include additional agencies, as well as additional types of reportable conduct.

## What is the Reportable Conduct Scheme?

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 and then investigate these allegations. The Ombudsman will monitor, oversee and review these investigations.

## Expansion of the Scheme

The jurisdiction of the Scheme expanded on 1 January 2024 to include additional organisations as well as new types of reportable conduct.

From 1 January 2024, the Scheme included the following additional organisations:

- Accommodation and residential services;
- Religious institutions; and
- Disability services.

At full operation the Scheme now requires over 4,000 organisations across Western Australia to report to the Ombudsman.

The additional types of conduct added from 1 January 2024 are as follows:

- Significant neglect of a child; and
- Any behaviour that causes significant emotional or psychological harm to a child.

## The role of the Ombudsman under the Reportable Conduct Scheme

The role of the Ombudsman under the Scheme is comprised of the following functions, set out in section 19M(1) of the Act:

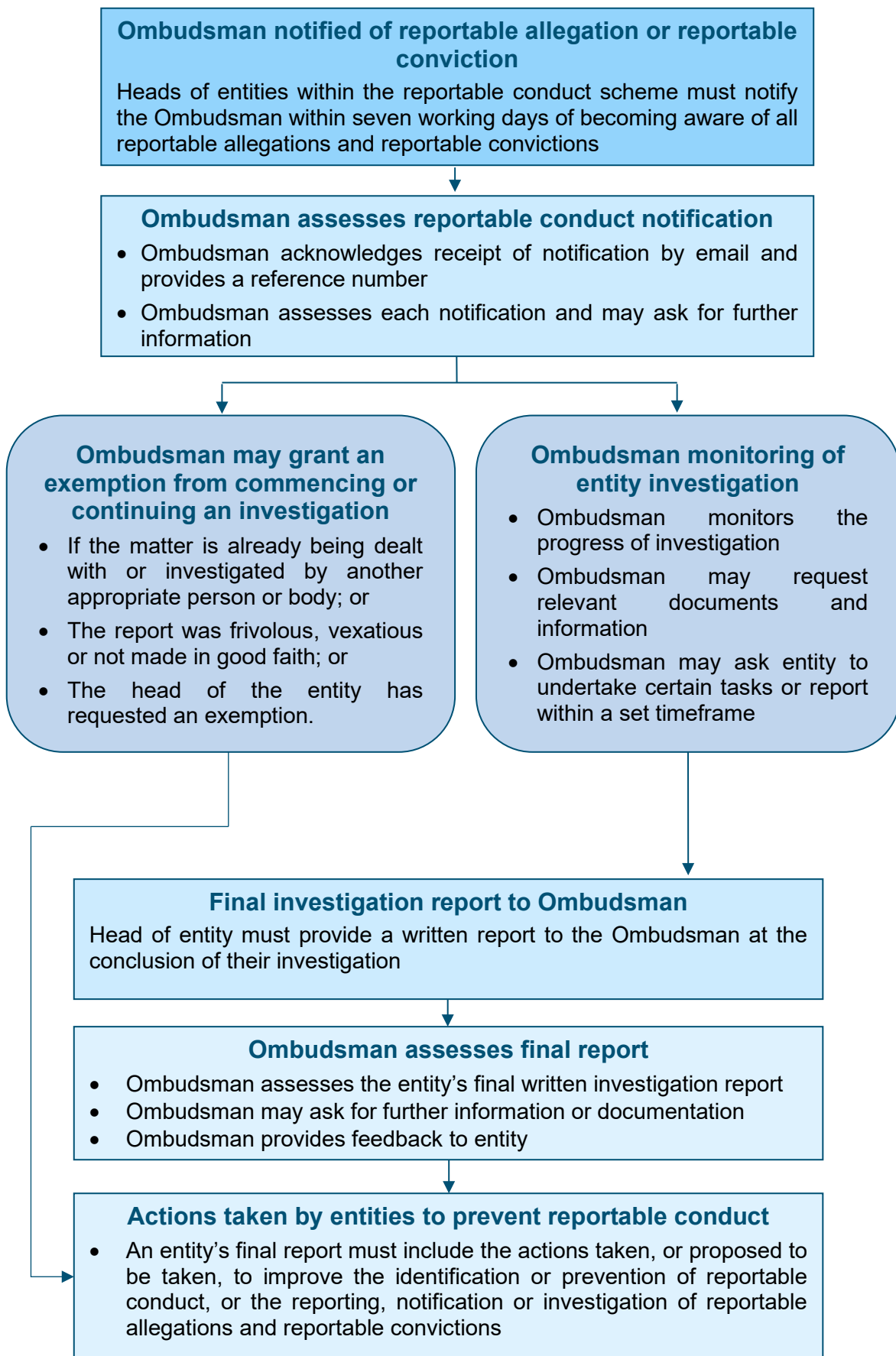
- (a) to oversee and monitor the reportable conduct scheme;
- (b) to educate and provide advice to relevant entities in order to assist them to identify and prevent reportable conduct and to notify and investigate reportable allegations and reportable convictions;
- (c) to support relevant entities to make continuous improvement in the identification and prevention of reportable conduct and the reporting, notification and investigation of reportable allegations and reportable convictions;
- (d) to monitor the investigation of reportable allegations and reportable convictions by relevant entities;
- (e) if the Commissioner considers it to be in the public interest to do so – to investigate reportable allegations and reportable convictions;
- (f) if the Commissioner considers it to be in the public interest to do so – to investigate whether reportable allegations or reportable convictions have been appropriately handled or investigated or responded to by the head of a relevant entity;
- (g) to make recommendations to relevant entities in relation to the findings of the investigations referred to in paragraph (e) or (f);
- (h) to monitor the compliance of relevant entities with the reportable conduct scheme and whether appropriate and timely action is taken by a relevant entity;
- (i) to monitor a relevant entity's systems for preventing, notifying and dealing with reportable conduct;
- (j) to report to Parliament on the reportable conduct scheme;
- (k) to perform any other function conferred on the Commissioner under this Division.

In undertaking his role under the Scheme, the Ombudsman is required to regard the best interests of children as the paramount consideration, under section 19K of the Act:

### **19K. Paramount consideration**

The Commissioner [Ombudsman] and any other person performing functions under this Division must regard the best interest of children as the paramount consideration.

## The Reportable Conduct Process



## Reportable allegations and convictions

Organisations within the scope of the Scheme are required to notify the Ombudsman within seven working days of becoming aware of:

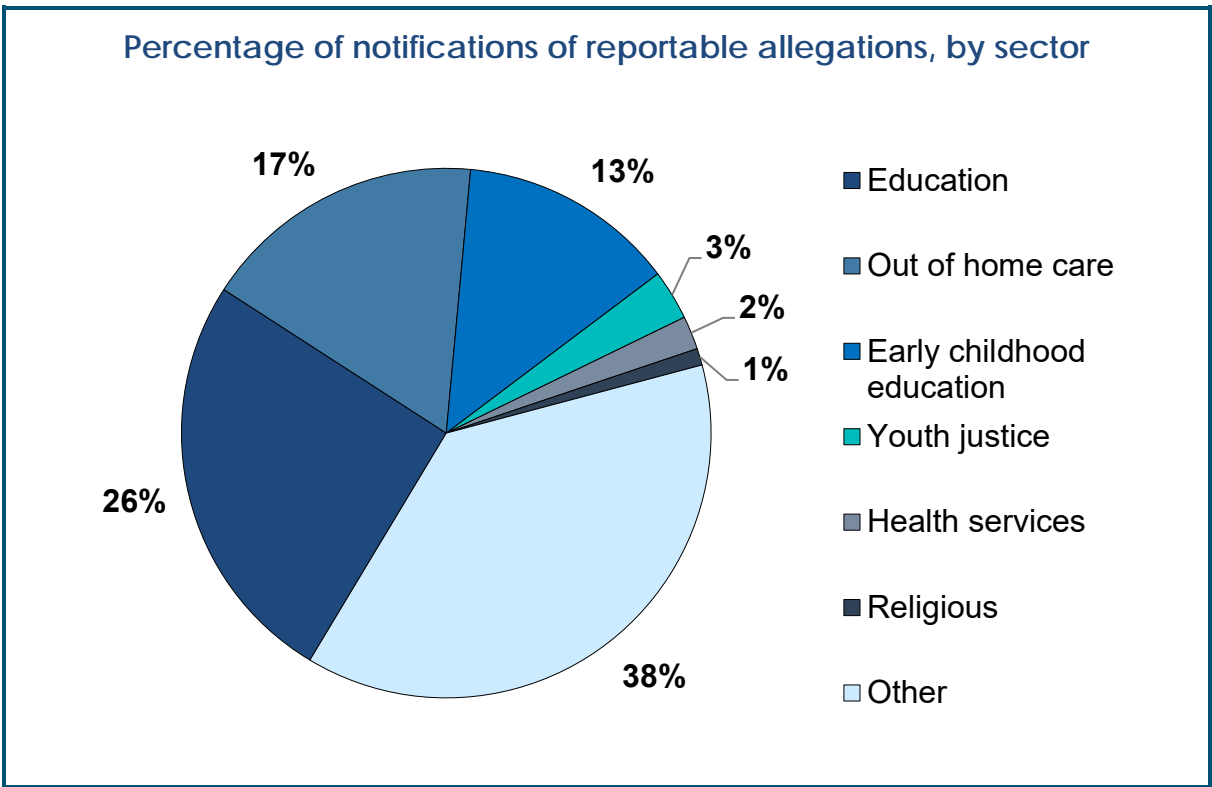
- a **reportable allegation** (namely, matters that include ‘any information that leads a person to form the belief on reasonable grounds that an employee of a relevant entity has engaged in reportable conduct or conduct that may involve reportable conduct’); and
- a **reportable conviction** (that are matters involving ‘a conviction, whether before, on or after commencement day, for an offence under a law of this State, another State, a Territory or the Commonwealth that is an offence referred to in section 19G(1)(a) [a sexual offence] or (d) [an offence prescribed by the regulations for the purposes of this paragraph].’

### Notifications of reportable allegations

During 2023-24, the Office received 696 notifications of reportable allegations under the Scheme. The Office has not received any notifications of reportable convictions since 1 January 2023.

#### Notifications by sector

In 2023-24, the education, out of home care, and early childhood education sectors reported most frequently to the Office (26 per cent, 17 per cent and 13 per cent, respectively), as shown in the chart below:

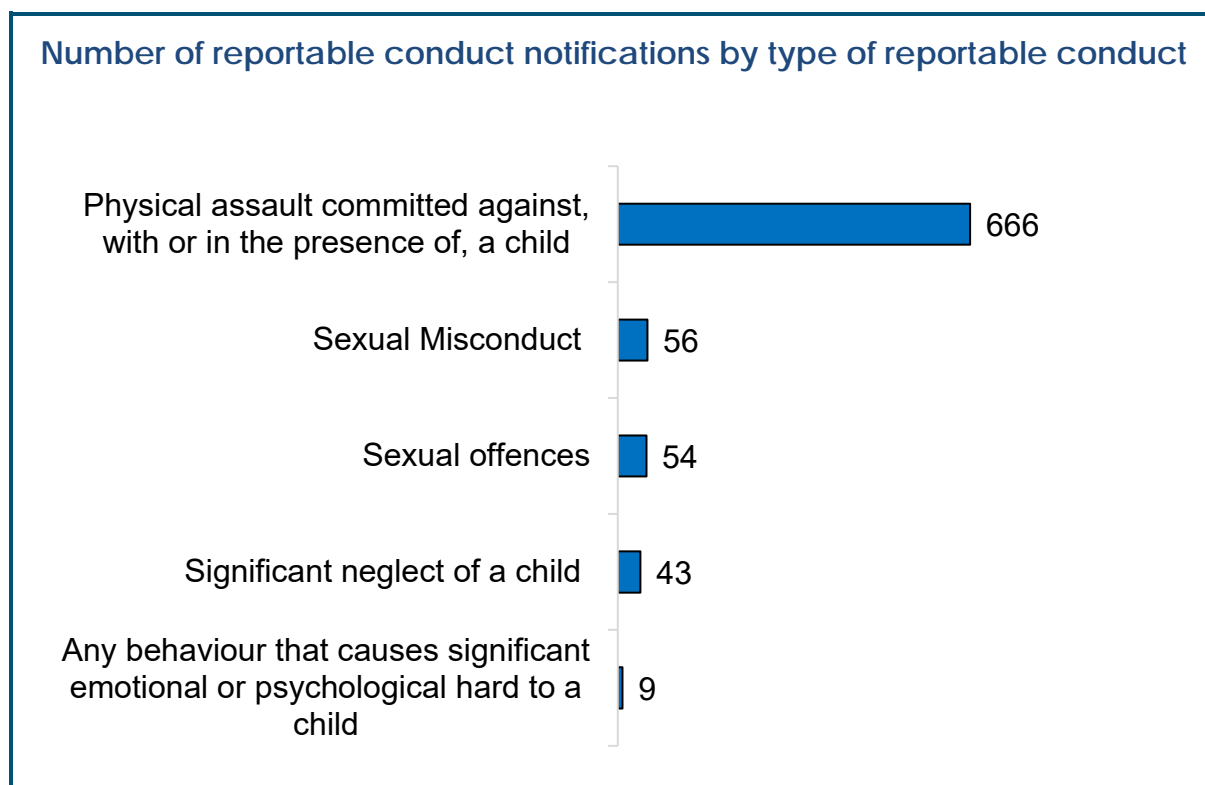


## Reportable conduct notifications by reportable allegation type

Under the Act, there are six types of allegations of reportable conduct that must be reported to the Ombudsman:

- Sexual offences (against, with or in the presence of, a child);
- Sexual misconduct (against, with or in the presence of, a child);
- Physical assault (against, with or in the presence of, a child);
- Significant neglect of a child;
- Any behaviour that causes significant emotional or psychological harm to a child; and
- An offence prescribed by the regulations (none at present).

The majority of notifications received in 2023-24 involved allegations of physical assault (80 per cent), as shown in the chart below:



## Enquiries

The Office has a dedicated reportable conduct enquiries line and email address as an important part of its function to provide information and education about the Scheme. During 2023-24, the Office received 290 enquiries.

## Findings and outcomes of entity investigations of reportable conduct

Section 19Z of the Act requires organisations to provide the Office with a written report of the outcomes of all reportable conduct investigations, including the actions taken.

The Office assesses each investigation report against the requirements of the Act and may seek further information regarding an entity's response to a reportable allegation. A relevant entity may also be provided with advice or education to assist it in improving its systems for preventing, identifying and responding to reportable conduct.

Of the investigations undertaken by organisations, and monitored by the Office, in 2023-24, 98% were found to be compliant with the requirements of the Act. In 2023-24, the Office received 144 investigation reports.

### Exempt investigations

The Ombudsman may exempt the head of a relevant entity from commencing or continuing an investigation in certain circumstances, including when:

- the matter is already being dealt with or investigated by another appropriate person or body; or
- the head of the relevant entity has made a request for the exemption in a notice under section 19Y of the Act.

During 2023-24, the Office received 89 requests from a relevant entity requesting an exemption from continuing an investigation:

- 5 requests were later withdrawn by the relevant entity;
- 70 exemptions were granted; and
- 14 requests for an exemption were under consideration on 30 June 2024.

### Exempt organisations

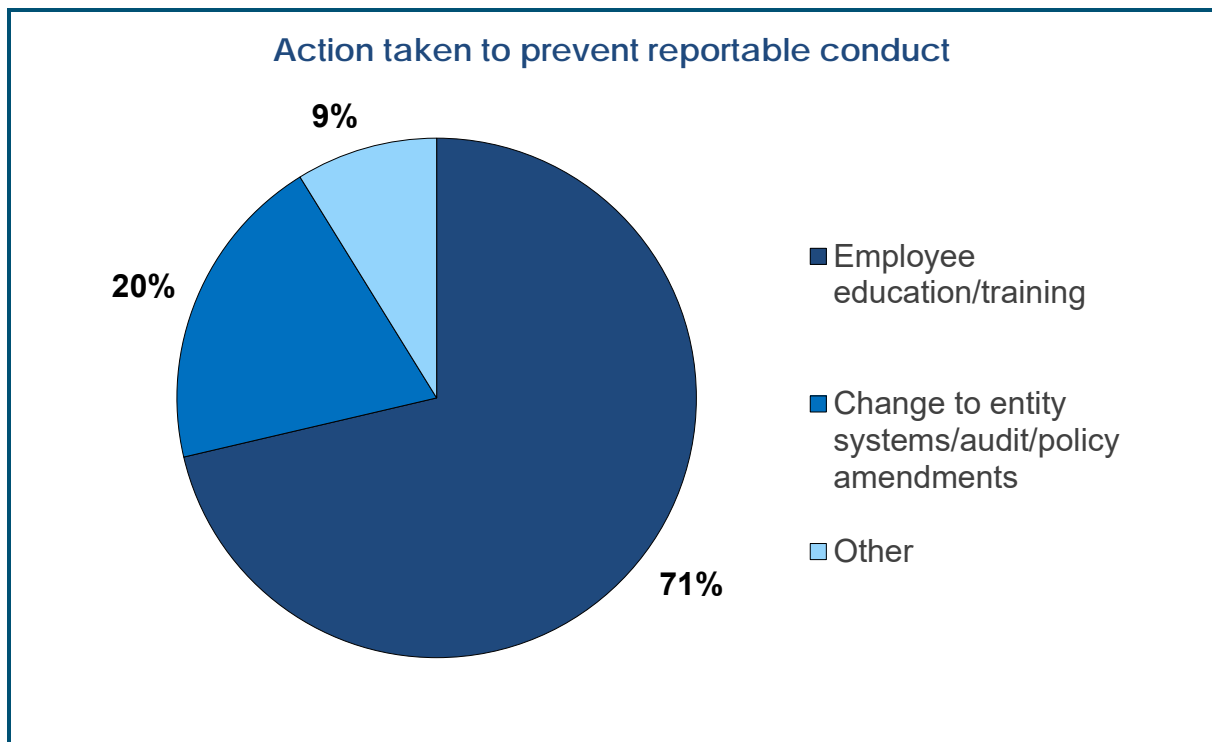
The Ombudsman may also exempt an organisation from the Scheme, by written notice given pursuant to section 19O of the Act.

During 2023-24, no organisations were exempted from the Scheme.

### Action taken to prevent reportable conduct

During 2023-24, a total of 477 actions were taken by organisations to prevent reportable conduct at the conclusion of a reportable conduct investigation.

The chart below provides a summary of the types of actions taken to improve reportable conduct systems within organisations:



The Office collects a range of additional information about the improvement actions undertaken by organisations at all stages of the reportable conduct process, including actions taken prior to Ombudsman involvement and actions taken during the identification and notification of a reportable conduct matter regarding the safety of children.

## The types of organisations covered by the Reportable Conduct Scheme

The Scheme only applies to organisations that exercise care, supervision or authority over children. The types of organisations covered by the Scheme include:

- Western Australian government departments and authorities, and local governments;
- Child protection and out-of-home-care services:
  - Providers of approved foster carers and kinships carers;
  - Providers of residential care and family group homes;
- Early childhood education and care services:
  - Providers of approved education and care services and child care services;
  - Providers of an approved family day care service;
- Education services:
  - Government and non-government schools;
  - TAFE colleges;
  - Registered training organisations;
  - Universities;
- Health services:
  - Public health service providers;
  - Licensed private hospital service providers;
  - Mental health service providers that have inpatient beds for children;
  - Drug and alcohol treatment service providers that have inpatient beds for children;
  - Ambulance services;
- Justice and detention services:
  - A provider of a juvenile detention centre; and
  - A provider of community justice services funded by the Department of Justice.
- Accommodation and residential services:
  - Providers of a homelessness service that provides overnight beds specifically for children as part of its primary activities and is funded by the Department of Communities;
  - Providers of boarding facilities for students who are children;
  - Organisations that provide overnight camps for children as part of its primary activity;
  - A provider of any other accommodation or respite services for children;
- Religious bodies; and
- Disability service providers.

## Education and guidance

The Office undertakes its function of providing education and guidance through:

- Our dedicated enquiries line and reportable conduct email address;
- Providing information to organisations during reportable conduct investigations;
- Delivering in-person and online presentations to organisations; and
- Publishing a range of online guidance and support materials on our website.

During 2023-24, the Office worked closely and cooperatively with stakeholders in key sectors and organisations included in the Scheme to provide education and guidance to assist in building their capacity to meet their reporting obligations and comply with the Scheme. This included:

- Attending meetings with organisations and delivering workshops on the Scheme;
- Developing tailored guidance and support materials and education programs for each sector, in collaboration with peak bodies for the sector; and
- Providing information to organisations to assist them in their handling of individual investigations.

During 2023-24, the Office held a range of information sessions and workshops for organisations covered by the Scheme and other stakeholders. The Office provided 17 workshops with early education providers, five religious organisations, and 12 other in-scheme organisations; as well as regional outreach in Geraldton. An inter-agency forum was held in June 2024 to coordinate communication and engagement between agencies.

In addition, the Office regularly liaised with a range of bodies in relation to the Scheme, including:

- The Department of Communities
- The Department of Education
- The Department of Health
- The Department of Justice
- WA Police Force.