

Child Protection Reporting: *Overview of legislative amendments*

On 1 March 2020 amendments to the [Children and Young Persons \(Care and Protection\) Act 1998](#) (Care Act) will commence to expand mandatory reporter groups and provide greater protections for reporters. These amendments are part of the [NSW Government's response](#) to recommendations made by the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission). This factsheet provides an overview of the amendments.

What is mandatory reporting?

Mandatory reporting is a legislative requirement to make a report to government authorities. In NSW, mandatory reporting is primarily regulated by sections 27 and 27A of the Care Act.

Who are mandatory reporters in NSW?

In NSW mandatory reporting obligations apply to persons who deliver the following services wholly or partly to children as part of their professional work or other paid employment, and those in management positions in organisations that deliver these services¹:

- health care (e.g. registered medical practitioners, specialists, general practice nurses, midwives, occupational therapists, speech therapists, dentists and other allied health professionals working in sole practice or in public or private health practices)
- welfare (e.g. psychologists, social workers, caseworkers and youth workers)
- education (e.g. teachers, counsellors and principals)
- disability services (e.g. disability support workers and personal care workers)
- children's services (e.g. child care workers, family day carers and home-based carers)
- residential services (e.g. refuge workers)
- law enforcement (e.g. police).

On 1 March 2020 mandatory reporter groups in NSW will be expanded to include:

- persons in religious ministry or persons providing religion-based activities to children² (e.g. minister of religion, priest, deacon, pastor, rabbi, Salvation Army officer, church elder, religious brother or sister)
- registered psychologists providing a professional service as a psychologist (whether or not exclusively to children)³.

¹ *Children and Young Persons (Care and Protection) Act 1998*, section 27(1)(a) and (b), *Children and Young Persons (Care and Protection) Regulation 2012*, clause 15

² *Children and Young Persons (Care and Protection) Act 1998*, section 27(1)(c) from 1 March 2020

³ *Children and Young Persons (Care and Protection) Act 1998*, section 27(1)(d) from 1 March 2020

Why have mandatory reporter groups been expanded?

The Royal Commission made a recommendation⁴ outlining the groups of individuals who should be mandatory reporters in each state and territory. In order to comply with this recommendation the NSW mandatory reporter groups have been expanded to include people in religious ministry, people providing religion-based activities to children and all psychologists.

When is a mandatory reporter required to make a report?

A mandatory reporter must make a report when they have reasonable grounds to suspect that a child is at risk of significant harm and those grounds arise in the course of, or from their work or role. A mandatory reporter has a duty to report, as soon as practicable, the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm.⁵

What support is available to help mandatory reporters decide whether to make a report?

Mandatory reporters should use the Mandatory Reporter Guide (MRG) to help decide whether a child is suspected to be at risk of significant harm and, if so, a report should be made.

The MRG is a Structured Decision Making (SDM) tool intended to complement mandatory reporters' professional judgement and critical thinking. The MRG supports mandatory reporters in NSW to:

- Determine whether a report to the Department of Communities and Justice is needed.
- Identify alternative supports for vulnerable children, young people and their families.

The MRG works by posing specific questions that help reporters work systematically through the issues relating to the concerns they have about a child. At the end of the process, a decision report will guide the reporter as to what action to take. The MRG can be accessed at <https://reporter.childstory.nsw.gov.au/s/mrg>.

How are reports made?

Mandatory reporters can call the NSW Child Protection Helpline on 132 111. The Child Protection Helpline is open 24 hours a day, 7 days a week.

Mandatory reporters can also register to submit a child protection report (eReport) directly through the following website: <https://reporter.childstory.nsw.gov.au/s/>

Once registered, mandatory reporters:

- can create eReports after running the MRG
- will be notified by email when there is a change of status for one of their reports

⁴ Recommendation 7.3, Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report, Volume 7

⁵ *Children and Young Persons (Care and Protection) Act 1998*, section 27(2)

- can log in to the ChildStory Reporter Community website to see the status of any previous reports they have submitted.

What training is available for mandatory reporters?

The NGO Learning Centre is a free public website for staff of non-government organisations working with children, young people, families and communities in NSW. The website offers an online training course on understanding the child protection reporting process. The website is accessible at <http://ngolearning.com.au/>.

The Association of Children's Welfare Agencies Centre for Community Welfare Training deliver cost effective training courses specifically to mandatory reporters on identifying and responding to children and young people at risk. More information is available at <https://www.acwa.asn.au/ccwt/>.

New protections for reporters

The Royal Commission also found that protections for reporters of child sexual abuse varied throughout Australian jurisdictions and a lack of reporter protections can act as a barrier to reporting. To remove this barrier and comply with the Royal Commission's recommendations, additional protections for reporters have been inserted into the Care Act.

Amendments have been made to the Care Act to build on existing protections for people who make reports to government authorities in good faith by providing these reporters with protection against civil and criminal liability.⁶

A new section has been inserted into the Care Act providing specific protections to reporters who make reports to institutions engaged in child related work. These reporters are protected from liability for defamation and civil and criminal liability. The section also provides that the report does not constitute a breach of professional etiquette or ethics, or amount to unprofessional conduct.⁷

All reporters are now protected against retribution for making, or proposing to make, a report.⁸

More information

For more information on mandatory reporting you can visit the Department of Communities and Justice website at <https://www.facs.nsw.gov.au/families/Protecting-kids/mandatory-reporters>. This page will be updated from 1 March 2020 to reflect the amendments.

⁶ *Children and Young Persons (Care and Protection) Act 1998*, section 29 amendments from 1 March 2020

⁷ *Children and Young Persons (Care and Protection) Act 1998*, section 29AAA from 1 March 2020

⁸ *Children and Young Persons (Care and Protection) Act 1998*, Section 29AB from 1 March 2020



If you have a specific question about the recent amendments to the Care Act in relation to mandatory reporting you can email the Department of Communities and Justice at cpmandatoryreporting@fac.s.nsw.gov.au.