

Mandatory reporting to child protection in Victoria

Expansion of mandatory reporter groups – fact sheet
People in religious ministry

What is mandatory reporting to child protection?

Mandatory reporting refers to the legal requirement of certain professional groups to report a reasonable belief of child physical or sexual abuse to child protection authorities.

In Victoria, under the *Children Youth and Families Act 2005*, mandatory reporters must make a report to child protection, if:

- in the course of practising their profession or carrying out duties of their office, position or employment
- they form a reasonable belief that a child has suffered or is likely to suffer significant harm as a result of physical injury or sexual abuse, and
- the child's parents have not protected or are unlikely to protect the child from harm of that type.

The report must be made as soon as practicable after forming the belief and after each occasion on which they become aware of any further reasonable grounds for the belief.

The penalty for failing to report is 10 penalty points¹.

What is a reasonable belief?

A reasonable belief is formed if a reasonable person, doing the same work, would form the same belief on those grounds, based on the same information.

Grounds for forming a belief are matters of which the person has become aware and any opinions in relation to those matters.

¹ For further information, see the Department of Treasury and Finance Indexation of fees and penalties
<<https://www.dtf.vic.gov.au/financial-management-government/indexation-fees-and-penalties>>

Reporters are not expected to have evidence or to be certain. Child Protection is responsible for assessing reports and deciding how to respond.

Who is already a mandatory reporter?

In Victoria, police officers, registered medical practitioners, nurses, midwives, registered teachers (including kindergarten teachers), school principals, out of home care workers, early childhood workers, registered psychologists and youth justice workers are currently mandated to report physical or sexual abuse to child protection authorities.

School counsellors will commence as mandatory reporters on 31 January 2020.

Why expand mandatory reporting requirements?

Victoria is implementing the Royal Commission into Institutional Responses to Child Sexual Abuse recommendation to achieve national consistency in mandatory reporting by expanding mandatory reporter groups to include the identified minimum set of professional groups who should be mandated in all jurisdictions.

When will people in religious ministry become mandatory reporters?

People in religious ministry will commence as mandatory reporters on 17 February 2020².

This is when amendments passed by the Victorian parliament on 10 September 2019 to include people in religious ministry as mandatory reporters, without

² subject to proclamation of sections 3(2), 9 and 10 of the *Children Legislation Amendment Act 2019*, amending the Children, Youth and Families Act.

exemption for religious confessions, will come into force.

How will people in religious ministry be defined?

The term 'person in religious ministry' means a person appointed, ordained or otherwise recognised as a religious or spiritual leader in a religious institution.

For example:

Church elder, deacon, granthi, imam, religious minister, monk, nun, pastor, priest, pujari, rabbi, religious brother or sister and Salvation Army officer

A religious institution means an entity that operates under the auspices of any faith; and provides activities, facilities, programs or services of any kind through which adults interact with children.

Examples may include dioceses, mosques, parishes, synagogues, local religious congregations, schools, post-secondary institutions and religious institutes that may provide activities, facilities, programs or services such as chaplaincy services, early childhood services, outreach support or care services or residential facilities.

Will I have to report concerns I had before becoming a mandatory reporter?

Reporting requirements will apply to people in religious ministry even if a reasonable belief was first formed prior to commencement of the legislation provided they continue to hold the belief. If you still believe the child is in need of protection, you will be required make a report.

The purpose of reporting child abuse is to enable authorities to assess if the child is in need of protection and take action to protect the child where necessary.

Will I need to report information received during religious confession?

Victoria is implementing the Royal Commission recommendation that people in religious ministry should be mandated to report to child protection authorities without exemption for knowledge or suspicions formed, in whole or in part, on the basis of information disclosed in or in connection with a religious confession.

All mandatory reporters in Victoria are required to report when a belief is formed in the course of practising their profession or carrying out the duties of their office, position or employment. There is no exemption for doctors or other professionals on the basis of their usual legal or ethical confidentiality obligations. Likewise, there is no exemption for religious confessions.

People in religious ministry who are found to have failed to make a mandatory report could face prosecution.

Who can I consult?

Your religious organisation may offer options to consult with someone if you are concerned about a child's safety or wellbeing. Check your organisation's policies.

The legislation requires you to make a report to child protection as soon as practicable after forming the belief and after each occasion you become aware of any further grounds for the belief.

Child protection staff are experienced practitioners skilled in receiving reports and discussing concerns about a child with reporters.

Definition of a child

In this context, a child is defined as a person who is under the age of 17 years, unless they are subject to a child protection order or interim order granted by the Children's Court of Victoria Family Division that continues in force until they turn 18 years of age.

What if I'm worried about a child's wellbeing, but I don't believe the child is in need of protection?

Child FIRST or The Orange Door

If you have significant concerns for the wellbeing of a child, but do not believe they are at risk of significant harm, and where the immediate safety of the child will not be compromised, a referral to Child FIRST or The Orange Door may be appropriate.

Child FIRST, the access point for family services, is progressively transitioning to The Orange Door. The Orange Door is the new access point for families who need assistance with the care and wellbeing of children, including those experiencing family violence, to contact the services they need to be safe and supported.

Referring to Child FIRST or The Orange Door would be appropriate where families:

- are experiencing significant parenting problems that may be affecting the child's development
- are experiencing family conflict, including family breakdown
- are under pressure due to a family member's physical or mental illness, substance abuse, disability or bereavement
- are young, isolated or unsupported
- are experiencing significant social or economic disadvantage that may adversely impact on a child's care or development.

Contact numbers to make a referral in each local government area are listed at [Child and family services information, referral and support teams](https://services.dhhs.vic.gov.au/referral-and-support-teams) <<https://services.dhhs.vic.gov.au/referral-and-support-teams>>.

Child FIRST and The Orange Door	
Barwon	1800 312 820
Bayside Peninsula	1800 319 353
Brimbank Melton	1300 138 180
Central and Upper Hume	1800 705 211
Colac-Otway, Corangamite	(03) 5232 5500
East Gippsland	(03) 5152 0052
Goulburn Valley - Seymour	1800 663 107
Goulburn Valley - Shepparton	1300 854 944
Hume Moreland	1300 786 433
Inner East	1300 762 125
Latrobe & Baw Baw	1800 319 354
Lower Hume	1800 663 107
Mallee	1800 290 943
North Central	1800 260 338
North East	1800 319 355
Outer East	1300 369 146
South Coast	1800 319 354
South East	(03) 9705 3939
South West	1300 543 779
Wellington (Sale)	(03) 5144 7777
Western Melbourne	1300 775 160
Wimmera	1800 195 114

What if I'm concerned about abuse or neglect of a child now?

While mandatory reporters are required by law to report physical and sexual abuse, anyone is able to report concerns about any type of child abuse or neglect.

If you suspect a child has suffered or is at risk of child abuse or neglect, contact child protection. You do not need to be a mandatory reporter to make a report. We encourage all professionals to exercise their duty of care to report child abuse and neglect.

To make a report to Child Protection

To make a report, you should contact the child protection intake service covering the local government area (LGA) where the child normally resides. Telephone numbers to make a report during business hours (8.45am-5.00pm), Monday to Friday, are listed below.

North Division intake: 1300 664 977

South Division intake: 1300 655 795

East Division intake: 1300 360 391

West Division intake - metropolitan: 1300 664 977

West Division intake - rural and regional: 1800 075 599

If you are not sure which number to call, check the following website for details on the LGAs covered by each intake service at [Child protection contacts](https://services.dhhs.vic.gov.au/child-protection-contacts) <<https://services.dhhs.vic.gov.au/child-protection-contacts>>.

Please note, child protection reports cannot be made via the department's website or by email.

For immediate help for a child

To report concerns that are life threatening, contact Victoria Police: 000

To report concerns about the immediate safety of a child outside of normal business hours, contact the After-Hours Child Protection Emergency Service on 13 12 78.

What happens after I make a report?

Child protection will decide how to respond to the report and whether an investigation is required. This may mean providing advice to the reporter or referring the family to support services in the community and closing the case, or progressing the matter to an investigation

to establish whether the child is need of protection (as defined in law).

Will the family know I have made a report?

The identity of a reporter must remain confidential, unless:

- the reporter chooses to inform the child or family of the report
- the reporter consents in writing to their identity as the reporter being disclosed
- a court or tribunal decides it needs this information in order to ensure the safety and wellbeing of the child
- a court or tribunal decides that in the interests of justice the evidence needs to be given.

It is often considered best practice to inform the family that you have made a report, where appropriate. Being transparent about your concerns and making a report to child protection, in circumstances where it is safe and appropriate to do so, can be beneficial for the child or young person, the family and your ongoing role with them.

However, in some circumstances, discussing your concerns may increase risk of harm for a young person, or may compromise a child protection or police investigation. As such, seek advice from child protection at the time of making a report.

What if I have information about a sexual offence against a child?

Any adult who has information about a sexual offence against a child under 16 years by another adult must report that information to police, unless they have a reasonable excuse or an exemption applies, under the failure to disclose offence.

If you believe the child is currently in need of protection and have reported your concerns to Child Protection, this is a reasonable excuse for not reporting the sexual offence to police.

The current exemption for religious confessions from the failure to disclose offence will be removed on 17 February 2020³.

In addition, from that date⁴, the religious confessions privilege will no longer apply in proceedings for the failure to disclose offence (under the *Crimes Act 1958*) or the offence of failing to make a mandatory report (under the Children, Youth and Families Act).

For more information

For more information about reporting child abuse refer to the [Department of Health and Human Service's at Reporting child abuse](https://services.dhhs.vic.gov.au/reporting-child-abuse) <https://services.dhhs.vic.gov.au/reporting-child-abuse>.

For more information about the failure to disclose offence go to the [Department of Justice and Community Safety](https://www.justice.vic.gov.au/) website and search 'failure to disclose'.

<https://www.justice.vic.gov.au/>

To receive this publication in an accessible format email mandatoryreporting@dhhs.vic.gov.au, using the National Relay Service 13 36 77 if required.

Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne.

© State of Victoria, Department of Health and Human Services December 2019.

Where the term 'Aboriginal' is used it refers to both Aboriginal and Torres Strait Islander people. Indigenous is retained when it is part of the title of a report, program or quotation.

Available at www.dhhs.vic.gov.au

³ subject to proclamation of part 4 of the *Children Legislation Amendment Act 2019*, amending the *Crimes Act 1958*

⁴ subject to proclamation of part 5 of the *Children Legislation Amendment Act 2019*, amending the *Evidence Act 2008*