



Scope, Obligations and Duty of Care Considerations for reporting the abuse of minors for AACHP Members

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The AACHP Committee is committed to informing, highlighting and updating our members on our professional obligations and scope in our monthly meetings; in our quarterly newsletters; on our social media platform and on the AACHP website on a regular basis. In 2025, in addition to the comprehensive resources currently available to members on the website, the AACHP provides this important information on reporting concerns to Child Protection Services throughout the states and territories of Australia.

In 2022–23, around 1 in 32 (180,000) Australian children aged under 18 were reported to child protective services. Approximately 1 in 126 (45,400) Australian children aged under 18 became subjects of substantiated maltreatment that is, an investigation concluded that these minors were being, or were at risk of being, maltreated. To be clear, the World Health Organisation in 2020 defined maltreatment as abuse and neglect that occurs to children under 18 years of age. It includes all types of physical and/or emotional ill-treatment, sexual abuse, neglect, negligence and commercial or other exploitation, which results in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power. (*Reference: Australian Institute of Health and Welfare-www.aihw.gov.au*)

These statistics suggest that given the work that our members practice, whether you choose to work with adults exclusively or with a range of child and adult clientele, it is not a matter of 'if' this issue will present in the course of our professional work life but 'when' it will present. In consideration of this, being prepared to respond when the eventuality arises is a critical component of a practitioner's duty of care obligations and a key responsibility.

Historically, the introduction of mandatory reporting legislation in Australia and voluntary reporting has been viewed as a mechanism to report suspicions of child maltreatment in the hope that it will serve as a deterrent to perpetrators and reduce its occurrence. In response to this principle, the AACHP, guided by government legislation and the laws of the time, has continuously aimed to provide its members with a robust and ethical structure of operational codes of conduct.

It is therefore important to clarify that there are some important differences in the types of abuse and neglect that must be reported across the states and territories. In New South Wales (NSW), the NT and Tasmania (Tas) it is mandatory to report all 5 recognised types of abuse and neglect which include: physical abuse, sexual abuse, emotional abuse, neglect, and exposure to family violence. In South Australia (SA) it is mandatory to report physical abuse, sexual abuse, emotional abuse, and neglect. In the Australian Capital Territory (ACT) and in **Victoria (Vic) only physical and sexual abuse must be reported.**



It is because of these differences that each Australian state and territory has its own mandatory reporting law. However, **the laws are not the same across all jurisdictions**. Differences include: (1) who has to report; (2) what types of abuse and neglect have to be reported (and therefore what types do not have to be reported); (3) the 'state of mind' that activates the reporting duty (i.e. having a concern, suspicion or belief on reasonable grounds); and (4) who to make the report to.

The legislation in some jurisdictions uses the word 'abuse', whereas in other jurisdictions different terms are used (e.g. harm, exploitation, in need of protection). All jurisdictions specify the level of abuse that must be reported (i.e. significant, serious, detrimental). **Child sexual abuse is always considered a risk for significant harm and must always be reported.** *Importantly, individuals, whether mandated reporters or not, may also refer child abuse and neglect that falls below statutory thresholds for mandatory reporting to child and family welfare agencies. (Reference: The Australian Government Australian Institute of Family Studies-AIFS www.aifs.gov.au)*

In 2015, the AACHP Committee implemented a National Code of Conduct for *non-registered General Health Service Providers*, which was proposed by the then named Council of Australian Governments (COAG).

This Code of Conduct details the minimum legal standards that must be complied with for members who are not regulated by the Australian Health Practitioner Regulation Agency (AHPRA).

To provide some context for members, it is important to note that the practice of 'Hypnotherapy' as a modality and 'Hypnotherapists' are defined as '*non-registered*' and referenced as *Alternative Therapists* within the schedules of this Code. (Reference: *Health Complaints Commissioner-HCC Victoria-www.hcc.vic.gov.au*)

The introduction of the national Code formed the AACHP's Code of Conduct Policy to guide and inform its members. Furthermore, in 2016, the National Code of Conduct formed Schedule 2 of the Health Complaints Act and on **February 1, 2017, this Act became law in Victoria.**

Significantly for the Victorian Members of the AACHP, the enactment of this law means that **any possible breach of this code by a non-registered general health service provider may be grounds for a complaint to the Health Complaints Commissioner and in some cases may also be grounds for a formal investigation by the Health Complaints Commissioner.**

For AACHP members residing and conducting business in other states and territories of Australia, The Health Complaints Act of 2016 is under the provenance of The Health Care Complaints Commission of **NSW** (HCCC), The Office of the Health Ombudsmen in **QLD** (OHO), The HCCA in the **ACT**, The HCSCC in South Australia, The Department of Health in **WA**, The HHC in **Tasmania**, and The HCSCC in the **NT**. It is strongly recommended by the AACHP Committee, that those that reside in the states and territories outside of Victoria, familiarise themselves with the information available on these websites. The links to these organisations are listed on the last page.



It is important to consider that while child protection departments in each state or territory will carry a different title and may vary marginally in their reporting style, this article, while applicable to AACHP members residing outside of Victoria, primarily references information sourced from current Victorian Government Guidelines, Legislation and Law as retrieved from multiple Victorian Government Department websites in January 2025. It has been prepared in this way in acknowledgement that the AACHP is registered as an association in

Victoria and the majority of AACHP members reside in and conduct business in the state of Victoria.

Additionally, **all** non-registered general health care service providers/practitioners that provide their services **on any digital platform**, are held to the standards, regulations and the laws of the state they **reside** in, as this is where the service was 'delivered' from. For example, if a practitioner in Victoria was providing online services for a client in NSW, any breach of the law would have any resulting disciplinary action taken under Victorian laws.

In summary, not only will the best interests of your clientele always be served by the prioritisation of their safety, it is also the law.

If a practitioner in the course of their professional work has formed a belief, on reasonable grounds that a minor has experienced abuse or is at risk of abuse, contacting their supervisor, colleagues, peers or fellow members of their association to discuss a reporting plan is both advised and recommended to ensure compliance is maintained.

Some of the best additional resources we can share are those of our own professional experiences, which is why discussion on this important topic will always be encouraged and information on pathways to make a report will feature on the AACHP website. Whilst the following list of frequently asked questions and answers is not exhaustive, it serves as a starting point to share knowledge and to offer pathways from which additional information can be sourced.

[Why is there a national Code of Conduct for non-registered general health care service providers?](#)

The National Code of Conduct was agreed to by all state and territory Health Ministers and is also now law in Victoria. The code is important because it provides a minimum standard for all health practitioners who are not among the 14 health professions regulated under national law. The code brings greater consistency to the standards of accountability for practitioners registered under the national law, such as doctors and dentists, and for **non-registered practitioners** such as counsellors, **alternative therapists**, paramedics, music therapists, doulas, beauty therapists, naturopaths, massage therapists and many others.



Should I make a report to child protective services if I have reasonable belief that a child or a young person may be at risk of physical or sexual abuse?

Yes, it is preferable to report your concerns to an agency of child protective services in your state or territory and to do so in a timely manner. It is within the scope of your duty of care to ensure that all relevant referrals and reports pertaining to the best interest of the client are conducted/completed.

Any person is lawfully entitled to make a report if they are concerned for a child's welfare, even if they are not required to do so as a mandatory reporter. Anyone making a voluntary (non-mandated) report is also protected regarding confidentiality and immunity from legal liability.

What is reasonable belief of abuse to a child or minor under the age of 18?

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.

For example, a 'reasonable belief' might be formed when:

- 1) a child states that they have been physically or sexually abused
- 2) a child states that they know someone who has been physically or sexually abused (sometimes the child may be talking about themselves)
- 3) someone who knows a child states that the child has been physically or sexually abused
- 4) professional observations of the child's physical condition and/or behaviour or development leads a professional to form a belief that the child has been physically or sexually abused
- 5) signs of physical or sexual abuse leads to a belief that the child has been physically or sexually abused.
- 6) Other circumstances lead you to suspect that a child has been abused.

What if the information is about a third person that the reporter of the abuse has no contact with, and there is no way of being able to assess the veracity of the information given (for example where there may be acrimony between the third party and the parent)?

If the information provided causes you to form a reasonable belief that a child is at risk of significant harm from physical or sexual abuse, reporting obligations still apply. Acrimony between parties does not mean that there is no risk to the child. **A reasonable belief does not require proof.**

What if the child does not know the name of the perpetrator?

It is not always possible for children to provide the name of an alleged perpetrator. This may be for a range of reasons, including fear of threats made by the alleged perpetrator; fear of not being believed; not being ready; not knowing the person's name; or not willing to say.

If you form a reasonable belief that a child is at risk of significant harm due to physical or sexual abuse, and their parents have not or are unlikely to protect them from harm of that type, you must report this to child protection, despite not knowing the name of the perpetrator.



Is there a time frame for abuse to be 'relevant' for reporting?

Any person who forms a belief on reasonable grounds that a child is in need of protection may make a report to child protection in their state or territory. They may do this at the time they form the belief and on any subsequent occasion they form that belief.

What if an adult discloses that they were sexually or physically abused as a child and does not want the abuse reported? Should a report be made to child protective services?

If someone is 17 years or older and not subject to a protection order and discloses physical or sexual abuse that occurred when they were a child, a report **cannot** be made to child protection.

Depending on the circumstances, you may need to consider if a report needs to be made to Police.

If the adult has younger siblings who are children, or children of their own, you may form a reasonable belief that one of these children is likely to be at significant risk of physical or

sexual abuse. Your belief may be based on an alleged perpetrator's pattern and history of behaviour or continued concerning behaviour and ongoing access to or regular contact with the child who is likely to be at significant risk. In this case, a report must be made to a child protection agency in relation to that child.

What details do I need to provide to make a report to Child Protective Services in my State/Territory?

Details of the child or young person's name, address, date of birth (or age if birthdate is unknown) and details of any siblings. Details of the incident which include the date, type of risk and who has contributed to the harm (if a name is known) and the effect that this incident has had on the child.

Who can I consult?

If you are a private practitioner, you may wish to discuss your concerns with your Supervisor. 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.

Is there a helpline I can contact to discuss a possible report prior to making one?

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

How do I make a report?

In Victoria, reports to child protection must be made to a protective intervener, or other appropriately delegated officer. Reports **cannot** be made via the department's website or email, as staff who monitor the department's website are not delegated officers.

Please Note: Almost all reports are made to child protection by phone...



To make a report, you should contact the child protection intake service covering the local government area (LGA) where the child normally resides.

The telephone numbers (Current as of January 2025)

to make a report are listed below:

North Division intake: 1300 598 521

South Division intake: 1300 555 526

East Division intake: 1300 360 452

West Division intake: 1300 360 462

Child Protective Services are available Monday to Friday (8.45am -5.00pm)

After hours between 5pm - 9am on weekdays, 24 hours/day on weekends and public holidays

Child Protection Emergency Service: 13 12 78

Interstate contact numbers:

- Australian Capital Territory (ACT) - Child and Youth Protection Services-1300 556 729
- New South Wales (NSW) - Department of Community and Justice-13 21 11
- Northern Territory (NT) – Territory Families, Housing and Communities-1800 700 250
- Queensland (QLD) – Child Safety After Hours Service Center-1800 811 810
- South Australia (SA) – South Australian Child Abuse Report Line- 13 14 78
- Western Australia, (WA) Child Protection and Support Division-1800 273 889
- Tasmania, (TAS) Department for Education Children and Young People-1800 000123



For the information of Victorian AACHP Members

The Orange Door

Family violence is not always physical. It covers a wide range of behaviours and actions by someone towards a family member or intimate partner. Sometimes, families can experience difficult times and are worried about the wellbeing and development of their children and need some help and support.

The Orange Door does not replace emergency services or Child Protection for people or children at immediate risk.

However, they can arrange short-term practical help for immediate safety and wellbeing issues. They can also connect people to longer-term services and access the support they need, quickly and easily. It's free and you don't need a referral.

For more information on how this valuable service please visit:

<https://www.orangedoor.vic.gov.au/service-sector-professionals>

For immediate help for a child:

To report concerns that are life threatening, you should contact Police on: 000

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

What if the abuse occurred when the child was living outside of Victoria?

Where the incident or incidents of abuse took place is not a consideration. If the child resides or is currently in Victoria, child protection can still intervene if the child is at risk of significant harm. Making a report to child protection requires the reporter to have formed a reasonable belief that the child has suffered or is likely to suffer significant harm as a result of physical injury or sexual abuse *and* their parent/s has/have not protected or is unlikely to

protect the child from that harm. If you have formed this belief, you must make a report to child protection.

Will the family know I have made a report and what protections are given to mandatory reporters?

The identity of a reporter to Child Protection or a referrer must remain confidential, unless:

- the reporter or referrer chooses to inform the child or family of the report or referral
- the reporter or referrer 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 or referral unless there is the potential of increased risk of harm to the child. Seek advice at the time of making the report from Child Protective Services in your state or territory. A mandatory or voluntary reporter cannot be liable in civil, criminal or administrative proceedings in relation to making a report.

What record keeping is required?

Your secured notes should include the steps you took to notify all relevant authorities including dates, times and all relevant information you were informed of by child protective services at the time of reporting. For guidelines on appropriate record keeping practices please refer to the Code of Conduct Policy on the AACHP website, Subsection 15, 1-3.

Ask, Listen, Record and Share

Sharing knowledge, communicating effectively, making decisions together and respecting each other means that we are better able to protect children. If you are concerned that a child may be at risk of abuse always consult and seek advice about your concerns.

By law, Victorians are obligated to make reports in relation to physical harm and sexual abuse of children and young people, and **all adults and professionals are encouraged to exercise their duty of care.**

In addition, **ALL** Victorians over the age of 18 must abide by Failure to Disclose legislation. **Any adult** who holds a reasonable belief that a sexual offence has been committed by an adult against a child in Victoria **must report** that belief to police. The 'failure to disclose' offence that came into effect on October 27, 2014, helps to ensure that protecting children from sexual abuse is the responsibility of the whole community. This offence applies to all adults in Victoria, not just professionals working with children.

Any person is lawfully entitled to make a report if they are concerned for a child's welfare, even if they are not required to do so as a mandatory reporter. Anyone making a voluntary (non-mandated) report is also protected regarding confidentiality and immunity from legal liability.

For further information and references to the information outlined in this article please refer to the links below:



References and Links

<https://aachp.com/> *retrieved from the website in January 2025*

<https://hypnotherapyCouncilofAustralia.com/about-hca/code-of-ethics/> *retrieved from the website in January 2025*

<https://aifs.gov.au/resources/resource-sheets/mandatory-reporting-child-abuse-and-neglect> *retrieved from the website in January 2025*

<https://www.aihw.gov.au/reports/child-protection/child-protection-australia-insights/contents/child-protection-system-in-australia> *retrieved from the website in January 2025*

<https://www.dss.gov.au/outline-national-standards-out-home-care-2011/protecting-children-everyones-business> *retrieved from the website in January 2025*

<https://hcc.vic.gov.au/providers/general-health-service-providers-code-conduct> *retrieved from the website in January 2025*

<https://hcc.vic.gov.au/public/about-complaints> *retrieved from the website in January 2025*

<https://www.health.vic.gov.au/vulnerable-children/responsibilities-of-health-professionals> *retrieved from the website in January 2025*

<https://services.dffh.vic.gov.au/child-protection> *retrieved from the website in January 2025*

<https://providers.dffh.vic.gov.au/mandatory-reporting> *retrieved from the website in January 2025*

<https://providers.dffh.vic.gov.au/failure-disclose-offence-fact-sheet-word> *retrieved from the website in January 2025*

<https://providers.dffh.vic.gov.au/child-sexual-abuse> *retrieved from the website in January 2025*

<https://www.orangedoor.vic.gov.au/> *retrieved from the website in January 2025*

NSW/QLD/ACT/SA/WA/TAS/NT Links

<https://www.hccc.nsw.gov.au/health-providers>

<https://www.oho.qld.gov.au/make-a-complaint>

<https://www.hcca.org.au/for-patients-carers-and-families/complaints-and-feedback/>

<https://www.hcsc.sa.gov.au/for-service-providers-addressing-complaints/managing-a-complaint-made-to-hcsc/>

<https://www.health.wa.gov.au/Improving-WA-Health/Statement-of-commitment-to-child-safety-and-wellbeing>

<https://www.healthcomplaints.tas.gov.au/national-code-of-conduct>

<https://hcsc.nt.gov.au/codes-of-conduct>