

# Mandatory Reporting and Working with Children and Families

## Mandatory Reporting

This document is provided as a guide only. Individuals are encouraged to contact the relevant State or Territory statutory authority to clarify mandatory reporting requirements in their states or territories, or to access legal advice in relation to relevant legislation.

### **As a social worker, do I have a legal obligation to report suspected child abuse?**

Legal obligations to report child abuse vary according to the state or territory and the relevant requirements of federal and state law. The *Australian Institute of Family Studies* has prepared a detailed resource sheet, available [here](#), which outlines:

- State and territory-based professional and individual responsibilities
- The definition of a notifiable concern as outlined in relevant legislation in each state or territory. This generally refers, for example, to ‘a belief formed on “reasonable grounds”’
- The types of abuse that must be reported. For example, in the ACT it is mandatory to report physical and sexual abuse, while in NSW you may also be mandated to report neglect and exposure to family violence.
- The applicable sections of legislation and/or regulation

### **As a social worker, do I have an ethical obligation to report suspected child abuse?**

Regardless of mandatory reporting requirements, social workers have ethical responsibilities to the children and families with whom they work and may also be subject to organisational requirements regarding reporting a child in need of protection.

Social workers have an ethical obligation to protect and promote the rights and wellbeing of children who are experiencing abuse and/or neglect and to support vulnerable families. The *AASW Code of Ethics* (2010) states that *social workers will promote policies, practices and social conditions that uphold human rights and seek to ensure access, equity, participation and legal protection for all* (5.1.3a).

There are many possibilities for responding to the needs of vulnerable children and families, and clearly any action taken will be dependent on specific circumstances.

As a general guideline social workers should consider making a report to child protection whereby doing so will or could prevent *an actual, identifiable risk of harm to a child or children and where appropriate steps have been taken to meet ethical obligations to the client(s), for example, child, parent or guardian, family.*

Professional supervision and/or consultation is strongly encouraged in such instances due to the complexity of making child protection notifications in some practice settings. Social workers can also access the Ethics Consultation Service on 03 9320 1044 for further information or for support in addressing and reflecting on specific ethical issues in practice.

## General ethical guidelines when responding to the needs of vulnerable children and/or families

It is essential for social workers working with vulnerable children to be competent in assessing and responding to the needs of children and families. It is particularly important for social workers to have current knowledge and understanding of relevant theoretical and practice issues (see 5.1.5 a, b) such as:

- child development and attachment
- different types of abuse and neglect and their impacts on children including trauma theory
- dynamics and nature of domestic and family violence and its intersection with child protection systems
- relevant risk and protective factors
- diversity of family structures, dynamics and systems with consideration given to cultural variation
- the relevance and ongoing impact of past child welfare practices on Aboriginal and Torres Strait Islander peoples
- human and child rights – *the Australian Human Rights Commission is a useful starting point for finding out more about current children's rights and human rights issues, literature and developments in Australia. See [www.hreoc.gov.au/human\\_rights/issues/index.html](http://www.hreoc.gov.au/human_rights/issues/index.html)*
- Reflective and reflexive practice principles including access to supervision and/or specialist consultation (such as with child protection intake teams) where appropriate (5.1.5c) and awareness of any issues likely to impact or impair professional judgement (5.1.5 d, e, f).
- Organisational policy and procedure with regard to the assessment, provision of support and referral if vulnerable children and families.
- Applicable legislative requirements
- Awareness of local child and family welfare services and the supports they may be able to provide
- Consideration of other services that may be more appropriate in responding to the identified needs of a child or family members.

AASW members also have access to the child, youth and family resource page on the website. This page contains links to many useful resources in the area of child, youth and families, such as research and literature; legislation and legal issues; and policy. Access the page via the following link:

<http://www.aasw.asn.au/practitioner-resources/children-youth-and-families>

## Mandatory reporting of domestic and family violence in the Northern Territory

In February, 2009, the Domestic and Family Violence Amendment Bill was passed by the Northern Territory parliament and commenced on 12 March 2009. This amendment means that adults (anyone 18 years or over) are required by law to report domestic and family violence to police if they think someone has, or is likely to suffer serious physical harm from family violence. The Northern Territory Government's fact sheet on this legislation is available on the Northern Territory Government web page

<http://www.domesticviolence.nt.gov.au>.

## Legislative changes in Victoria – Child sexual abuse

The Department of Human Services web page provides information and resources on changes to legislation in Victoria regarding child sexual abuse.

A new offence of '**Failure to Disclose**' was introduced in Victoria on 27 October 2014 with respect to adults who fail to disclose child sexual abuse to the police. The new offence applies to all adults, including professionals who work with children. 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 unless they have a reasonable excuse for not reporting.

A '**Failure to Protect**' offence came into effect on 1 July 2015, which applies to people within organisations who knew of a risk of child sexual abuse by someone in the organisation and had the authority to reduce or remove the risk, but negligently failed to do so.

The fact sheets 'Failure to Disclose' and 'Failure to Protect' can be downloaded from the Department of Human Services web page: <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/new-criminal-offences-to-improve-responses-to-child-sexual-abuse>

If you have any further questions relating to mandatory reporting, contact the Ethics and Practice Standards Consultation Service on 03 9320 1044 or [ethicsconsult@asw.asn.au](mailto:ethicsconsult@asw.asn.au)