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Mandatory reporting guidelines accc

This resource sheet is provided as a guide only, and is currently on publish. Changes to mandatory reporting laws are currently being considered in different legal areas. Individuals are encouraged to contact the relevant department or organization to clarify the requirements in their jurisdiction or in connection with the law. For more information and contact details, see CFA Resource Board Child Abuse and Neglect Report: Information for Service Providers. This resource sheet provides members of the community with information about mandatory reporting laws, which requires nominees to report suspected abuse and neglect of government child protection services in Australia. It provides answers to frequently asked questions about compulsory reporting, outlines the challenges and benefits of compulsory reporting, and includes various mandatory reporting laws across all Australian legal regions. Introduction of mandatory reporting laws aimed at identifying cases of child abuse and neglect, and supporting individual children in these cases (Royal Commission into Institutional Responses to Child Sexual Abuse, [Royal Commission], 2017). They were first developed in response to the largely hidden nature of child physical abuse and neglect, with the aim of bringing cases to the attention of child welfare agencies (Mathews, 2014a). They asked select groups to report suspected cases of child abuse and neglect to government agencies. In Australia, the first laws were introduced in South Australia in 1969, and these laws were introduced in all Australian legal areas (Mathews, 2014b). However, the law is not the same across all legal areas. Differences exist in those who must report, what types of abuse and neglect must be reported, the 'state of mind' that triggers the reporting task (i.e. there is a concern, doubt or belief on a reasonable basis) and who the report is made to. These differences are described and discussed in this resource table. FAQs Who to report? Mandatory reporting laws often include a list of specific occupations mandated to report suspected cases of child abuse and neglect. Groups of people are required to report the range from those within a limited number of occupations (Qld) to a wider list (Vic. and WA), to a very extensive list (ACT, NSW, SA and Tas.), through each adult (NT). Occupations are often named mandatory reporters who regularly deal with children in the course of their work: teachers, preschool educators and care athletes, doctors, nurses and police. What kind of abuse and neglect must be reported? Differences exist in the types of abuse and neglect that must be reported. In some legal areas (e.g. NSW and NT) it is mandatory to report suspicions of all five types of suspected abuse and neglect (e.g., physical abuse, sexual abuse, sexual abuse, neglect and family contact in other legal areas, only certain types of abuse are required (e.g. WA, Qld, Vic. and ACT). In most legal areas the law generally stipulates that, with the exception of sexual abuse, it is only cases of significant abuse and neglect that must be reported. Since sexual abuse should always create a suspicion of significant harm, in practical terms all suspected sexual abuse must be reported. Although not required by law, suspicions of less serious child abuse and neglect can still be transferred to child and family welfare agencies. It is important to note that the reporting task applies to suspicions that significant abuse or neglect is likely in the future, not just cases of suspected abuse or significant neglect that have occurred. What safeguards are given to compulsory reporters? In all legal areas, the law protects the identity of a reporter from disclosure. In addition, the law stipulates that as long as the report is made in good goodwill, the reporter cannot be held liable in any civil, criminal or administrative proceedings. How does mandatory reporting laws define a child? Laws in all regions except New South Wales and Victoria require mandatory reporting involving all young people up to the age of 18. In New South Wales, the task applies only to situations involving children under the age of 16. In Victoria, the task applies only to situations involving children under the age of 17. How does this type of required reporting coexist with other types of reporting laws? This form of mandatory reporting is one of many different legal areas that require the specified person to report the specified types of child abuse. The reporting tasks discussed here are placed in child protection laws in each legal area. They are the main form of reporting duties – primarily towards situations of various types of abuse and neglect by parents and carers (although, active, non-domestic sexual abuse situations will be subsumed under reporting duties). Accordingly, other types of reporting laws coexist with child protection reporting laws. Others appear most prominently in criminal law and often require reporting of child sexual abuse, although they sometimes extend to serious physical abuse. These criminal law reporting duties do not exist in every legal area and where they exist (e.g. in NSW, Vic., ACT and NT) they have slightly different scopes and details, although all require reporting to the police. The task of reporting criminal law requires all adults in the jurisdiction to report the specified type of abuse. Other types of reporting tasks are intended to identify institutional sexual abuse. All these different tasks are discussed in recent research (Mathews, 2019). What mandatory reports can child protection services take action on? A universal assumption are mandatory, mandatory reporting requirements, child protection service interventions, and classification of research on abuse and neglect is the same. In fact, mandatory reporting laws define the types of situations that must be reported to the legal child protection services. The legislative basis for government intervention determines the circumstances and, crucially, the threshold at which the legal child protection services can legally intervene to protect a child. Researchers often focus on identifying behaviors and circumstances that can be classified as abusive and neglected. These differences arise because each description serves a different purpose; the lack of common ground does not mean that the system does not work as policymakers had intended. As such, not all reports of child abuse and neglect lead to immediate action from child protection services. A single report may not meet the intervention threshold; However, this report is grouped with other information in the record (or has not been collected) that may meet the threshold and result in the action being taken. Reports are not considered isolated, instead they work to form an information body that determines whether child protective services can legally intervene. Can voluntary reporting be made about abuse and neglect, even if not required by law? Any person has the right to make a legal report if they are concerned about the welfare of the child, even if they are not required to do so as a compulsory reporter. Anyone making a voluntary (optional) report is protected in relation to confidentiality and liability exemption as outlined above. In addition to mandatory reporting laws, certain professional groups (such as psychologists) and government agencies (such as education departments) may have their own career reporting protocols outlining ethical, ethical, professional, or organizational responsibilities for reporting. Reporting tasks based on this policy may be narrower, broader, or more like tasks formally required under the law. In Queensland, for example, teachers are required to report all forms of suspected significant abuse and neglect under school policy but are only required to report sexual abuse and physical abuse under the law. Challenges with the release of compulsory reporting The release of mandatory reporting increases awareness of child abuse and neglect, which can lead to a significant increase in the number of reports made to child protection services, especially in the short term (Mathews, Lee & Norman, 2016). There needs to be enough resources available to meet any increased demand for personnel and services. Reporting trends are generally stable several years after the introduction of mandatory reporting tasks (Mathews, Bromfield, Walsh, & Vimpani, 2015). It is important that reporters are required to receive multidisciplinary training and accurate information to ensure that they know the circumstances do they have report, how to make a report containing the necessary details of the child welfare agency reception team, and what cases they should not report. This training will occur before the service and in the service. Since reporters are not required to account for a large proportion of all reports, it is important for the public to be aware of the appropriate level of accountability. It is essential that child and family support services be adequately resourced to meet children and families in need of protection and support. Benefits of mandatory reporting requirements As a public policy, mandatory reporting aims to protect children from child abuse and neglect. Mathews and Bross (2008) argued that a society without a mandatory reporting system would be less likely to protect children and support families, as many cases of child abuse and neglect would remain hidden. Comparative studies between countries with and without a mandatory reporting system have found that significantly more cases of child sexual abuse are identified in countries with mandatory reporting systems (Royal Commission, 2017). Studies in Australia support this discovery (Lamond, 1989; Mathews, 2014a; Mathews, Bromfield, Walsh, Cheng, & Norman, 2017; Mathews et al., 2016). Mandatory reporters' reports identified large proportions of children being abused and led to the provision of services to more children and families (Drake & Jonson-Reid, 2007). The mandatory report also aims to raise awareness of child abuse and neglect in professionals working with children and overcoming any reluctance to report this abuse (Cashmore, 2002). Mandatory reporting laws set acceptable standards of behaviour for the community (Australian Law Reform Commission [ALRC], 2010), affect the policies and practices of child protection services (Tomison & Tucci, 1997), and make it possible to protect children from abuse and neglect of professional responsibility. The Commonwealth Compulsory Reporting Act 1975 (Cth) creates a mandatory reporting duty against staff from the Australian Family Court, the Australian Federal Circuit Court, the Western Australian Family Court and other appointed athletes. This includes re-registers, deputy res registers, family counsel, family counsel, family dispute resolution professionals, referees and lawyers who independently represent the interests of children. Section 67ZA(1) and (2) require that when these people have reasonable basis to suspect that a child has been abused, or is at risk of abuse, and this suspicion is developed in the course of performing their duties or functions, or performing powers, they must, as soon as possible, notify a child welfare agency in accordance with their suspicions and its premises. Under section 4, effective defined 'abuse' is composed of: (a) assault, including sexual assault; (b) sexual abuse; (c) serious psychological injury, including but not limited to harm caused by subject to, or exposure to domestic violence; or (d) serious neglect. State and Territory Law The following section sets different mandatory requirements for all Australian legal regions. Details and information about mandatory reporting can be obtained from the relevant legal child protection authorities in each legal area. Contacts and other details for each state and territory office can be found in the CFA Resource table: Child Abuse and Neglect Reporting: Information for Service Providers. Australian Capital Territory Mandatory Reporting Law of the Australian Capital Territory includes an extensive list of trades and details of the reporting requirements provided in the table below. The Legal Provisions Section 356 of the Children and Adolescents Act 2008 (ACT) Who is commissioned to report? One is: a doctor; dentist; a nurse; a registered nurse; a midwife; a psychologist; a teacher at a school; a person authorized to examine educational programs, materials or other records used for home education of a child or adolescent under the Education Act 2004; a police officer; a person working to advise children or adolescents at a school; a child caregiver at a child care center; a coordinator or home care supervisor for the owner of the family day care program; a civil servant, in the course of being a civil servant, working with, or providing personal services to children and adolescents or families; public advocates; an official visitor; a religious minister, religious leader or member of the cymism of a church or religious denomination; a person, in the course of his or her work, has contacted or provided services to children, adolescents and their families and is regulated by regulations. What must be reported? A belief, on reasonable basis, that a child or adolescent has experienced or is experiencing sexual abuse or physical injury not by accident; and the reason for the trust arising from information obtained by that person in the course of, or because, the person's work (whether paid or not paid) The types of abuse and neglect must be reported Sexual abuse The Mandatory Reporting Act of New South Wales New South Wales includes an extensive list of professions and details of reporting requirements are provided in the table below. The legal terms Section 23 and 27 of the Children and Adolescents Act (Care and Protection) 1998 (NSW) Who is commissioned to report? A person, in the course of his or her professional work, or other paid employment, provides health care, welfare, education, child services, residential or law enforcement services, in whole or in part, to children. A person holds a management position within an organization, tasks of which include direct responsibility, or direct supervision of provision of health care, welfare, education, child services, residential services or law entirely or in part, for children. A person in a religious position, or a person who provides religious-based activities to children. A registered psychologist provides a professional service as a psychologist. Note: Children's services mean one or both of the following (as prescribed): (a) an education and care service in the sense of the National Children's Law (Education and Care Services) (NSW); (b) an education and care service provided by the State within the meaning of the Additional Children (Education and Care Services) Act 2011. What must be reported? Suspicion on a reasonable basis, obtained in the process or from the work of the person, that a child is at risk of significant harm because of the presence to a significant degree of cases: neglect, physical abuse, sexual abuse, psychological abuse, the risk of harm through exposure to domestic violence, and non-participation with services after a pre-birth report. These types of abuse and neglect must be reported Sexual Abuse Sexual Abuse/Psychological Neglect Exposed to Domestic Violence Northern Territory Law mandatory reporting of the Northern Territory applies to any person, with additional terms including medical athletes. Details of these reporting requirements are provided in the table below. Legal Provisions Section 15, 16 and 26 of the Care and Child Protection Act 2007 (NT) Section 26(2) of the Child Care and Protection Act 2007 (NT) Who is commissioned to report? Any person A medical practice or a person performing work of a kind is prescribed What must be reported? A belief on the reasonable basis that a child has suffered or is likely to be harmed or exploited Reasonable grounds to believe that a child between the age of 14 or 15 has or is likely to be the victim of a sexual crime and the age difference between a child and an offender is greater. 2 years Types of abuse and neglect must be reported Physical abuse Sexual abuse or other exploitation of children Emotional/psychological abuse Exposure to physical violence (e.g. a child who witnesses violence between parents at home) Queensland Queensland has three separate sections of mandatory reporting laws, each group consists of different occupational groups and has their own reporting requirements. The details of the sections of the law are provided in the table below. Legal Regulations Part 1AA, section 13F of the Child Protection Act 1999 (Qld) Section 1AA, section 13E of the Child Protection Act 1999 (Qld) Section 364, 365, 365A, 366, 366A of the Education (General Regulations) Act 2006 (Qld) Who is mandated to report? An authorized employee, a public service worker working in the department, a person working in a department care service or a licensed physician care service; registered nurse; teachers; a police officer, under the direction of the police service commissioner under the Police Services Management Act be responsible for reporting under this section; a participant performing child advocate functions under the Public Guardian Act 2014; education and care professionals for young children. What school staff must be reported? A reasonable suspicion that a child in care (a child placed in the care of an agent conducting medical care or a licensee) has suffered, is suffering, or is at risk of unacceptable suffering, causing significant harm due to physical or sexual abuse A reasonable suspicion that a child has to suffering, suffering or at risk of unacceptable suffering, significant harm caused by physical or sexual abuse; and may not have parents who may and may be willing to protect the child from cognitive harm or reasonable suspicion that a child has or is likely to be sexually abused; and suspicion formed during the recruitment process of that person Abuse and neglect of all kinds must be reported Sexual abuse South Australia Mandatory reporting law of South Australia includes an extensive list of professions and details of reporting requirements provided in the table Below. The legal provisions of Section 17, 18, 30 and 31 of the Children and Adolescents (Safety) Act 2017 (SA) Who is mandated to report? Medical vet; pharmacist; registered or enrolled nurses; dentist; psychologist; police officers; community corrections officers under the Correctional Services Act 1982; social workers; minister of religion; employees of, or volunteers in, an organization established for religious or spiritual purposes; teachers working as such in a school (within the meaning of the Preschool Services and Education Services Act (Registration and Standards) 2011) or a preschool or kindergarten; staff of, or volunteers in, an organization that provides medical, welfare, educational, sports or entertainment services, child care or a who fully or in part residential area for children and adolescents, who is a person – (i) provides such services directly to children and adolescents; or (ii) hold a management position within the organization, the tasks of which include direct responsibility, or direct supervision, the provision of such

services to children and adolescents What must be reported? Reasonable grounds to suspect children or adolescents are, or may be, at risk; and suspicion formed during the recruitment process of that person Abuse and neglect of all kinds must be reported Sexual abuse Sexual abuse Sexual abuse Neglect tasmania's compulsory reporting law covers an extensive list of professions , and the details of the reporting requirements are provided in the table below. The Legal Provisions Section 3, 4 and 14 of the Children, Adolescents and Their Families Act 1997 (Tas.) Who is commissioned to report? People medical profession; registered or enrolled nurses; registered person under the National Health Practice Regulation (Tasmania) in midwife, midwife, (dentist, dental therapist, dental toilet or oral health therapist) or psychology; police officers; probation officers; principals and teachers in any institution including kindergarten; providers of child care or child care services with fees or rewards; those involved in the management of an approved education and care service, in accordance with the National Education and Care Services Act (Tasmania) or child care services licensed under the Child Care Act 2001; a member of the cymism of any church or religious denomination; a member of the National Assembly of the National Assembly; any other person employed or engaged as an employee for, or of in, or as a volunteer in, a government agency that provides health, welfare, education, child or residential care entirely or in part to children and an organization that receives any grants from Crown to provide such services; and any other person of the class decided by the Minister according to the notice in the Notified public is the person prescribed. What must be reported? Knowledge, or a belief or suspicion on the basis of that reasonable: a child who has been or is being 'abused' or 'neglected' or is a child affected within the meaning of the Domestic Violence Act 2004 (a child has a safety, psychological security or benefit affected or is likely to be affected by domestic violence); or there is a reasonable possibility of a child being killed or abused or neglected by a person to whom the child resides; or while a woman is pregnant, that there is a reasonable possibility that after the birth of the child: the child will be abused or neglected, or may be killed by a person with whom the child is capable of residing; or the child will need medical treatment or other intervention due to the behavior of the woman or other person to whom the woman resides or is likely to reside, before the child is born. Note the extent of harm required to trigger an obligation (section 3(1) definition of 'abuse and neglect': for all forms except sexual abuse, reports must be made in which: (i) the injured, abused or abandoned person has suffered, or is likely to be compromised, physically or psychologically harming the person's health; or (ii) the physical or psychological development of the injured, abused or abandoned person is in danger. All suspected cases of sexual abuse must be reported. The types of abuse and neglect that must be reported Sexual Abuse (any) Physical Abuse/Psychological Neglect Exposed to Domestic Violence Victoria's Mandatory Reporting Act include an extensive list of professions and details of reporting requirements provided in the table below. The legal terms Section 182(1), 184 and 162(1)(c)-(d) of the Children, Youth and Families Act 2005 (Vic.) Who is commissioned to report? Medical athletes registered nurse, midwife, a person registered as a teacher or preschool teacher under the Education Program and Reform Act 2006 or teachers are allowed to teach under that Act; principals of government or non-governmental schools in the meaning of the Education and Training Reform Act 2006; police officers, a member of the ministry of religion, out-of-home caregivers (excluding foster carers and voluntary breeding breeding), preschool workers, youth justice officers, and registered psychologists. What must be reported? The belief on the reasonable basis that a child is in need of protection on a ground mentioned in section 162(1) (c) or 162(1) (d), is formed during the course of his or her professional practice or performs the duties of his office, position or employment as soon as possible after the formation of the trust and after each occasion on which the person is aware of any further reasonable grounds for conviction Abuse and neglect of all kinds must be reported Physical Injury Sexual Abuse Note that technically, according to s. 162, the duty is limited to cases of physical injury and sexual abuse in cases where 'the child's parents are not protected or incapable of protecting the child from compromised of that kind.' Western Australia Western Australia has two separate sections of mandatory reporting laws, each consisting of different occupational groups and having their own reporting requirements. The details of the sections of the law are provided in the table below. The legal terms Section 124A and 124B of the Child and Community Services Act 2004 (WA) Sections 5 and 160 of the Family Court Act 1997 (WA) Who is commissioned to report? Doctors; nurses and midwives; teachers and boarding superintendents; and the police officer The Principal Registrar, a registrar or a deputy registered; family counseling staff; family counseling; family dispute resolution practice, arbitration or legal practice person independently representing the interests of children What must be reported? Belief on the reasonable basis that child sexual abuse has occurred or is occurring where this belief is formed in the course of the person's employment, whether paid or not paid Reasonable grounds to suspect that a child has been: abused, or at risk of abuse; poorly treated, or at risk of poor treatment; either exposed or subjected to acts of psychological harm to children Abuse and neglect of all kinds must be reported Sexual abuse Sexual abuse Neglect psychological damage including (but not limited to) harm caused by being or exposed to domestic violence Read more Kohl , P., Jonson-Reid. M., & Drake, B. (2009). Time to leave proves behind: Findings from a national probability study. Child abuse, 14(1), 17. Mathews, B. (2012). Explore the controversial role of mandatory reporting laws in identifying serious child abuse and neglect. In M. Freeman (Ed.), Current Legal Issues (Episode 14: Law and Childhood Studies) (pages 302-338). Oxford: Oxford University Press. Mathews & Kenny, M. 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