

Mandatory Reporting MCH & Early Years Fact Sheet



MAV would be pleased to provide clarification on any information in this fact sheet. For further information, please contact, Helen Lees, Policy and Program Lead – Maternal and Child Health inquiries@mav.asn.au

Fact Sheet Updated: June 2024

ACKNOWLEDGEMENT OF COUNTRY

We acknowledge the traditional custodians of the land on which we live. We recognise their continuing connection to land, waters and culture and pay our respects to their Elders past, present and emerging.

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1 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 mandated 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.

2 Mandatory Reporters

Under the *Children Youth and Families Act 2005* (CYFA) doctors, nurses, midwives, teachers (including early childhood teachers), principals, police, out of home care workers (excluding voluntary foster and kinship carers), early childhood workers, youth justice workers and registered psychologists are mandatory reporters (s. 182).

Under the CYFA, mandated reporters must make a report to child protection if they form a belief (on reasonable grounds) that a child is in need of protection from physical injury or sexual abuse.

To form a belief, the reporter must be aware of matters, and hold any opinions in relation to those matters, that lead them to reasonably believe a child is in need of protection (s. 186).

3 Who are Mandatory Reporters in MCH and Early Years services?

All registered Maternal and Child Health Nurses employed in local government services or employed by health service providers undertaking MCH services on behalf of local government, are mandatory reporters under the Act.

In addition to MCHNs registered early childhood teachers and early childhood workers are mandatory reporters.

4 Reasonable Grounds

A belief on reasonable grounds is formed if a reasonable person practising the profession or carrying out the same duties, position or employment, would have formed the belief on the same grounds.

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

5 Reporting

The CYFA requires mandated reporters to report their concern when the belief is formed in the course of practicing their profession.

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

6 Protection for Reporters

The CYFA has protections in place for mandated reporters, set out in s.189. If a report is made in good faith, then:

- it does not constitute unprofessional conduct or a breach of professional ethics.
- the reporter cannot be held legally liable.
- it does not constitute a breach of s.141 of the Health Services Act 1988 or s. 346 of the Mental Health Act 2014, which relate to confidentiality of a client/patient.

A reporter who makes a report in accordance with the legislation is not liable for the eventual outcome of any investigation.

7 Confidentiality for Reporters

Confidentiality is provided for reporters in the CYFA (ss. 190 and 191). The Act prevents the disclosure of the name, or any information likely to lead to the identification of, a person who has made a report in accordance with the legislation, except in very specific circumstances.

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.

8 Failure to Report

Under the CYFA a mandated professional who fails to report a belief based on reasonable grounds that a child is in need of protection because of physical or sexual abuse is liable to be prosecuted under s.184(1).

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

The Orange Door is now the access point to services for women, children and young people experiencing family violence and families who need assistance with the care and wellbeing of children.

Factors that may affect a child's safety, stability or development are:

- significant parenting problems

- serious family conflict including family breakdown
- a family member's physical or mental illness, substance abuse, disability or bereavement
- families that are isolated, unsupported or young
- significant social or economic disadvantage.

Anyone with a concern for a child or family wellbeing can make a referral to The Orange Door. You can refer vulnerable children, young people (0 to 17 years) and their families, including families with an unborn child.

Support programs include Family Services / Early Parenting Centre Services.

Orange Door:

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

Mandatory Reporting:

<https://providers.dffh.vic.gov.au/mandatory-reporting>

Vulnerable children - Responsibilities of health professionals:

<https://www.health.vic.gov.au/vulnerable-children/responsibilities-of-health-professionals>

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