



**uniting
church**
in Australia,
Synod of NSW & ACT

Reportable Conduct Guideline for the ACT

This guideline applies to all Synod entities in ACT other than those which require a specific tailored policy. In particular, it is for Ministers, Ministry of Pastor, Lay Leaders, Employees, Volunteers and Members of Councils in a Congregation, Parish Mission or Presbytery of the Uniting Church, Synod of NSW and the ACT.

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Reportable Conduct Guideline for the ACT

This guideline is to assist congregations, presbyteries and ministers in placement of the Uniting Church Synod of NSW and the ACT with understanding how to fulfil the requirements of the Reportable Conduct scheme in the Australian Capital Territory. This guideline should be read in conjunction with the Reportable Conduct Policy of the Synod of NSW and the ACT.

1. What is the reportable conduct scheme?

The Ombudsman Act 1989 (ACT) establishes a reportable conduct scheme which is overseen by the ACT Ombudsman. The purpose of the scheme is to ensure that appropriate systems and processes are in place for:

- improving child protection by organisations;
- Minimising the occurrence of reportable conduct;
- Using best practice to address reportable allegations;
- Ensuring the Ombudsman is notified of reportable allegations and convictions; and
- Handling investigations into reportable conduct with procedural fairness.

The scheme requires certain organisations who work with children to:

- report allegations of child abuse and misconduct to the ACT Ombudsman;
- develop policies and procedures to prevent and respond to child abuse.

The Ombudsman provides support and practice guidelines to help organisations do this.

2. What is reportable conduct?

Reportable conduct covers allegations, offences or convictions of child abuse or misconduct toward children. A child is anyone under 18 years old.

Organisations must report allegations of reportable conduct by an employee or volunteer, including:

- ill-treatment of a child (such as emotional abuse or use of force)
- neglect
- psychological harm
- misconduct of a sexual nature
- sexual or physical offences and convictions where a child is a victim or is present
- inappropriate discipline or not protecting children from harm.

Reportable conduct includes conduct alleged to have occurred inside or outside the course of a person's employment or engagement with the Uniting Church. It must be reported if the person was an employee at the time the employer became aware of the allegation.

If organisations suspect criminal conduct, they must also report to the police.

For more information, refer to the definition in this guideline or [ACT Ombudsman Practice Guide: Identifying Reportable Conduct](#).

3. What is a reportable allegation?

A reportable allegation refers to an express assertion that reportable conduct has happened or may have happened (including a statement or declaration with or without proof).

For an allegation to be notifiable to the Ombudsman, the following components are necessary:

- the person who is the subject of the allegation must be a current employee of a designated entity or have been an employee at the time the employer became aware of the allegation
- the employee must be identified or identifiable either by name or by other information including their description, work schedules and locations of the entity
- the allegation must contain a description of behaviour that may constitute reportable conduct, and the child or young person who was alleged to have been involved in reportable conduct by an employee, must have been under 18 years at the time of the alleged incident or conduct.

An employee can be a Ministry agent, paid staff member, a volunteer, contractor or sub-contractor. Refer to 'employee' definition in the table below.

A reportable conviction is defined as a conviction, or finding of guilt, under a territory law or a state or commonwealth law, involving reportable conduct; and entered against the person before or after the commencement of the Act. Some common law convictions may also be reportable if related to similar conduct.

4. How does the reportable conduct scheme relate to the Uniting Church?

The scheme applies to any 'religious body' which includes the Synod, and the congregations and presbyteries of the Synod in the ACT.

Some Synod Bodies are required to have their own specific child protection policies and systems, and operate under those. This guideline applies to all other Synod entities in the ACT.

The reportable conduct scheme is allegation-based. If an allegation, on the face of it, suggests that reportable conduct has occurred or may have occurred, it must be notified to the Ombudsman. The threshold for notifying an allegation to the Ombudsman is lower than the threshold for making a finding that reportable conduct occurred.

5. The Church's responsibilities for reportable conduct

As part of the Reportable Conduct Scheme, the Synod must report allegations or convictions that occurred after **1 July 2017** to the Ombudsman. This responsibility falls upon the General Secretary as Head of Designated Entity. The Synod should:

- notify the Ombudsman as soon as possible, but within 30 days of becoming aware of the allegation by completing the section [17G notification form](#)
- provide details of the allegation or conviction
- provide the organisation's intended action to respond to the allegation, including an investigation plan and risk assessment
- investigate any allegations of reportable conduct and must provide a final report to the Ombudsman at the end of any investigation, including the results of the investigation and actions taken
- report to appropriate organisations. These may include ACT Policing, Child Youth Protection Services and Access Canberra (Working with Vulnerable People).
- The employer is still required to notify the Ombudsman of the allegation even if Child and Youth Protection Services (CYPS) and/or police are already investigating a reportable allegation against an employee.

Preventing and Minimising Reportable Conduct

To complement the scheme, the Synod has in place policies, processes, practices and codes of conduct designed to help prevent reportable conduct from occurring through supporting professional boundaries, appropriate conduct, transparency and child safety systems.

Employers must ensure systems, policies and procedures are in place for preventing, recording and responding to or investigating allegations or convictions involving reportable conduct against employees.

The Synod;

- Has policies and procedures in place to minimise and respond to child safety concerns, as per the Safe Church Policy and the Reportable Conduct Policy.
- Provides Safe Church Awareness Training and ongoing ethical ministry training and expects all employees, lay leaders and volunteers to comply with the training requirements relevant to their particular role so that they understand their responsibilities under the law and under church regulations and codes.
- Will provide information, as the Ombudsman requires, about the type and operation of systems to provide a safe environment for children, and systems for handling and responding to reportable allegations and convictions
- Has established systems that require employees to notify the Synod, as soon as possible, of any concern, allegation or conviction of reportable conduct involving an employee, of which they become aware.

6. What to do if you are or become aware of an allegation or conviction involving reportable conduct

What	Why	How
1. Immediately notify the General Secretary	All reportable allegations or convictions must be reported to the head of the registered entity, the General Secretary, who submits a report to the ACT Ombudsman as soon as possible but within 30 days.	Directly contact the General Secretary: Email: generalsecretary@nswact.uca.org.au Mail: Addressed as "Confidential" to General Secretary, Uniting Church Synod of NSW and the ACT, PO Box A2178, Sydney South NSW 1235.
2. Support and assist	The General Secretary is required to investigate and provide findings and actions taken to the ACT Ombudsman as soon as possible after the investigation is concluded.	A minister, Safe Church Contact Person and/or Church Council representative responds to any requests for information from the Safe Church Unit and/or legal counsel.
3. If you are a member of our church community, speak out in confidence about anything relating to the protection of children.	We need to know about any issue relating to any child in our care. We have a duty to protect them and others.	Our preference is always to accept reports directly to the General Secretary (option 1.) If this is not possible for some reason you can speak out in confidence by: <ul style="list-style-type: none"> • Calling the Speak Out hotline on 1800 951 145; or • Complete the Speak Out Form on the Synod website.

If you have any questions about how this scheme impacts the work you do, please contact the Safe Church Unit: Email: safechurch@nswact.uca.org.au

7. Support for those involved

The Synod has services in place to support:

- Employees who have had allegations made against them
- Children involved in an investigation
- Parents who have complained about an employee or whose child is involved in the investigation
- Staff who have been involved in the investigation process.

8. Key definitions

Ombudsman Act Sections 17D, 17E and 17 EA	
Employee of a Designated Agency	<p>(aa) for a designated entity that is a religious body, means:</p> <p>(b) minister of religion, a religious leader or an officer of the religious body; or</p> <p style="padding-left: 20px;">(ii) a person who is engaged under a contract of employment with the religious body; or</p> <p style="padding-left: 20px;">(iii) a person who is engaged by the religious body to provide services (other than under a contract of employment) whether or not the services are provided to children.</p>
Designated Entity	<p>(1) For this division, an entity is a designated entity if:</p> <p>(a) it is one of the following:</p> <p style="padding-left: 20px;">(i) an administrative unit;</p> <p style="padding-left: 20px;">(ii) a health service;</p> <p style="padding-left: 20px;">(iii) a government school or a non-government school;</p> <p style="padding-left: 20px;">(iv) an education and care service;</p> <p style="padding-left: 20px;">(v) a childcare service;</p> <p style="padding-left: 20px;">(vi) an approved kinship and foster care organisation;</p> <p style="padding-left: 20px;">(vii) an approved residential care organisation;</p> <p style="padding-left: 20px;">(5ia) a religious body not otherwise included in this paragraph;</p> <p style="padding-left: 20px;">(vii) any other entity prescribed by regulation; and</p> <p>(b) it is not exempted by regulation.</p>
Head of a Designated Entity	<p>Means:</p> <p>(a) for an administrative unit – the Director-General of the administrative unit; or</p> <p>(b) for any other designated entity:</p> <p style="padding-left: 20px;">(i) if a regulation prescribes the head of the entity - the prescribed head of the entity; or</p> <p style="padding-left: 20px;">(ii) in any other case - the individual primarily in charge of the management of the entity.</p>

9. Relevant Legislation

[Children and Young People Act 2008](#) (ACT)

10. Related Synod Documents

Reportable Conduct Policy Synod of NSW and the ACT

Working with Vulnerable People in the ACT

Mandatory Reporting Guideline for the ACT

Synod Safe Church Policy

11. Guideline Review

This guideline is to be reviewed annually by Synod Risk & Compliance and amendments approved by the Synod Governance Oversight Committee (SGOC)

Religious Body

Means a body:

- (a) established for a religious purpose, that operates under the auspices of one or more religious denominations or faiths; and
- (b) that provides, or has provided activities, facilities, programs, or services that provide a means for people to have contact with children.

Examples of activities, programs or services (non-exhaustive):

Religious services, altar servicing, art groups, bible study groups, choirs and music groups, church-run crèches, dance groups, faith-based children's and youth groups, multi-faith networks, open days, prayer groups, religious community engagement and outreach, religious festivals and celebrations, sports teams, Sunday school, tutoring services, youth camps.

Reportable Allegations

A reportable allegation refers to an express assertion that reportable conduct has happened or may have happened (including a statement or declaration with or without proof). For an allegation to be notifiable to the Ombudsman, the following components are necessary:

- the person who is the subject of the allegation must be a current employee of a designated entity or have been an employee at the time the employer became aware of the allegation
- the employee must be identified or identifiable either by name or by other information including their description, work schedules and locations of the entity)
- the allegation must contain a description of behaviour that may constitute reportable conduct, and the child or young person who was alleged to have been involved in reportable conduct by an employee, must have been under 18 years at the time of the alleged incident or conduct.

Reportable Conduct

Employers must report allegations, offences or convictions relating to child-related misconduct by an employee to the Ombudsman. It does not matter whether or not the employee engaged in the conduct in the course of employment or whether a child consents to the conduct as long as the person was an employee at the time the employer became aware of the allegation.

Reportable conduct includes:

1. Sexual offences and convictions where a child is a victim or is present
2. Offences against the person, including physical offences and convictions, where a child is a victim or is present
3. Conviction, or finding of guilt, under a territory law or a state or Commonwealth law, involving reportable conduct
4. Offences against the Education and Care Service National Law (inappropriate discipline or offences relating to protecting children from harm)
5. Ill-treatment of a child (including emotional abuse, hostile use of force/physical contact, neglect and restrictive intervention)
6. Psychological harm
7. Misconduct of a sexual nature. Reportable conduct includes allegations, offences and convictions relating to any of the above

Reportable Conviction	<p>In relation to a person, means a conviction or finding of guilt:</p> <p>(a) for an offence, under a territory law or a State or Commonwealth law, involving reportable conduct; and</p> <p>(b) entered against the person before or after the commencement of the Reportable Conduct and Information Sharing Legislation Amendment Act 2016. On July 1, 2017.</p>
Risk Assessment	<p>The risk assessment methodology to be used for risks related to the handling of reportable conduct matters, will include risks to:</p> <ul style="list-style-type: none"> • the alleged victim • other children • the employee subject to the allegation • other employees of the organisation • the investigation • other investigations (e.g. ACT Policing) • the organisation • how risks will be monitored and reviewed by the organisation and who will: <ul style="list-style-type: none"> • conduct the initial and ongoing risk assessment • decide what action if any, is to be taken

12. Relevant Legislation

[Children and Young People Act 2008](#) (ACT)

13. Related documents

Reportable Conduct Policy for the Synod of NSW and the ACT
Guideline – Working With Vulnerable People in the ACT
Mandatory Reporting Guideline for the ACT

14. Guideline Review

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