



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

# Reportable Conduct Guideline for NSW

---

This guideline applies to all Synod entities in NSW 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.

Title:	Reportable Conduct Guideline for NSW
Creation Date:	September 2020
Version:	1
Last Revised:	December 2020
Approved by:	Synod Standing Committee <b>144/20SC</b>
Approval date:	4 December 2020

## Table of Contents

Reportable Conduct Guideline NSW .....	3
1. What is a Reportable Conduct Scheme? .....	3
2. How does the scheme apply to the Uniting Church in NSW? .....	3
3. What is Reportable Conduct? .....	3
4. The Synod’s Responsibilities for Reportable Allegations .....	4
5. What to do if you are or become aware of an allegation or conviction involving reportable conduct .....	4
6. Reportable Allegations – professional boundaries and practice .....	5
7. Key Definitions .....	5
8. Relevant Legislation .....	7
9. Related documents .....	7
10. NSW Office of the Children’s Guardian .....	7
11. Guideline Review .....	7

## Reportable Conduct Guideline NSW

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 identify and notify reportable conduct in New South Wales.

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 NSW, and should read in conjunction with the Synod Reportable Conduct Policy.

### 1. What is a Reportable Conduct Scheme?

The Reportable Conduct Scheme provides for the reporting to the Office of the Children's Guardian allegations or convictions of reportable conduct, or misconduct that may involve reportable conduct, committed by 'employees' of the Uniting church.

**Any person who holds or is required to hold a Working With Children Check (WWCC) because of their interaction with the church is considered an 'employee' under the Children's Guardian Act 2019 (NSW), whether they are employed directly by the church or are contractors or volunteers.**

The scheme requires allegations and convictions that reportable conduct against employees to be reported to the NSW Office of Children's Guardian and investigated by the church.

### 2. How does the scheme apply to the Uniting Church in NSW?

- Reportable conduct includes conduct alleged to have occurred inside or outside the course of a person's employment or engagement with the Uniting Church. Definitions which apply under the Act are provided in section 6 of this document.
- Religious bodies are covered by this scheme in line with recommendations of the Royal Commission into Institutional Response to Child Sexual Abuse.
- Individuals engaged by the church to provide services to children (including in the capacity of a volunteer) are included under the scheme (see full definition in section 6).
- The purpose of the scheme is to ensure that appropriate systems and processes are in place for:
  - Preventing reportable conduct from occurring;
  - Ensuring the NSW Office of Children's Guardian is notified of allegations and convictions involving reportable conduct; and that allegations are appropriately investigated and reported upon.

### 3. What is Reportable Conduct?

The Children's Guardian Act 2019 defines reportable conduct as:

- a sexual offence
- sexual misconduct
- ill-treatment of a child
- neglect of a child
- an assault against a child
- an offence under s 43B (failure to protect) or s 316A (failure to report) of the Crimes Act 1900; and
- behaviour that causes significant emotional or psychological harm to a child

For more detail refer to the [Identifying Reportable Conduct Fact Sheet](#).

#### 4. The Synod’s Responsibilities for Reportable Allegations

The Children’s Guardian Act 2019 (NSW) states that the Head of the Relevant Entity, who in the case of Synod is the General Secretary, is required to:

- notify the Office of the Children’s Guardian of reportable allegations and convictions against their employees within **7 business days** of becoming aware of the allegation
- investigate the allegation
- advise the Office of the Children’s Guardian of the outcome
- submit a final or interim report on the investigation into a reportable conduct allegation or conviction to the Office of the Children’s guardian **within 30 calendar days**
- make a finding for all allegations
- take further action to prevent reportable conduct by employees such as through policies, procedures, training and codes of conduct.
- provide an Entity report to the Children’s Guardian about the finding and action taken.

Further information and fact sheets are available on the [OCG website](#).

#### 5. 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 allegations or convictions involving reportable conduct must be made known to the General Secretary as the head of entity for congregations, presbyteries, and placements of the Synod. This is to enable the General Secretary to report to the NSW Office of Children’s Guardian and respond, as necessary.	Directly contact the General Secretary: Email: <a href="mailto:generalsecretary@nswact.uca.org.au">generalsecretary@nswact.uca.org.au</a> Mail: Addressed as “Confidential” to: General Secretary, Uniting Church Synod of NSW & ACT, PO Box A2178, Sydney South NSW 1235.
2. Support and assist	As head of entity for congregations, presbyteries, and placements of the Synod, the General Secretary is required to report any allegation within 7 business days, then investigate and provide an update (either interim or final report) to the NSW Office of Children’s Guardian within 30 calendar days.  The final report must include findings and actions taken.	A minister, Safe Church Contact Person and/or Church Council representative responds to any requests for information from the General Secretary’s Office, Synod Risk and Compliance Team and/or legal counsel. A risk assessment will be conducted to plan for how all parties involved will be protected, supported and cared for.
If you are a member of the church community You can Speak Out in confidence about anything relating to the protection of children.	The General Secretary’s office needs to know about any issue relating to the safety of any child in our care. As the whole church, we have a duty to protect children and to respond well when an issue or allegation is present. The matter should otherwise be kept confidential and you should not advise the employee that a report has been made.	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:  Call the Speak Out hotline 1800 951 145 or Complete the Speak Out form on the <a href="#">Synod website</a> .

If you have any questions about how reportable conduct applies to Uniting Churches in NSW, please contact the Synod Safe Church Team on [safechurch@nswact.uca.org.au](mailto:safechurch@nswact.uca.org.au)

## 6. Reportable Allegations – professional boundaries and practice

Reportable allegations can arise from an employee engaging in activity that may be reportable conduct, and these matters **must** be reported. Reportable allegations can in some cases be the result of misunderstanding, or a child feeling unsafe, regardless of whether the adult involved thought they were doing anything wrong, or meaning harm of any kind.

Every employee must follow the relevant code of conduct and the prudent practices included in Safe Church Awareness training. Remaining mindful of professional boundaries and practices to prevent unintentional harm to children, and alert to practices of employees that may be the subject of a reportable allegation. .

## 7. Key Definitions

The following definitions apply to this guideline consistent with the provisions of the *Children’s Guardian Act 2019* (NSW) and guidance provided by the Office of the Children’s Guardian. They are provided to assist those who are considering making a report to understand the behaviours which may be considered as reportable conduct.

Child	A person who is under 18 years of age.
Employee	S16 1 (c) defines an ‘employee’ of a religious organisation as an individual who holds, or is required by the religious body to hold, a working with children check clearance for the purpose of engagement with the religious body.
Reportable Allegation	A reportable allegation is an allegation that an employee has engaged in conduct that may be reportable conduct. Under the Act, heads of relevant entities must consider whether reportable allegations relate to conduct that is in breach of established standards that apply to the subject employee and, in doing so, must have regard to relevant Codes of Conduct (including professional or ethical codes), professional standards and accepted community standards.
Reportable Conviction	A reportable conviction means a conviction (including a finding of guilt without the court proceeding to a conviction), in NSW or elsewhere, of an offence involving reportable conduct.
Reportable Conduct	The Children’s Guardian Act 2019 defines reportable conduct as: <ul style="list-style-type: none"> <li>• a sexual offence;</li> <li>• a sexual misconduct;</li> <li>• ill-treatment of a child;</li> <li>• neglect of a child;</li> <li>• an assault against a child;</li> <li>• an offence under S 43B (failure to protect) or S 16A (failure to report) of the Crimes Act 1900; and</li> <li>• behaviour that causes significant emotional or psychological harm to a child</li> </ul>

<p><b>Sexual Offence</b></p>	<p>A sexual offence is an offence of a sexual nature under a law of NSW, another state/territory, or the Commonwealth committed against, with or in the presence of a child, such as:</p> <ul style="list-style-type: none"> <li>• sexual touching of a child;</li> <li>• a child grooming offence;</li> <li>• a production, dissemination or possession of child abuse material.</li> </ul> <p>An alleged sexual offence does not have to be the subject of criminal investigation or charges for it to be categorized as a reportable allegation of a sexual offence.</p>
<p><b>Sexual Misconduct</b></p>	<p>The Act defines sexual misconduct to mean any conduct with, towards or in the presence of a child that is sexual in nature (but is not a sexual offence) and provides the following (non-exhaustive) examples:</p> <ul style="list-style-type: none"> <li>• descriptions of sexual acts without a legitimate reason to provide the descriptions;</li> <li>• sexual comments, conversations or communications;</li> <li>• comments to a child that express a desire to act in a sexual manner towards the child, or another child.</li> </ul> <p>Note - crossing professional boundaries comes within the scope of the scheme to the extent that the alleged conduct meets the definition of sexual misconduct. That is, conduct with, towards or in the presence of a child that is sexual in nature (but is not a sexual offence).</p>
<p><b>Assault</b></p>	<p>Technically, any form of unwarranted touching can, depending on the context in which it occurs, constitute an assault. However, the Act explicitly exempts from notification assaults that are, in all the circumstances, trivial or negligible - as long as they are investigated under workplace procedures.</p> <p>Generally, physical force that does not result in more than transient injury and which had no potential to result in serious injury – with consideration to the context and circumstances in which the alleged assault took place – would be considered ‘trivial or negligible’. Under the Act, an assault can occur when a person intentionally or recklessly (i.e. knows the assault is possible but ignores the risk):</p> <ul style="list-style-type: none"> <li>• applies physical force against a child without lawful justification or excuse - such as hitting, striking, kicking, punching or dragging a child (actual physical force); or</li> <li>• causes a child to apprehend the immediate and unlawful use of physical force against them– such as threatening to physically harm a child through words and/or gestures and regardless of whether the person actually intends to apply any force (apprehension of physical force).</li> </ul> <p>A physical assault is not serious where:</p> <ul style="list-style-type: none"> <li>• it only involves minor force; and</li> <li>• it did not, and was not ever likely to, result in serious injury.</li> </ul>

<b>Ill Treatment</b>	<p>The Act defines ill treatment as conduct towards a child that is:</p> <ul style="list-style-type: none"> <li>• unreasonable; and</li> <li>• seriously inappropriate, improper, inhumane or cruel.</li> </ul> <p>Ill-treatment can include a range of conduct such as making excessive or degrading demands of a child; a pattern of hostile or degrading comments or behaviour towards a child; and using inappropriate forms of behaviour management towards a child.</p>
<b>Neglect</b>	<p>The Act defines neglect to mean a significant failure – by a person with parental responsibility for the child, or an authorised carer or an employee if the child is in the employee’s care – to provide adequate and proper food, supervision, nursing, clothing, medical aid or lodging for the child that causes or is likely to cause harm to the child.</p>
<b>Significant Emotional or Psychological Harm</b>	<p>For a reportable allegation involving psychological harm, the following elements must be present:</p> <ul style="list-style-type: none"> <li>• an obviously or very clearly unreasonable or serious act or series of acts that the employee knew or ought to have known was unacceptable, and</li> <li>• evidence of psychological harm to the child that is more than transient, including displaying patterns of ‘out of character behaviour’, regression in behaviour, distress, anxiety, physical symptoms or self-harm, and</li> <li>• an alleged casual link between the employee’s conduct and the significant emotional or psychological harm to the child.</li> </ul>

## 8. Relevant Legislation

[Children’s Guardian Act 2019](#) (NSW)

## 9. Related documents

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

## 10. NSW Office of the Children’s Guardian

NSW Office of the Children’s Guardian eLearning courses.  
[ocgcoursebrowser.aspx - NSW Office of the Children's Guardian](#)

## 11. Guideline Review

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