FACT SHEET: Mandatory Reporting

Children and Young Persons (Care and Protection) Act 1998 (NSW) (‘Care Act’)

Information for Clergy, Agency and Parish workers in a Child-related role within the Archdiocese of Sydney

What is mandatory reporting?
Mandatory reporting is the legislative requirement for selected classes of people to report suspected child abuse and neglect to government authorities. In NSW, mandatory reporting is regulated by the Care Act. Legislative grounds for intervention in NSW cover young people up to 18 years of age, but it is not mandatory to report suspicions of risk of harm in relation to young people aged 16 and 17 years. It is mandatory to report suspicions of risk of harm in relation to children under the age of 16 years.

From 1 March 2020, amendments to the Care Act will commence and expand the mandatory reporter group to include Clergy, Agency and Parish workers (paid and unpaid) in child-related roles. These amendments are in line with the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.

Who are mandatory reporters in NSW?
In NSW mandatory reporting obligations apply to persons who deliver the following services wholly or partly to children as part of their professional work or other paid employment and those in management positions in organisations that deliver those services:

• Health Care
• Welfare (psychologists, social workers)
• Education (teachers, counsellors)
• Disability Services
• Children’s Services
• Residential Services
• Law Enforcement
• Persons in religious ministry or persons providing religion based activities to children
• Registered psychologists

When is a mandatory reporter required to make a report?
A mandatory reporter must make a report when they have reasonable grounds to suspect that a child or young person is at risk of significant harm and those grounds arise in the course of, or from their work or role. A mandatory reporter has a duty to report, as soon as practicable, the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm.

Risk of Significant Harm Definitions

- Circumstances that are causing concern for the safety, welfare or well-being of the child or young person to a significant extent which means the concern is sufficiently serious to warrant a response by a statutory authority (such as NSW Police Force or Community Services) irrespective of a family’s consent.
- Is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person’s safety, welfare or well-being.
- The significance can result from a single act or omission or an accumulation of these.

Categories of Risk of Significant Harm:

a) the child’s or young person’s basic physical or psychological needs are not being met or are at risk of not being met,

b) the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care,
b1) in the case of a child or young person who is required to attend school in accordance with the 
Education Act 1990 (NSW)—the parents or other 
caregivers have not arranged and are unable or unwilling to arrange for the child or young person to 
receive an education in accordance with that 
Act,
c) the child or young person has been, or is at risk 
of being, physically or sexually abused or ill-
treated,
d) the child or young person is living in a 
household where there have been incidents of 
domestic violence and, as a consequence, the 
child or young person is at risk of serious physical 
or psychological harm,
e) a parent or other caregiver has behaved in 
such a way towards the child or young person that 
the child or young person has suffered or is at risk 
of suffering serious psychological harm,
f) the child was the subject of a pre-natal report 
under section 25 and the birth mother of the child 
did not engage successfully with support services 
to eliminate, or minimise to the lowest level 
reasonably practical, the risk factors that gave rise 
to the report.

What support is available to help 
mandatory reporters decide whether to 
make a report?

Mandatory reporters are required to report to the 
Child Protection Helpline as outlined in the 
Archdiocese’s Protocol: Reporting a Child who is 
at Risk of Significant harm to the Department of 
Communities & Justice. For support please 
contact the Safeguarding and Ministerial Integrity 
Office at 
safeguardingenquiries@sydneycatholic.org or 
phone 02 9390 5810

New protections for reporters: Section 29

The Royal Commission found that protections for 
reporters of child sexual abuse varied throughout 
Australian jurisdictions and a lack of reporter 
protections can act as a barrier to reporting. To 
remove this barrier and comply with the Royal 
Commission’s recommendations, additional 
protections for reporters have been inserted into 
the Care Act.

A new section, Section 29, has been inserted into 
the Care Act providing specific protections to 
reporters who make reports to institutions engaged 
in child-related work. These reporters are 
protected from liability for defamation and civil and 
criminal liability. The section also provides that the 
report does not constitute a breach of professional 
etiquette or ethics or amount to unprofessional 
conduct4.

All reporters are now protected against retribution 
for making, or proposing to make, a report5.

More Information

For more information on mandatory reporting you 
can visit the Department of Communities and 
Justice website at 
dcj.nsw.gov.au

Or access the Mandatory Reporter Guide at 
reporter.childstory.nsw.gov.au

If you have specific questions about the Care Act 
in relation to mandatory reporting, you can email 
the Safeguarding and Ministerial Integrity Office at 
safeguardingenquiries@sydneycatholic.org or 
phone 02 9390 5810

Further Resources

Visit the Archdiocese’s Safeguarding website to 
access the Archdiocese’s Policy and Protocols 
including:

- **Fact Sheet**: When is a Child at Risk of 
  Significant Harm?
- **Guidance Document**: When is a Child at 
  Risk of Significant Harm?
- **Protocol**: Reporting a Child who is at Risk 
  of Significant Harm to the Department of 
  Communities & Justice

---

4 Children and Young Persons (Care and Protection) Act 1998 (NSW) s 29AAA.

5 Children and Young Persons (Care and Protection) Act 1998 (NSW) s 29AB.