

2. Purpose and scope of this policy

Key Points

- This policy applies to all deemed employees of the department, as an entity in scope of the scheme, irrespective of their role or whether their work involves the direct care or supervision of children.
- The policy outlines the scheme, its interface with other reporting obligations, and how the department will manage its responsibilities under the scheme.

Purpose

This policy provides information to all department staff about the operation of the scheme, including information about:

- what the scheme is and what it seeks to achieve
- how the scheme applies to the department, its deemed employees
- what 'reportable conduct' means for the purposes of the scheme
- the responsibilities of the department as an in-scope organisation under the scheme
- the responsibilities of the department's staff under this policy.

This policy relates to the department as an organisation (or 'entity') to which the scheme applies. It does not apply to other organisations with responsibilities under the scheme. While the department has funding, contractual and other relationships with many organisations covered by the scheme, each of those organisations has its own responsibilities under the scheme.

The department also has functions and responsibilities as a regulator of in-scope organisations under the scheme. **The department's regulatory role under the scheme is not the subject of this policy.**

Scope

This policy applies to all 'deemed employees' of the department.

The term 'deemed employee', for the purposes of this policy, are discussed in Section 4. In summary, this policy applies to all employees, officers, office holders, contractors, volunteers and adult work experience students of the department. This includes all staff, irrespective of their role or whether or not they work directly with children. It also includes kinship carers, being a person whom the Secretary has placed a child with under the *Children, Youth and Families Act 2015* (the Act) (refer page 12).

A glossary of terms is provided at Appendix 1.

3. Overview of the Reportable Conduct scheme

Key Points

- The scheme was introduced to improve oversight of how organisations that exercise care, supervision and authority over children prevent, investigate and respond to allegations of child abuse and child related misconduct which are made against the organisation's deemed employees.
- The Commission administers, oversees and regulates the scheme.

Purpose of the scheme

The scheme:

- seeks to identify individuals who pose a risk to children, but who do not have criminal records, and enables them to be excluded from working with children
- provides for independent oversight of organisational responses to allegations of child abuse and misconduct towards children that are made against deemed employees, and
- builds the capacity of organisations to respond appropriately and effectively to allegations of child abuse and misconduct involving children.

The scheme does not replace or affect obligations to report suspected criminal conduct to Victoria Police or reporting obligations under mandatory reporting or failure to report/protect. Department staff are required to immediately notify Victoria Police if they are aware of suspected criminal conduct or where a person poses an immediate threat to the safety of a child¹.

Responsibility of the department

As an organisation to which the scheme applies, the department must have processes for reporting allegations of child abuse and misconduct towards children that are made against deemed employees. These processes must ensure the Secretary, or Secretary's delegate, is made aware of an allegation and that the procedures for appropriately investigating and responding to the allegation are undertaken².

The Secretary's delegate must:

- notify the Commission of an allegation of reportable conduct
- ensure an appropriate investigation of the allegation is undertaken, and
- report the findings and outcome of the investigation once it is finalised.

The department has arrangements in place to report and investigate incidents involving clients. The department's obligations under the scheme do not replace existing reporting and investigation responsibilities. Where appropriate existing department reporting, investigation and response processes will be used as part of the department's response to an allegation of reportable conduct.

¹ Reports to Victoria Police should be made in accordance with the *Reporting Employee Criminal Conduct* protocol between Victoria Police and the department, and the department's *Reporting Employee Criminal Conduct Policy*.

² See the glossary at Appendix 1, under 'Authorised delegate', for the delegate positions within the department

Role of the Commission for Children and Young People

The Commission is responsible for administering and overseeing the scheme.

Once the Commission has been notified of an allegation by the department, it then maintains oversight of the department's management of the reportable allegation. Following the initial notification, the department must:

- provide more detail about an allegation within 30 days
- inform the Commission who will investigate the matter, and
- provide the findings of the investigation once the investigation has concluded.

The department's responsibilities are discussed in more detail in Section 9.

The Commission monitors the department's systems for reporting and responding to allegations of child abuse or misconduct involving children. The Commission may investigate a reportable conduct allegation against a deemed employee in certain circumstances, or it may request that a deemed employee professional registration body investigate the reportable conduct allegation.

When the investigation is completed, the Commission will provide recommendations for action to be taken.

The Commission's powers to conduct an investigation are outlined in Appendix 2.

Referral to the Working with Children Check unit and other regulators

If a finding is made that an individual has committed reportable conduct, the Commission may notify the Working with Children Check (WWCC) unit of the Department of Justice and Community Safety (the DJCS).

Information from the Commission to the WWCC unit of the DJCS supports the assessment of whether the person against whom a finding of reportable conduct has been made, is a suitable person to work with children (whether in paid employment or in a voluntary capacity) in accordance with the *Working with Children Act 2005*.

The WWCC unit may revoke a person's WWCC card, so that the person is no longer permitted to work with children. More information about the [WWCC](http://www.workingwithchildren.vic.gov.au/home/about+the+check/) can be found at: <http://www.workingwithchildren.vic.gov.au/home/about+the+check/>.

Additionally, the Commission may share a finding that a person has engaged in reportable conduct with other regulators under the scheme. This includes certain professional registration bodies (e.g. the Victorian Institute of Teaching, Australian Health Practitioner Regulation Agency of the Suitability Panel) which may lead to restrictions being placed on the person's professional registration and/or their ability to work with children.

Further information about the role of the Commission is in Appendix 2.

4. Scope of the reportable conduct scheme

Key Points

- The department is responsible for notifying the Commission of an allegation, based on a reasonable belief, that an adult employee has committed reportable conduct against a child.
- The scheme applies to all department deemed employees, not just those working directly with children.
- The scheme applies to conduct that occurs outside of the person's work activities and includes historical allegations.

What must be reported?

The department is responsible for notifying the Commission of all allegations of reportable conduct in relation to its deemed employees, of which it becomes aware.

The department's obligations arise where a **person** makes an allegation, based on a **reasonable belief**, that an **adult employee** has committed reportable conduct against a **child**, or misconduct that **may** involve reportable conduct.

Who can make an allegation?

Any person may bring to the department or Commission's attention an allegation of reportable conduct. This includes a department staff, a client, parent, carer, or a member of the community.

What is a reasonable belief?

A reasonable belief is more than a reasonable suspicion. Reasonable belief does not have to be based on actual proof but there must be some information supporting the belief. However, it is not the same as having proof and does not require certainty. The belief must be probable. Stating that reportable conduct is occurring, without providing supporting information is not reasonable belief.

Reasonable belief cannot be based on an allegation or conclusion that is not supported by further facts or verification by others. For example, when a person's disclosure consists only of 'I know John is a liar', reasonable belief would not be determined.

For example, a person is likely to have a reasonable belief if they:

- observed the conduct themselves
- heard directly from a child that the conduct occurred, or
- received information from another credible source (including another person who witnessed the reportable conduct or misconduct).

Other matters can be considered in determining whether there are reasonable grounds for the person's belief includes the reliability of the information provided, even if it is second or third hand.

You can consider how the person would have obtained the information and the amount of detail that has been provided. If you have any questions about reasonable belief, they can contact the [Ethical Standards Unit](#) by telephone on (03) 9096 2671 or via email at <ethicalstandards@dhhs.vic.gov.au>.

Who is in-scope for the definition of a 'deemed employee'?

This policy uses the term 'deemed employee' to refer to the broad category of people who are treated as an 'employee' of the department under the scheme.

For the purposes of the scheme an 'employee' is a person who is 18 years of age or older:

- employed by the department as an employee, whether their employment is governed by
 - the Victorian Public Service Enterprise Agreement 2016,
 - the Disability Services Enterprise Agreement Victoria 2018-2022,
 - any other enterprise or industrial agreement,
 - a private contract of employment, including an executive contract,
- engaged by the department as an office holder or officer;
- engaged by the department to provide services as a contractor;
- engaged by the department to provide services as a volunteer; or
- Kinship carers (as outlined below).
- Department work experience students (Secondary and Tertiary students) who are over 18 years of age, and interns or trainees are also included.
- It is not necessary for a person included in this definition to be working directly with children, or to have any child-related responsibilities in the course of their employment; all that is required is that the person is an 'employee' of the department.

Who is not in-scope for the definition of 'kinship carer'

Kinship carers considered to be a 'deemed employees', in relation to the scheme are: a family member or other person of significance to the child protection client and the Children's Court or the Secretary to the department has placed that , or has placed the child protection client with the person under the Children, Youth and Families Act 2005 (the Act) e.g:

- Care by secretary order
- Family reunification order
- Long term care order
- Long Term Care Agreement
- Interim Accommodation orders

The scheme applies to reportable conduct allegations made against kinship carers by including kinship carers in the definition of 'deemed employee' outlined above.

Reportable conduct does not apply where private arrangements for the care of a child by a relative or friend have been made. For example, a parent may be in hospital for a period of time and informal care arrangements are made for a child to be cared for by grandparents. The grandparents are not considered to be a 'kinship carer' under the scheme.

Kinship Carers are not employees where the child is placed under:

- Permanent Care orders
- Voluntary placements where children are subject to voluntary child care agreements and child protection has arranged the placement.
- Kinship placements arranged between family members without any child protection involvement, such as a grandparent

- Members of a carer's household or extended family, or people within the carer's wider network who meet children or young people in the placement.

Definition of a child

For the purposes of the scheme, a 'child' means a person who is under the age of 18 years at the time of the alleged reportable conduct. There is no requirement for the child or children who are the alleged victims of the reportable conduct to be current or past clients of the department.

Reportable conduct includes historical allegations and allegations involving conduct that occurs outside work activities

The scheme covers reportable conduct allegations irrespective of whether the conduct relates to a recent or historical allegation; or arises during **or outside of the Employee's work activities**.

Historical allegations

The scheme captures historical allegations against current deemed employees to enable victims/survivors of child abuse to report the harm and have it appropriately responded to. Allegations of reportable conduct which occurred when the person was a deemed employee of the department must be notified to the department's Ethical Standards Unit.

There is no requirement for the department or department staff to seek out historical allegations or to go through records to find historical allegations of reportable conduct.

Conduct occurring outside of the person's work activities

The scheme is intended to capture allegations of reportable conduct arising from incidents that take place both during or outside work of deemed employees.

Reportable conduct that occurs outside work which is apparently unrelated to the performance of duties may be also a breach of an employee's employment obligations, if there is a clear and relevant connection between the employee's out-of-hours conduct and its effect on the workplace.

5. Identifying reportable conduct

Key Points

- Reportable conduct includes: sexual offences, sexual misconduct and physical violence against, with or in the presence of, a child; behaviour that is likely to cause significant emotional or psychological harm to a child; and significant neglect of a child.
- The Ethical Standards Unit can assist with identifying if conduct is reportable.

What types of conduct are reportable?

Under the *Child, Wellbeing and Safety Act 2005* (the CWS Act), there are five types of ‘reportable conduct’ when **committed** by an employee:

- sexual offences (against, with or in the presence of a child)
- sexual misconduct (against, with or in the presence of a child)
- physical violence (against, with or in the presence of a child)
- behaviour that causes significant emotional or psychological harm to a child
- significant neglect of a child.

The Commission has produced an [information sheet](#), available on its website, which provides guidance and a more detailed description of the types of reportable conduct.

What does ‘significant’ mean?

The scheme is concerned with significant allegations about behaviour or actions towards a child by an deemed employee. Accordingly, allegations can only be made about emotional or psychological harm or neglect that is *significant*.

Allegations may be made about serious forms of harm or behaviours that have a lasting permanent effect, but this does not always need to be the case. It is enough that the alleged conduct is *more than trivial* to fall within the definition of significant under the scheme.

What are sexual offences?

Sexual offences refer to criminal conduct of a sexual nature and includes:

- sexual assault
- indecent acts
- possession of child abuse material
- ‘grooming’ a child in order to commit a sexual offence. Grooming concerns predatory conduct undertaken to prepare a child for sexual activity at a later time.

A person does not need to be charged with, or found guilty of, a sexual offence for their behaviour to be reportable conduct.

What is sexual misconduct?

Sexual misconduct includes behaviour, physical contact, speech or other communication of a sexual nature, inappropriate touching, grooming behaviour, and voyeurism. This captures a broader range of

inappropriate behaviours of a sexual nature that are not necessarily criminal. Examples of sexual misconduct include:

- developing a close and inappropriate relationship with a child which crosses professional boundaries
- inappropriately discussing sex and sexuality with a child
- other overtly sexual acts that could lead the department to take disciplinary or other action.

What is physical violence?

Physical violence includes an act that causes physical injury or pain. Examples of physical violence can include:

- hitting/kicking/punching
- pushing/shoving/grabbing/throwing/shaking
- using an object to hit or strike
- using restraint or excessive force that is inappropriate to the situation.

Physical violence does not include lawful behaviour. For example:

- reasonable steps taken to protect a child from immediate harm, such as taking a child's arm to stop them from going into oncoming traffic
- medical treatment given in good faith by an appropriately qualified person, such as a senior first aid officer administering first aid.

What is behaviour that causes significant emotional or psychological harm to a child?

Examples of behaviours that may cause emotional or psychological harm include:

- exposure to violence or threats of violence, including family violence
- persistent hostility/rejection
- humiliation/belittling
- scapegoating.

Behaviour is not reportable if:

- a person takes reasonable steps to protect a child from immediate harm
- a person with responsibility for discipline takes lawful and reasonable disciplinary action, such as sending a child to sit in 'time out' for a period of time, in line with organisational policy
- the conduct is related to providing medical treatment or care given in good faith, such as a first aid officer administering first aid.

Link between harm and conduct

For behaviour to be reportable under this category:

- a child must have suffered significant emotional or psychological harm, and
- there must be a clear link between the alleged conduct and the harm suffered.

Signs that a child may have been emotionally or psychologically harmed may include:

- patterns of out-of-character behaviour

- regression in behaviour
- distress and anxious behaviours
- other physical symptoms, such as self-harm.

Emotional or psychological harm may also occur where an existing mental health disorder has been exacerbated or aggravated.

It is also important to stress there must be a clear link between the emotional or psychological harm and the alleged conduct. In deciding if there is a clear link, consideration will be given to the likelihood the child would have been harmed, if the alleged conduct had not occurred.

What is neglect?

Neglect occurs when a person does not meet their obligations and responsibilities to keep a child safe and well. For behaviour to be reportable under this category, a child must have experienced 'significant' neglect. The requirement that the harm suffered is 'significant' is discussed below.

The neglect:

- must be more than minor and insignificant
- does not need to have a lasting or permanent effect
- may be an ongoing situation or a one-off incident, as long as it is not minor in nature.

Examples of different types of neglect include:

- supervisory neglect, which is the absence or inattention of a person which places the child at risk of physical harm or injury, sexual abuse or allows other criminal behaviour towards the child
- physical neglect, which is the failure to provide basic physical necessities for a child, such as adequate food, clothing and housing
- medical neglect, which is the failure to provide for appropriate medical care for a child, including a failure to acknowledge the seriousness of an illness or condition, or deliberately withholding appropriate care.

Further guidance

The Ethical Standards Unit responsible for managing allegations of reportable conduct against deemed employee (see Section 8), can provide guidance to assist in identifying if conduct is reportable. Contact details for the Ethical Standards Unit are at Appendix

Where behaviour is not reportable, but there are concerns to promote the wellbeing and safety of children, it may be possible for information to be shared under the Child Information Sharing Scheme or the Family Violence Information Scheme, where the information is held by a prescribed organisation. For more information on these schemes, see the [Victorian Government](https://www.vic.gov.au/information-sharing-schemes-and-the-maram-framework) information sharing website at: <<https://www.vic.gov.au/information-sharing-schemes-and-the-maram-framework>>.

6. Your responsibilities if you become aware of an allegation of reportable conduct

Key Points

- The protection of children and young people is of paramount importance, and is the guiding principle for responding to any concern about actions that may affect them.
- There is an expectation that an Employee will notify the department or the Commission of any information that leads them to form a reasonable belief that another Employee has committed reportable conduct.
- Victoria Police must be notified as a first priority of reportable conduct (or misconduct involving reportable conduct) that involves suspected criminal activity.

Principles of the department's approach to reportable conduct

The department is responsible for ensuring it has systems for:

- preventing reportable conduct by deemed employees
- enabling people to notify the department or the Commission of allegations of reportable conduct
- investigating and responding to allegations of reportable conduct against its deemed employees.

The principles guiding the department's approach to allegations of reportable conduct involving its deemed employees include:

- the protection of children is the paramount consideration in the context of child abuse or employee misconduct involving a child
- criminal conduct or suspected criminal conduct should be reported to Victoria Police as a first priority, and that any police investigation will take priority over departmental investigations
- employees who are the subject of reportable allegations are entitled to receive natural justice in investigations into their conduct
- information involving reportable conduct may be shared by the department in accordance with legal requirements.

Staff and managers – becoming aware of reportable conduct allegations

Staff and managers may become aware of reportable conduct allegations in multiple ways, including:

- from a member of their team
- incident reports lodged by employees and or funded agencies
- disclosure by a child, carer, parent, co-worker or the employee themselves
- direct observation of conduct
- from the Ethical Standards Unit for notifications received by the department directly from external agencies such as Victoria Police, the Commission, or the Victorian Ombudsman.

Departmental processes for notifying reportable conduct

Any department staff member who becomes aware of alleged reportable conduct, or misconduct that may involve reportable conduct, by a deemed employee of the department is expected to commence the department's notification process as soon as possible.

The department's notification process provides multiple pathways for that notification to occur in order to facilitate early notification. It is preferable that in the first instance a staff member should notify their line manager if they believe a deemed employee of the department has committed reportable conduct. Alternatively, the department's internal notification process allows for staffs to notify Workplace Relations or the Ethical Standards Unit directly if a staff member is not willing to speak to their line manager about the conduct of concern.

In the case of volunteers, notification should be made to their supervisor, or the Ethical Standards Unit.

In the case of contractors, notification should be made to the relevant contract manager if known, or the Ethical Standards Unit otherwise.

Once notified, the line manager or contract manager is responsible for ensuring that the notification is formally made to the Ethical Standards Unit.

In any case, anyone can make notification to the Ethical Standards Unit.

Appendix 4 provides contact details for supports if you are unsure what is required.

Notifying the Commission directly

At any stage, anyone may notify the Commission directly of an allegation of reportable conduct in relation to an Deemed employee of the department.

These reports can be made anonymously.

For more information about the role of the Commission, refer to Section 3 of this policy or Appendix 2.

The Commission has an online form or can be contacted at childsaf@ccyp.vic.gov.au or by phone on (03) 8601 5281.

The Commission has developed materials that outline what information needs to be included in a report to the Commission. These can be found on the website of the [Commission](https://ccyp.vic.gov.au/) at <<https://ccyp.vic.gov.au/>>.

Information that should be included in a notification

Certain information will be required for a notification in accordance with the department's processes. As a general rule, staff should provide as much relevant information as possible.

A report should include details about the person alleged to have engaged in reportable conduct and a brief summary of what is alleged to have occurred, where and when. If there is an incident report in relation to the circumstances of the allegation, it is appropriate to provide the report or its reference number. The Ethical Standards Unit should also be advised if a report has been made to Victoria Police (with details of the police report).

A report made directly to the Commission will need to be in accordance with the Commission's online form. This is explained on the Commission's website.

7. Interface between the department's processes for reportable conduct and other reporting obligations

Key Points

- The reportable conduct scheme sits alongside existing responsibilities under the criminal law, departmental policies and practices, and the terms of employment.

The scheme, and the obligations for the department that arise under the scheme, interface with a range of other legal and policy-based obligations.

Depending on the circumstances, one or more (or all) of these obligations may be relevant where there is an allegation that a deemed employee has engaged in inappropriate conduct involving a child.

Workers, volunteers and managers all have existing responsibilities under the criminal law, departmental policies and practices, and their terms of employment. Those responsibilities continue alongside the responsibilities to notify reportable conduct and are not altered by the introduction of the scheme.

Protection of children and young people is paramount

The guiding principle for department employees who become aware of alleged reportable conduct is that the safety, welfare and wellbeing of any child or young person who may be affected is of paramount importance.

The usual department processes and responsibilities apply in any case in which departmental staff has reason to believe that any child or young person is in danger or at risk of harm if they come into contact with the Employee to whom the reportable allegation relates.

All departmental staff who become aware of any risk to a child or young person are expected to take appropriate action to address the risk to the child or young person, depending on the particular circumstances. Actions may include taking steps to protect a child or young person, contacting Child Protection, reporting the matter to Victoria Police, and addressing the Employee's employment or volunteer activities (such as standing down the Employee and/or ensuring their activities do not involve contact with children).

Criminal conduct

Inappropriate conduct involving a child may constitute criminal conduct. It is a principle of the scheme that any suspected criminal conduct should always be reported to the police.

The department requires staff to immediately notify Victoria Police if they are aware of suspected criminal conduct or where a person poses an immediate threat to the safety of a child³.

In circumstances where alleged criminal conduct may also be reportable conduct, staff are required to notify the reportable allegation.

³ Reports to Victoria Police should be made in accordance with the *Reporting Employee Criminal Conduct* protocol between Victoria Police and the department, and the department's *Reporting Employee Criminal Conduct Policy*.

The usual processes should be followed for reporting to Victoria Police. When notifying reportable conduct in accordance with departmental processes, details of any notification to Victoria Police should be provided.

Once notified, investigations by Victoria Police take priority over reportable conduct investigations.

Two particular criminal offences should be noted.

Failure to disclose

An adult who forms a reasonable belief that a sexual offence has been committed by an adult against a child under 16 must report that information to Victoria Police. It is a criminal offence to fail to disclose that information to Victoria Police.

Failure to protect

If you are an Employee in a position of authority in the department and you become aware that an adult associated with the department poses a risk of sexual abuse to a child under 16 who is under the care, supervision or authority of the department, you must take all reasonable steps to remove or reduce the risk. It may be a criminal offence to fail to take such reasonable steps.

Client incident management system

Client incidents that occur during service delivery and result in harm to a client are required to be reported by department delivered in-scope services in the client incident management system (CIMS).

The client incident management system (CIMS) focuses on the safety and wellbeing of our clients by outlining the approach and key actions to manage client incidents. Employees are required to report under both processes. During the incident screening process, deemed employee must consider requirements to notify the Ethical Standards Unit of any reportable conduct that meets the threshold for the Reportable Conduct Scheme.

The Ethical Standards Unit will periodically screen incidents if it is a major impact incident which occurred within a department delivered service, that involved a child, within the following categories:

- physical abuse
- sexual abuse
- financial abuse
- emotional/psychological abuse
- poor quality of care
- injury – unexplained (in order to determine whether there has been any abuse or neglect that caused the injury).

This is consistent with the department's obligation to ensure the safety of its clients and maintain a safe and professional workforce.

Employment obligations

The scheme is designed to capture inappropriate conduct by an employee that affects children. Reportable conduct (as defined in Section 5) includes criminal conduct at the higher end but extends to professional breaches and other conduct that contravenes acceptable standards for an employee.

Accordingly, the scheme sits alongside other employment-related schemes and reporting obligations that may arise from a employee's conduct during employment. Those existing employment-related responsibilities are not affected by the scheme.

Disability Worker Exclusion scheme

The Disability Worker Exclusion scheme (DWES) is designed to further protect the safety and wellbeing of Victorians living in disability group homes. The DWES requires disability service providers (government and non-government) to conduct an additional pre-employment check prior to making an offer of employment to a potential employee. This safeguard strengthens existing pre-employment screening processes to better protect people living in disability group homes, including children.

Information regarding the [scheme](http://www.dhs.vic.gov.au/about-the-department/plans,-programs-and-projects/projects-and-initiatives/disability-services/disability-worker-exclusion-scheme) can be found at <<http://www.dhs.vic.gov.au/about-the-department/plans,-programs-and-projects/projects-and-initiatives/disability-services/disability-worker-exclusion-scheme>>.

The Disability Worker Exclusion Scheme Unit can be contacted for further information at:

- phone: 03 9096 3203
- email: dwesu@dhhs.vic.gov.au

Suitability Panel

[The Act](#) provides the legislative framework for children's safety, stability and development. This includes supporting the wellbeing and safety of children who cannot live safely at home. The Act provides for:

- processes for investigating allegations of physical and sexual abuse against a child or young person in out-of-home care
- the creation of a Suitability Panel (the Panel) to assess whether an allegation of physical or sexual abuse against a child is proved and whether, as a result, an individual is found to pose an unacceptable risk of harm to children and is therefore disqualified from being registered to care for children.

Under Sections 81 and 82 of the Act, a report to the Secretary must be made when:

- there is an allegation of physical or sexual abuse; and
- the allegation of physical and/or sexual abuse is against a registered carer involving a child or young person placed in their care; and
- the abuse is alleged to have occurred on or after 7 December 2002.

A report to the Secretary must be made by an out-of-home care service provider (including the department) as soon as possible and within seven days of becoming aware of an incident. If following an investigation the service provider forms a reasonable belief that abuse has occurred, a report must be made to the Secretary as soon as practicable.

When the Secretary receives a Section 81 or 82 report under the Act alleging physical and/or sexual abuse, the Register of Carers is notified. The carer's record on the Register of Carers is then modified to indicate the carer's status as 'Under Investigation'. The Carer Registration team will also advise all service providers that have the carer currently registered, or have a current disqualified carer check, of the receipt of the Section 81/82 report under the Act.

A Section 81 report under the Act must be made in addition to a Client Incident Report, and a reportable conduct notification to the Ethical Standards Unit. The form for making a report to the Secretary can be found at <https://dhhs.vic.gov.au/>.

The Panel decides:

- whether an out-of-home-carer (a carer) should be disqualified from being on the register of carers or
- whether a carer's disqualification should be removed.

The Panel provides an important mechanism to support the safety and wellbeing of children and young people in out-of-home care. Whilst a Section 81 report will always require an associated reportable conduct notification to the Ethical Standards Unit, there will be instances where a reportable conduct allegation concerning department out-of-home care workers does not require a Section 81 report to the Secretary under the Act.

For further information about reports of physical and/or sexual abuse under Section 81 and 82 of the Act, independent investigation and Suitability Panel processes, please contact the [Carer Registration](#) team by email to <carer.register@dhhs.vic.gov.au> or telephone (03) 9096 8690.

Protecting children – interface with Child Protection

Meeting the needs of children and making sure they are safe in the family is a shared responsibility between individuals, the family, the community and government.

Child protection provides child-centred, family-focused services to protect children and young people from significant harm caused by abuse or neglect within the family. It also aims to make sure that children and young people receive services to deal with the impacts of abuse and neglect on their wellbeing and development.

Child protection is targeted to those children and young people at risk of harm where families are unable or unwilling to protect them.

Mandatory reporting obligation to protect children under the Act

Some professionals, such as doctors, nurses, midwives, police, and teachers (including early childhood teachers and principals) are legally obliged to report to child protection or Victoria Police if they reasonably believe that a child is in need of protection from physical or sexual abuse and the child's parents have not protected, or are unlikely to protect, the child from harm.

In addition to the mandatory reporting requirements, any person who believes on reasonable grounds that a child is in need of protection can make a report to child protection.

The scheme complements mandatory reporting to child protection, by requiring that allegations of child abuse or child-related misconduct by deemed employees of the department are reported to the Commission.

Mandatory reporting and reportable conduct work together to better ensure that children are safe no matter where they are living.

For a person who discloses information about reportable conduct, similar protections are in place under the scheme as exist under the mandatory reporting rules. This means that people who disclose information to the Commission in good faith cannot be subject to unprofessional conduct or a breach of professional ethics proceedings, or any related liability.

For information about when it would be appropriate to notify child protection please refer to the department's [Child Protection webpage](#). The criteria and circumstances in which it would be appropriate to make a notification to child protection are not affected by the introduction of the scheme. A notification to child protection **does not remove the responsibility** on departmental staff to also notifying reportable conduct allegations – both notifications may be required.

Further information and support

If a department Employee is unsure about what to do, is uncertain if the conduct is reportable, or has concerns about making a notification to the department, they can discuss this with:

- the Ethical Standards Unit
- the Client Safety Practice Leader

- the Commission for Children and Young People.

Refer to Appendix 4 for further information, including contact details for the above supports.

8. What will the Ethical Standards Unit do after receiving a notification of reportable conduct

Key Points

- The Ethical Standards Unit is responsible for the assessment, notification, management and investigation of allegations of reportable conduct against workers and volunteers of the department.

All notifications of reportable allegations involving the deemed employees will be referred to the Ethical Standards Unit for management and investigation. This applies whether a notification is made to the department by departmental staff under this policy, or by any other person or entity, including the Commission.

The Ethical Standards Unit will notify allegations of reportable conduct to the Commission.

First steps: child safety and notifying criminal conduct

The safety, welfare and wellbeing of any child or young person affected by the alleged conduct is of paramount importance.

Upon receiving a notification of reportable conduct, the Ethical Standards Unit will check that departmental processes have been followed to ensure appropriate action has been taken to address any risk of further harm to a child or young person.

Further, the Ethical Standards Unit will consider whether the allegation may involve criminal activity and report or ensure the matter is reported to Victoria Police as a priority, if this has not already occurred.

Preliminary assessment

On receiving a notification, the Ethical Standards Unit will undertake a preliminary assessment of the information about the alleged conduct of the Employee to determine:

- whether the alleged conduct is a matter within the department's responsibility⁴
- whether the alleged conduct is in scope of the scheme⁵
- whether the conduct, if proven, may constitute 'reportable conduct' (see Section 5).

Allegation assessed as constituting 'reportable conduct'

If an allegation is assessed to meet the threshold of being conduct that, if established, could constitute reportable conduct, the Ethical Standards Unit will:

- notify the Commission of the reportable allegation under the scheme (refer to Section 9 of this policy)
- undertake an investigation of the reportable allegation, engage an independent investigator to undertake the investigation, or monitor the outcome of an existing investigation process (refer to Section 9) and

⁴ For example, confirming that the alleged conduct relates to a department employee as defined by the legislation.

⁵ For example, whether the alleged conduct was by an adult and involved a child.

- ensure the reportable allegation is appropriately managed and responded to, including determining when and what information will be disclosed to the person about whom the reportable allegation has been made.

Allegation assessed as not constituting ‘reportable conduct’

If an allegation is assessed as not meeting the threshold of being an allegation of reportable conduct as defined, the Ethical Standards Unit will advise the reporter and the reportable conduct notification will be closed unless additional information comes to light.

An allegation that is assessed as not meeting the criteria for a reportable conduct matter might still constitute unsatisfactory work performance, misconduct, or criminal conduct. Other reporting and investigations processes would then proceed, as required⁶, and in some cases may involve the Ethical Standards Unit.

⁶ For example, under the department's *Managing Unsatisfactory Work Performance and Misconduct Policy*.

9. Notifying the Commission for Children and Young People

Key Points

- The Ethical Standards Unit is responsible for providing all updates and investigation outcomes to the Commission
- The department must report certain information to the Commission at key points: within three business days after becoming aware of the allegation; within 30 days after becoming aware of the allegation; and upon completion of the investigation.
- The Ethical Standards Unit has responsibility for ensuring the reporting requirements are met following receipt of any potential reportable conduct allegation.
- A range of review mechanisms are available in certain circumstances

The Ethical Standards Unit will track and monitor the progress of the investigation and ensure mandatory timeframes for notifying the Commission are adhered to. The timeframes for providing information to the Commission by the Ethical Standards Unit are outlined below.

Reportable allegations must be notified to the Commission

If the Secretary of the department or authorised delegate becomes aware of a reportable allegation against a department Employee, the Secretary or authorised delegate must:

- make a notification to the Commission in writing within three business days of becoming aware of the reportable allegation
- make a further notification to the Commission by providing detailed information about the reportable allegation in writing as soon as practicable and within 30 days of becoming aware of the reportable allegation.

Criminal penalties may apply if the Commission is not notified within the requisite timeframes without a reasonable excuse.

Initial (three business day) notification to the Commission

As part of the first notification, the following information must be provided to the Commission:

- initial advice that the reportable allegation has been made
- the Employee's name (including any known former name/s and alias) and date of birth (if known)
- whether Victoria Police has been contacted about the reportable allegation
- the department's contact details.

Further (30 day) notification to the Commission

As part of the further notification, the following information must be provided to the Commission:

- detailed information about the reportable allegation
- whether or not the department proposes to take any disciplinary or other action in relation to the Employee and the reasons why

- any written submissions made by the Employee to the department regarding disciplinary or other action that might be taken in relation to the Employee.

Other information and notification requirements

Throughout the investigation process, the Secretary or authorised delegate is required to provide the Commission with:

- details of the person who will investigate the reportable allegation (as soon as practicable)
- a copy of the investigation findings and outcome and reasons for the findings and outcome (once the investigation is concluded); refer to Section 9 (Conducting internal investigations into reportable allegations)
- details of any disciplinary or other action proposed (and reasons), or if no action is proposed, the reasons why no action is proposed
- any other information or documents requested in writing by the Commission (refer to Appendix 2 for further information).

10. Investigations into reportable allegations

Key Points

- Victoria Police investigations take priority under the scheme.
- Departmental investigations will be undertaken to comply with the scheme and existing workplace processes.
- Department workers and volunteers are entitled to procedural fairness during the investigation of reportable conduct investigations.
- The Commission will be notified of the outcome of the investigation.
- The Commission has the power to notify the WWCC unit of the DJCS when an allegation has been substantiated

Police investigations take priority

The department must not commence (or must suspend) investigating a reportable conduct allegation if Victoria Police is investigating the allegation, unless Victoria Police:

- advises the police investigation has been completed
- agrees a reportable conduct investigation can take place in consultation with Victoria Police.

Investigations of reportable conduct allegations which have been reported to Victoria Police, as required under this policy, will only commence if the Victoria Police pre-conditions above have been met.

Appointment of investigator

Allegations of reportable conduct must be reported to the Ethical Standards Unit who will make the appropriate arrangements to appoint an investigator.

Conduct of the investigation

For departmental staff, an investigation into an allegation of reportable conduct must be carried out, or managed⁷, by the Ethical Standards Unit in accordance with the following policies and procedures:

- [Managing Unsatisfactory Work Performance and Misconduct Policy – Victorian Public Service](#), for a worker who is an employee of the department under the Victorian Public Service Enterprise Agreement 2016
- [Managing performance and conduct in disability services](#) (MPC) policy for a worker who is an employee of the department under the Disability Services Enterprise Agreement Victoria. 2018-2022.

For a contractor or volunteer, relevant processes may include:

- CIMS incident reporting and the processes, amongst others
- contractual processes in accordance with the terms of the applicable contract.

Please refer to the above policies and procedures for a detailed explanation of the investigation processes. Some of the key features of the investigation processes are briefly described below.

⁷ ESU manages a contract for a panel of external investigators that provides investigation and review services to the department.

Employee right's to Natural Justice

Deemed employees are entitled to procedural fairness in the management and investigation of all reportable conduct allegations.

The rules of procedural fairness ensure that investigations, and any related decisions, are fair and reasonable. Procedural fairness requires that:

- the Employee is informed that a complaint or situation is being investigated and under which relevant provisions (usually contained in an industrial instrument).
- the Employee is informed of the specific allegations made against them. It is a fundamental element of natural justice that a person knows the allegations that have been made against them, so they have a fair opportunity to respond.

Procedural fairness may also require the department to:

- provide the Employee with a reasonable opportunity to put their case, or to show cause, whether in writing, at an interview or a combination of both, why contemplated action should not be taken, or a particular decision should not be made
- consider submissions put forward by the Employee
- make reasonable inquiries or investigations
- make decisions based upon findings of fact that are in turn based upon sound reasoning and relevant evidence
- act fairly and without bias in making decisions, including ensuring no person decides a case in which they have a direct interest
- conduct an investigation or address an issue, without undue delay.

While procedural fairness is, at law, a safeguard applying to the Employee whose rights or interests are being affected, it is also essential to a fair investigative process. For example, procedural fairness can be an important means of checking facts and of identifying major issues or weakness in an investigation, decision-making process or information on which a decision is based.

The process to be followed is explained to the Employee (e.g. the allegations will be put to them and they will be given (specify number) days to respond, any relevant witnesses will be interviewed within (specify number) days, the investigator will then make a finding based on the evidence. The process also requires:

- the Employee to be informed that they may be represented by their union representative, or other advocate, at each stage of the process.
- the Employee to be informed of the purpose of any meetings that may be held.
- the Employee is provided with an opportunity to respond by documentation, an interview or a combination of both. Whichever method is adopted, each party is to be made aware of the arguments of each other party and be given an opportunity to respond to these.
- the investigator and then in turn, the decision-maker, must act in good faith and without bias. To act without bias means the person conducting the investigation has no preconceived opinions, vested interests or prior personal involvement in the matter. This does not necessarily exclude a person from the same organisation as the employee, from conducting an investigation or making a decision. However, there must not be any actual or perceived bias.
- a decision is based on the facts presented by the parties. To base a decision on the facts requires the decision-maker to consider only the information that is relevant to the matter, as

presented by the parties. The onus of proof will generally lie with the party asserting a fact and the investigator must reach a conclusion on the balance of probabilities.

- the Employee is given a reasonable opportunity to present all relevant evidence including details of any mitigating circumstances.

Investigation activities

The investigation will include, but is not limited to:

- collecting and reviewing relevant materials
- interviewing/speaking with the Employee alleged to have committed the reportable conduct and seeking an explanation
- interviewing/speaking with any relevant witnesses
- interviewing/speaking with any other relevant parties, including other department staff and volunteers
- presenting the Employee to whom the allegation relates with specific particulars to allow the Employee to properly respond to the allegation
- investigating any explanation made by the Employee for the purposes of verifying the explanation (to the extent possible).

Depending on the nature of the allegation, it may be necessary for the department to put in place interim arrangements to ensure the safety of children and young people and to ensure the integrity of the investigation is not compromised.

Investigation findings

An investigation report must be prepared and provided to the Ethical Standards Unit. The investigation report should outline the:

- reason for the investigation
- how the investigation was undertaken
- what evidence and information was obtained during the investigation, and
- findings as to whether the allegation(s) are or are not substantiated.

At the conclusion of the investigation stage, the Ethical Standards Unit will notify the Commission of the findings and outcomes of the investigation.

In accordance with the relevant Agreement, any substantiated allegation(s) will result in a discipline outcome being determined and applied by the delegated department officer.

Employee may be represented during investigation

Deemed employees are entitled to be represented by a person of their choice at any stage of a formal misconduct matter, including during investigations into reportable conduct allegations. This person may be a friend, family member, a union representative or other advocate. Refer to the [Managing Unsatisfactory Work Performance and Misconduct Policy](#) for more information.

If the Commission undertakes an investigation, an Employee who is the subject of an allegation of reportable conduct may, but is not required to answer any question of, or provide any information to, the Commission. In addition, it is a reasonable excuse to refuse or fail to give information or documents to the Commission if giving that information or those documents would tend to incriminate the person.

11. Information handling under this policy and the Reportable Conduct scheme

Key Points

- Information relating to reportable conduct allegations and investigations can be shared between the Commission, in-scope organisations, Victoria Police and government departments and agencies.
- There are privacy protections for individuals who notify the Commission of a reportable conduct allegation and a child in relation to whom the reportable allegation was made.

Information sharing under the Reportable Conduct scheme

The scheme permits certain bodies including the Commission, in-scope organisations, Victoria Police, the Working with Children Check Unit within the Department of Justice and Community Safety and other government departments and agencies, to share information relating to reportable conduct allegations and investigations to better protect children from abuse, neglect and sexual misconduct.

Sharing information regarding a reportable conduct allegation

Under the scheme, the department may share information regarding a reportable conduct allegation against a deemed employee of the department (including information about the nature of the allegation, the investigation, the investigation findings, reasons for the findings, the recommendations made at the conclusion of the investigation, and actions taken by the department in response) with:

- the Commission
- Victoria Police
- other regulators
- the Employee's professional registration body, if applicable (for example, the Victorian Institute of Teaching scheme and the Australian Professional Registered Healthcare Association)
- DJCS, if necessary for the purposes of a WWCC
- an independent investigator engaged by the department to investigate the reportable conduct allegation
- a Government Minister
- any other person prescribed by the regulations (including the Chief Psychiatrist).

The Commission may also share information regarding a reportable conduct allegation involving a department Employee with the above parties.

Sharing investigation information with children and parents

Under the scheme, the department and the Commission are able to disclose information about the progress of a reportable conduct investigation, the investigation findings, reasons for the findings, the recommendations made at the conclusion of the investigation, and actions taken by the department in response, to a child, parent or carer of a child to whom the allegation relates. This will ensure that the child and their family are able to be informed of the progress of responses to reportable conduct allegations.

Sharing reportable conduct findings with the WWCC unit at DJCS

If a finding is made that a department Employee has committed reportable conduct, then subject to certain exceptions, the Commission must notify the Secretary of DJCS of the finding to ensure that an assessment (or reassessment) of the individual's eligibility to hold a WWCC is undertaken. This will ensure adults who pose an unacceptable risk can be excluded from working with children.

Confidentiality and Privacy

It is important that appropriate confidentiality is maintained with respect to matters managed under this policy. Disclosure of information will be limited to disclosure permitted or required under the scheme or other law. Unless disclosure is authorised or required by the CWS Act, it is recommended that advice from local privacy contacts be sought prior to the release of material that may contain personal details.

The Protocol between Victoria Police and the department on Reporting Employee Criminal Conduct and the Reporting Employee Criminal Conduct Policy provide guidance on the circumstances when information will be released to police.

Protections for those who make a notification

The CWS Act prohibits the publication of identifying information about:

- individuals who notify the Commission of a reportable conduct allegation, and
- a child in relation to whom the reportable allegation was made.
- people who disclose information to the Commission in good faith cannot be subject to unprofessional conduct or a breach of professional ethics proceedings, or any related liability.

Record keeping practices and security of information

Relevant details of all notifications of reportable conduct allegations received by the Ethical Standards Unit are entered into a secure case management system. The case management system also acts as a document repository.

In addition to the use of the case management system, for reportable allegations relating to deemed employee that proceed to be investigated, a confidential hard-copy TRIM file is created to house evidence collected as part of an investigation, and this is stored securely.

A record of any substantiated misconduct allegation is placed on the employee's personnel record, with an entry also entered into the department's employment system (SAP).

Appendix 1: Glossary and Acronyms

Term	Definition
Authorised delegate	Under the Act, the Secretary, as the head of department, has certain powers, functions and responsibilities. Some of these responsibilities have been delegated to certain authorised delegate, to undertake on behalf of the Secretary. Authorised delegates include the Manager, Ethical Standards Unit, Principal Investigator, Ethical Standards Unit, Principal Consultant, Ethical Standards Unit and Assistant Director, Audit, Compliance and Integrity.
Child	Refers to a person who is under the age of 18 years.
Commission	The Commission for Children and Young People established by Section 6 of the <i>Commission for Children and Young People Act 2012</i> (Vic)
CWS Act	<i>Child Wellbeing and Safety Act 2005</i> (Vic), as amended by the <i>Children Legislation Amendment (Reportable Conduct) Act 2017</i> (Vic)
Department	Department of Health and Human Services
Head of entity	Under the Act, the Secretary is the head of entity for the department. Certain responsibilities of the Secretary have been delegated to authorised delegates.
In-scope organisations	All entities subject to the reportable conduct scheme under the CWS Act, including the department.
Kinship carer	This is a family member or other person of significance to the child protection client and: the Children's Court, the Secretary to the department, or an Aboriginal Agency authorised under Section 18 of the <i>Children, Youth and Families Act 2015</i> (the Act) has placed the child protection client with the person under the Act; or and a child has been placed with the person as a result of a voluntary child care agreement under Part 3.5 of the Act.
Reasonable belief	A reasonable belief is more than suspicion. There must be some objective basis for the belief. However, it is not that same as having proof and does not require certainty.
Reportable allegation	Any information that leads a person to form a reasonable belief that a deemed employee of the department has committed: reportable conduct misconduct that may involve reportable conduct whether or not the conduct or misconduct is alleged to have occurred during the course of the person's employment contract, service contract or volunteer arrangements (as applicable) with the department.
Reportable conduct	Any of the following: <ul style="list-style-type: none"> a sexual offence committed against, with or in the presence of a child, or sexual misconduct committed against, with or in the presence of a child, or physical violence committed against, with or in the presence of a child, or

Term	Definition
	<ul style="list-style-type: none"> any behaviour that causes significant emotional or psychological harm to a child, or significant neglect of a child. <p>Refer to Section 5 (Identifying reportable conduct) of this policy for further guidance.</p>
Reportable Conduct scheme	The Reportable Conduct scheme established by Part 5A of the <i>Child Wellbeing and Safety Act 2005</i> (Vic).
Reportable conduct function within the Ethical Standard Unit	<p>The reportable conduct function will form part of the Ethical Standards Unit in the Executive Services and Oversight branch in the department's Corporate Services division, which is responsible for managing the department's functions and duties as an entity under the Reportable Conduct scheme.</p> <p>Refer to Appendix 3 (the Ethical Standards Unit and other supports) for further details.</p>
scheme	Reportable Conduct scheme
Secretary	The Secretary of the Department of Health and Human Services
This policy	The policy titled Reportable conduct: Operational Policy of the Department of Health and Human Services
Volunteer	All individuals who are 18 years of age or over who are engaged by the department to provide services as a volunteer.
Deemed employee	<ul style="list-style-type: none"> People who are 18 years of age or over, who are: employed by the department as an employee, whether their employment is governed by the <i>Victorian Public Service Enterprise Agreement 2016</i>, or the <i>HACSU Department of Human Services Disability Services Agreement 2012-2016</i>, any other enterprise or industrial agreement, a private contract of employment, including an executive contract, engaged by the department as an office holder or officer engaged by the department to provide services as a contractor. Kinship carers volunteers This includes students or graduates, interns and trainees who are 18 years of age or older.

Term	Definition
EAP	The department's Employee Assistance Program
DJCS	Department of Justice and Community Safety
DWES	Disability Workers Exclusion scheme
WWCC	Working with Children Check (administered by DJCS)

Appendix 2: Legislation and regulations and the role of the Commission for Children and Young People and Victoria Police

Legislation and regulations

The Reportable Conduct scheme (the scheme) commenced on 1 July 2017 by the *Child Wellbeing and Safety Act 2005* (Vic), as amended by the *Children Legislation Amendment (Reportable Conduct) Act 2017* (CWS Act).

The *Children Legislation Amendment (Reportable Conduct) Act 2017* also made amendments to the following Acts for the purposes of the scheme:

- *Commission for Children and Young People Act 2012* (Vic)
- *Working with Children Act 2005* (Vic)
- *Children, Youth and Families Act 2005* (Vic)
- *Education and Training Reform Act 2006* (Vic)
- *Disability Act 2006* (Vic)

Additional regulations (*Child Wellbeing and Safety Regulations 2017*) came into operation on 1 July 2017 to facilitate the effective operation of the scheme.

Role of the Commission for Children and Young People

The Commission is the regulator and lead oversight body for the scheme. Broadly, the Commission's functions and powers include:

- receiving and maintaining a database of notifications from organisations of reportable conduct allegations
- overseeing organisations' investigations of reportable conduct allegations
- where necessary, carrying out its own investigations into reportable conduct allegations, or, the handling of allegations by organisations
- monitoring organisations' compliance with the scheme, including scrutinising organisations' systems for investigating reportable conduct allegations
- protecting children by working with organisations, funders, other regulators and other relevant bodies to prevent reportable conduct from occurring in organisations
- sharing certain information about reportable conduct allegations (including investigation findings, the reasons for the findings and recommendations or actions taken in response to investigation findings) with Victoria Police and relevant regulators, to better protect children from abuse
- sharing findings of reportable conduct with the Working with Children's Check Unit at Department of Justice and Regulation, to better protect children from abuse.

The Commission has particular powers to oversee, or itself conduct, an investigation into a reportable allegation, including:

- visit the department to inspect any documents the department holds relating to the allegation
- interview the Employee against whom the reportable conduct allegation has been made
- interview deemed employees

- interview any child who is the subject of, or a witness to, the reportable conduct allegation
- require the department to provide information and documents relating to the allegation; and/or ask the department to assist the Commission with its investigation
- ask Victoria Police whether it is investigating the reportable conduct allegation and if so, ask for the results of Victoria Police's investigation after it is completed
- if the Employee has a professional registration body, for example, the Suitability Panel if the person is an out-of-home carer (residential or foster care), require that body to provide the Commission with information about the Employee for its investigation.

The Commission has other general oversight and enforcement powers to enable it to oversee and enforce the scheme.

The department's obligations as an in-scope organisation under the scheme

The scheme applies to the department from 1 July 2017. As the head of the department, the Secretary is responsible for ensuring that the department performs its functions and meets its obligations as an in-scope organisation under the scheme. Some of these obligations are explained below.

Systems to prevent and respond to reportable conduct

The Secretary is required to ensure that the department has in place a system to:

- prevent the commission of reportable conduct
- enable any person, including department staff, to notify the Secretary's authorised delegate of a reportable conduct allegation
- enable any person, including departmental staff, to notify the Commission of a reportable conduct allegation
- investigate and respond to a reportable conduct allegation against a deemed employee of the department.

Informing the Commission of reportable conduct allegations

If the Secretary (or their authorised delegate) becomes aware of an allegation of reportable conduct against a deemed employee of the department, the Secretary (or their authorised delegate) must notify the Commission of the reportable allegation in writing.

A preliminary notification must be made within three business days of the Secretary (or their authorised delegate) becoming aware of the allegation and a further, more detailed notification must be made within 30 days. Criminal penalties may apply if these timeframes are not met. Refer to Section **Error! Reference source not found.** (Notifying the Commission for Children and Young People) of this policy for further information.

Investigating and responding to reportable conduct allegations

The Secretary's authorised delegate is required to:

- investigate an allegation of reportable conduct against a deemed employee of the department as soon as practicable after becoming aware of it
- inform the Commission of the person conducting the investigation (which may be an officer of the department or an independent investigator engaged by the department)
- provide the Commission with any information or documents relating to the reportable allegation or the investigation requested by the Commission in writing

- provide the Commission with a copy of the findings of the investigation; the reasons for the findings; and the disciplinary or other action that the department proposes to take against the Employee, if applicable, and the reasons why.

The Reportable Conduct scheme and Victoria Police investigations

Importantly, the scheme does not change reporting requirements where criminal conduct has been committed or is suspected. In all circumstances, allegations of suspected criminal conduct must be reported to Victoria Police as the first priority. The scheme also maintains the primacy of an investigation by Victoria Police of any allegations of criminal misconduct.

Appendix 3: The Ethical Standards Unit and other supports

Reportable conduct function within the Ethical Standards Unit

The reportable conduct function sits with the Ethical Standards Unit in the Executive Services Branch in the department's Legal and Executive Services Division. The Reportable conduct function within the Ethical Standards Unit's key responsibilities includes:

- receiving and managing all notifications of reportable conduct allegations which involve the department's deemed employees
- ensuring that all reportable conduct allegations of reportable conduct involving the department's deemed employees are notified to the Secretary and/or their authorised delegate for reporting to the Commission
- investigating and responding to reportable conduct allegations involving the department's deemed employees
- liaising and communicating with the Commission to ensure consistency in the department's interactions, and to track and monitor investigations and outcomes.

If staff have any questions about the scheme or is unsure about whether an incident constitutes reportable conduct, they can contact the [Ethical Standards Unit](#) by telephone on (03) 9096 2671 or via email at <ethicalstandards@dhhs.vic.gov.au>.

Client Safety Practice Leader

The Client Safety Practice Leader is available to staff to seek advice about how to raise a concern about client safety, or feel their concerns are still not being addressed, or are not comfortable raising the matter with any staff. If a department staff member has a client safety concern as a result of a reportable conduct matter or a concern that might involve reportable conduct they can conduct the [Client Safety Practice Leader](#) on (03) 9096 6103 or 0438 399 429 or by email at <clientsafepractice@dhhs.vic.gov.au>.

Employee Wellbeing and Support Program

The department values the health and wellbeing of its staff, and recognises that becoming aware of, or being subject to, a reportable conduct allegation may impact some individuals. To help workers, the department provides an Employee Wellbeing and Support Program, which is a short-term, confidential, counselling service designed to offer a problem-solving, solution-oriented approach to support employees with personal or work related issues.

The Employee Wellbeing and Support Program is staffed by qualified practitioners who are independent of the department. All workers and managers of the department have access to the Employee Wellbeing and Support Program, which provides for a limited number of counselling sessions at no cost to the employee and can be provided over the phone or face-to-face. The department's Employee Wellbeing and Support Program provider is Coverge International, which can be contacted on 1300 687 327.

the Child Protection Wellbeing Program. The suggestion is made on the basis that the child protection workforce have the most contact with children of all deemed employee. The following information in blue & the attached powerpoint may be helpful:

The Child Protection Wellbeing Program

The Child Protection Wellbeing Program provides holistic mental health and wellbeing support to child protection practitioners. Wellbeing support is tailored to the child protection workforce and includes three distinct programs of support:

- Training (Resilience Training is offered to child protection practitioners)
- Support for teams (an in-house Specialist Support Program has been developed to provide wellbeing support to teams)
- Individual counselling (an additional six counselling sessions are available to each child protection practitioner)

The Child Protection Health Program (CPHP) strengthens our psychological supports for child protection staff. CPHP is a screening and referral service that provides child protection practitioners with initial support, information and referral to a qualified health professional, taking into account preferences for geographical location and service need. Child protection practitioners can access up to six counselling sessions per issue. Contact: 1800 998 333 or www.nmhp.org.au/cphpv

Commission for Children and Young People

If anyone is unsure about, or wishes to report, a reportable conduct incident or an incident that may involve reportable conduct, they can contact the [Commission](#) by telephone on (03) 8601 5281 or via email at <childsafestandards@ccyp.vic.gov.au>.

Appendix 4: Other relevant laws, policies and child safeguarding systems

For the department and the department's deemed employees, the scheme complements and builds upon a range of existing Victorian laws, child safeguarding systems and workplace misconduct policies and processes designed to ensure that allegations against deemed employees are investigated and appropriately responded to, and that child safety is maintained. These include, but are not limited to, those listed below:

Legislation

- *Fair Work Act 2009 (Cth)*
- *Fair Work Regulations 2009 (Cth)*
- *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth)*
- *Public Administration Act 2004 (Vic) – Public sector values and employment principles*
- *Public Administration (Review of Actions) Regulations 2005 (Vic)*
- *The policy is consistent with the Charter of Human Rights & Responsibilities Act 2006 (Vic) and the Equal Opportunity Act 2010 (Vic)*
- *Privacy and Data Protection Act 2014 (Vic)*
- *Child Wellbeing and Safety Act (2005) (Vic)*

Standards

The Victorian Public Sector Commission's:

- [Code of Conduct for Victorian Public Sector Employees 2015](http://vpssc.vic.gov.au/html-resources/code-of-conduct-for-victorian-public-sector-employees/) <http://vpssc.vic.gov.au/html-resources/code-of-conduct-for-victorian-public-sector-employees/>
- [Public Sector Standards](http://vpssc.vic.gov.au/ethics-behaviours-culture/employment-principles-and-standards/) <http://vpssc.vic.gov.au/ethics-behaviours-culture/employment-principles-and-standards/>
- [Managing Poor Behaviour in the Workplace](http://vpssc.vic.gov.au/resources/managing-poor-behaviour-in-the-workplace/) <http://vpssc.vic.gov.au/resources/managing-poor-behaviour-in-the-workplace/>
- [Fair and Reasonable Treatment Guidelines](http://vpssc.vic.gov.au/html-resources/standards-for-application-of-the-victorian-public-sector-employment-principles/) <http://vpssc.vic.gov.au/html-resources/standards-for-application-of-the-victorian-public-sector-employment-principles/>
- [Reasonable Avenue of Redress Guidelines](http://vpssc.vic.gov.au/html-resources/standards-for-application-of-the-victorian-public-sector-employment-principles/) <http://vpssc.vic.gov.au/html-resources/standards-for-application-of-the-victorian-public-sector-employment-principles/>

Industrial Agreements

- [Victorian Public Service Enterprise Agreement 2016](https://intranet.dhhs.vic.gov.au/victorian-public-service-enterprise-agreement-2016) <https://intranet.dhhs.vic.gov.au/victorian-public-service-enterprise-agreement-2016>
- [Disability Services Enterprise Agreement Victoria 2018-2022](#)

Policies and protocols

All applicable department policies and protocols, including but not limited to:

- [The department's values](https://intranet.dhhs.vic.gov.au/our-values) <https://intranet.dhhs.vic.gov.au/our-values>

- The Protocol between Victoria Police and the department on [Reporting Employee Criminal Conduct and the Reporting Employee Criminal Conduct Policy](#), <<https://intranet.dhhs.vic.gov.au/>> which explains the procedure for notifying Victoria Police of alleged criminal conduct by department employees and contractors, and supports the timely sharing and exchange of pertinent information.
- [Managing Unsatisfactory Work Performance and Misconduct Policy](#) <<https://intranet.dhhs.vic.gov.au/managing-unsatisfactory-work-performance-and-misconduct-policy-vps>>, which applies to department employees whose employment is governed by the Victorian Public Service Enterprise Agreement 2016
- [Managing performance and conduct in disability services](#) (MPC) policy <<https://intranet.dhhs.vic.gov.au/managing-discipline-policy-and-procedure-disability-services>>, which applies to department employees whose employment is governed by the Disability Services Enterprise Agreement Victoria 2018-2022
- Various safety screening and recruitment policies that applying to employees, contractors and volunteers.

Child safeguarding systems

Other child safeguarding systems in Victoria to protect children, including but not limited to:

- The [WWCC](#) <<https://www.workingwithchildren.vic.gov.au/about-the-check>> system administered by DJCS under the *Working with Children Check Act 2005* (Vic)
- [Mandatory reporting requirements](#) <<https://providers.dhhs.vic.gov.au/mandatory-reporting>> to Child Protection under the *Children Youth and Families Act 2005* (Vic), which is separate to obligations under the scheme.
- The [Carer Register](#) <<https://providers.dhhs.vic.gov.au/carer-register>> maintained by the Secretary under the *Children Youth and Families Act 2005* (Vic) of persons approved, employed or engaged as out-of-home carers in Victoria, including department managed services
- Independent investigations into allegations against out of home carers, including department managed services, carried out by authorised investigators and referred to the [Suitability Panel](#) <<http://www.suitabilitypanel.vic.gov.au/about.html>> for consideration under the *Children Youth and Families Act 2005* (Vic)
- [The Disability Worker Exclusion scheme](#) <<https://providers.dhhs.vic.gov.au/disability-worker-exclusion-scheme>>, which is designed to exclude unsuitable people from working with clients in Disability Residential Services, including department managed services
- Client incident management policies, which require workers to report incidents involving clients of the department to ensure timely and effective responses to incidents and client safety and wellbeing.
- The [Child Safe Standards](#) <<https://dhhs.vic.gov.au/publications/child-safe-standards>> under the CWS Act (the Standards). The Standards aim to drive change in organisational culture to embed child safety in everyday thinking and practice and to provide a minimum standard of child safety across organisations. The Standards focuses on organisational systems and are flexible and principle based. They aim to reinforce the need of all to be actively involved in keeping children safe from abuse.