



Procedure for Responding to Child Protection Concerns (NSW & ACT)

Version
Version 1

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This policy is available on our SharePoint Resources folder under Policies and Procedures.

Policies will be reviewed annually but remain valid until replaced

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Important

In an emergency please contact emergency services immediately.
(Police: 131 444 or 000)

Please note that the Safe Ministry Team must report back to the
person raising the concern within 48 hours.

1. Purpose

The *Procedure for Responding to Child Protection Concerns (Procedure)* sets out a procedure to follow when a complaint or information about any form of child protection concern is received.

In NSW, this includes a Child Abuse Offence, Child Sexual Abuse, Sexual Misconduct involving a Child, or that a child is at Risk of Significant Harm.

In the ACT this includes a Sexual Offence Committed Against a Child or Young Person, Sexual Misconduct Involving a Child, Child Sexual Abuse and/or Non-Accidental Physical Injury.

The Association and its staff, volunteers and representatives have legal obligations to report certain information to government authorities.

In NSW this includes duties under the *Crimes Act 1900 (NSW)*, *Children and Young Persons (Care and Protection) Act 1998 (NSW)* and the *Children's Guardian Act 2019*.

In ACT this includes duties under the *Crimes Act 1900 (ACT)*, *Children and Young People Act 2008 (ACT)*, and the *Ombudsman Act 1989 (ACT)*

Some of these duties apply to the Association, as an entity, or to leaders within the Association; some of the duties apply to individuals. In some circumstances, failing to report knowledge of child abuse incidents to Police may be a criminal offence. The Association has developed this *Procedure* to address various relevant duties in a way that is both thorough and practical.

2. Scope

This Procedure applies to all staff, volunteers and other representatives of the Association and its Affiliated Ministries.

This Procedure applies to Accredited and Recognised Ministers. Where ministers are employed by another organisation (for example but not limited to local churches), their responses and reporting requirements should be carried out through that organisation, however, if there is an allegation that an Accredited or Recognised Minister has engaged in Reportable Conduct then that will be dealt with under this Procedure regardless of where the conduct is alleged to have occurred.

The Procedure should be read in conjunction with the *Safe Ministry Policy* and:

- *Procedure for Handling Complaints*
- *Safe Ministry Concerns Form*

3. Definitions

Association means the Baptist Union of NSW, trading as the Baptist Association of NSW & ACT and including Affiliated Ministries.

Child protection concern includes concerns regarding:

- A Child Abuse Offence
- Child Sexual Abuse
- Sexual Misconduct involving a child
- A Sexual Offence Committed Against a Child or Young Person
- A child at Risk of Significant Harm
- Non-Accidental Physical Injury to a child
- Inappropriate discipline
- Physical abuse of a child
- Serious neglect of a child
- Behaviour which may psychologically harm a child
- Inappropriately personal or intimate communication and/or behaviours which may constitute grooming
- Exposure of a child to Domestic and Family Violence
- Behaviour which may be considered Reportable Conduct
- Any other reason for concern

Complaint includes any allegation, suspicion, concern or report of a breach of the Association's *Code of Conduct* or the Baptist Churches of NSW & ACT *Code of Ethics and Conduct* (where applicable). It also includes disclosures made to an institution about any child protection concern.

Disclosure means a process by which a person conveys or attempts to convey that they are being or have been abused or neglected or that they have committed an offence.

Mandatory Reporting Legislation means

In NSW, the *Children and Young Persons (Care and Protection) Act 1998*
In the ACT the *Children and Young People Act 2008 (ACT)*.

Ministry/team leader refers to

- a) In the case of staff, the staff members' line manager
- b) In the case of committee members, the chair of the committee or taskforce
- c) In the case of Authorised Special Religious Education Teachers, the Association's SRE Coordinator or their delegate
- d) For all other volunteers or representatives, the person they are accountable to in the relevant organisational structure

Reportable Conduct Legislation means

In NSW the *Children's Guardian Act 2019 (NSW)*
In the ACT the *Ombudsman Act 1989 (ACT)*.

Safe Ministry Team means the team appointed under section 5 of the Association's *Safe Ministry Policy*.

Volunteers include but are not limited to members and attendees of Councils, committees and taskforces

Other representatives include but are not limited to

Authorised Special Religious Education Teachers;

Nominated volunteers in Simple Churches that are affiliated with the Simple Church Network; and

nominated volunteers in any Newstart church plant for which the Association has agreed to provide governance oversight.

WWCC Legislation means the *Child Protection (Working with Children) Act 2012* (NSW).

WWVP Legislation means the *Working with Vulnerable People (Background Checking) Act 2011* (ACT).

4. Receiving a complaint or identifying a child protection concern

A child protection concern may be received:

- From a child who has been directly involved
- From an adult who has been directly involved (including personal disclosures of wrongdoing)
- From another person with information about a child or adult
- From another organisation with information about a child or adult
- From staff, volunteers or representatives who have concerns based on their observations and interactions with one or more children or adults

If someone raises a concern or reports an allegation, the Association recommends the following for staff members, volunteers and/or representatives:

- DON'T promise not to report the information
- DON'T ask leading questions
- DON'T attempt to assess the validity of the concern, or seek to investigate any allegation yourself
- DO clarify information reported to you if appropriate (for example, 'Can you tell me more about that?')
- DO assure the person that appropriate action will be taken
- (If the person raising a concern is a child), DO reassure them that they are not at fault and that they will not be in trouble for sharing this information

If a staff member, volunteer or representative has a concern about a child's wellbeing but have not received any specific information they may report the concern using the *Safe Ministry Concerns Form*.

5. Consider whether there is an immediate danger to a child

Where there is an **immediate** danger to a child:

- contact the Police urgently on (131 444 or 000) and report the information;
- follow any instructions given by the Police;
- address any immediate safety needs of others present; and
- organise support for the person who has disclosed the complaint or information.

6. Internal Reporting

The following steps should be undertaken by a staff member, volunteer or representative who has, or is notified of, a child protection concern in the course of their role with the Association.

In the case of any allegation of reportable conduct *against* a staff member, volunteer or representative of the Association, *the allegation must be reported whether or not the conduct was in the course of their role with the Association* (see section 7 (c) below).

Step 1: Notify Safe Ministry Contact Person

The staff member, volunteer or representative should notify the Safe Ministry Contact Person for their ministry area immediately. If the Safe Ministry Contact Person has a conflict of interest or is not available then the staff member, volunteer or representative should notify the Safe Ministry Team directly.

Step 2: Complete Safe Ministry Concern Form

The staff member, volunteer or representative should complete a *Safe Ministry Concerns Form* as soon as possible. This form should include relevant details of the concern, contact information and their signature.

Step 3: Safe Ministry Contact Person to notify the Safe Ministry Team

When notified by a staff member, volunteer or representative of a child protection concern, the relevant Safe Ministry Contact Person must inform the Safe Ministry Team as soon as possible.

The Safe Ministry Team is responsible for ensuring the Association fulfils its legal obligations and that all concerns are managed appropriately.

The Safe Ministry Team can be contacted via any member of the Safe Ministry Team, or via on the Ministry Standards Hotline on 1300 647 780 or via email on standards@nswactbaptists.org.au .

- If there is any delay before the Safe Ministry Team can be contacted, the individual should consider whether it is necessary to report their concerns to external government agencies as outlined in step 7 below.
- Staff, volunteers and representatives should ensure they do not discuss any concerns raised with the accused person at this point in time. Doing so may impede future investigation processes.
- If the concern raised would create a conflict of interest for one member of the Safe Ministry Team then the Safe Ministry Contact Person should contact another member of the Safe Ministry Team, the Director of Ministries or the Chair of the Assembly Council.

7. External Reporting to Government Agencies

This section outlines reporting that both individuals and the Association are required by law to undertake.

a) **Mandatory Reporting**

IN NSW: Report Risk of Significant Harm to Department of Communities and Justice (formerly known as FACS or DOCS)

- In NSW, if a staff member, volunteer or representative is a 'person in religious ministry', or a 'person providing religion-based activities to children' then they are considered to be a mandatory reporter. If a mandatory reporter, in connection with their engagement with the Association, has cause to believe that a child is at Risk of Significant Harm, then they should make report as soon as possible to the Child Protection Helpline via 132 111 or an e-report.
- If the Safe Ministry Team determine that there is a child at Risk of Significant Harm, then they are to make a report as soon as possible to the Child Protection Helpline via 132 111 or an e-report, unless a report has already been made
- If there is any doubt whether a concern would be considered a Risk of Significant Harm, then the Safe Ministry Team should complete the Mandatory Reporter Guide (MRG) at <https://reporter.childstory.nsw.gov.au/s/mrg>
- If the MRG results in 'Immediate Report to the Child Protection Helpline', make a report as soon as possible via 132 111 or an e-report.
- The Safe Ministry Team should keep a copy of the MRG report for their records.

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

27 Mandatory reporting

(1) This section applies to—

- (a) a person who, in the course of his or her professional work or other paid employment delivers health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children, and
- (b) a person who holds a management position in an organisation the duties of which include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children.
- (c) a person in religious ministry, or a person providing religion-based activities to children, and
- (d) a registered psychologist providing a professional service as a psychologist.

(2) If—

- (a) a person to whom this section applies has reasonable grounds to suspect that a child is at risk of significant harm, and
- (b) those grounds arise during the course of or from the person's work, it is the duty of the person to report, as soon as practicable, to the Secretary the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm.

IN ACT: Reporting to the Child and Youth Protection Service (CYPS)

In the ACT, if a staff member, volunteer or representative of the Association is a 'minister of religion, religious leader or member of the clergy of a church or religious denomination' then they are considered a mandatory reporter. If the Safe Ministry Team or any mandatory reporter:

- believes, on reasonable grounds, that a child or young person in the ACT is being or has been sexually abused, or is experiencing or has experienced non-accidental physical injury (physical abuse)
- AND the reasons for the belief arise from information obtained during the course of, or because of, that person's work

Then they must make a Mandatory Child Concern Report as soon as possible to the CYPS via

- CYPS Mandated Reporters Line on 1300 556 728, or
- by email childprotection@act.gov.au, or
- by using the online form at <https://form.act.gov.au/smartforms/csd/child-concern-report/>

If any other staff member, volunteer or representative, Safe Ministry Contact person or the Safe Ministry Team considers that there is a serious risk to the safety and wellbeing of a child or young person then they should make a voluntary report to the CYPS on 1300 556 729 as soon as possible.

Children and Young People Act 2008 (ACT) section 356

Offence—mandatory reporting of abuse

- (1) A person commits an offence if—
 - (a) the person is a mandated reporter; and
 - (b) the person is an adult; and
 - (c) the person believes on reasonable grounds that a child or young person has experienced, or is experiencing—
 - (i) sexual abuse; or
 - (ii) non-accidental physical injury; and
 - (d) the person's reasons for the belief arise from information obtained by the person during the course of, or because of, the person's work (whether paid or unpaid); and
 - (e) the person does not, as soon as practicable after forming the belief, report (a **mandatory report**) to the director-general—
 - (i) the child's or young person's name or description; and
 - (ii) the reasons for the person's belief...
- (3) In this section:
mandated reporter—each of the following people is a **mandated reporter**...
 - (p) a minister of religion, religious leader or member of the clergy of a church or religious denomination;

section 354 Voluntary reporting of abuse and neglect

- (1) This section applies if a person believes or suspects that a child or young person—
 - (a) is being abused; or
 - (b) is being neglected; or
 - (c) is at risk of abuse or neglect.
- (2) The person may report (a **voluntary report**) the belief or suspicion, and the reasons for the belief or suspicion, to the director-general.

b) Report Child Abuse Offences to Police

- The Association is committed to ensuring that any serious offence is appropriately reported to the relevant Police department. The requirement to report to Police includes both recent incidents and allegations of historic abuse.
- Any child abuse offence **MUST** be reported to Police where the victim is still under 18 and/or the subject of allegations is a staff member, volunteer or representative, unless a reasonable excuse under relevant legislation exists.
- If the Safe Ministry Team obtains information that leads to a reasonable belief that a sexual offence has been committed against a child in the ACT, then they must report this to ACT Police.
- If the Safe Ministry Team considers that a Child Abuse Offence may have been committed against a child in NSW, then they must report this to the NSW Police.
- In both NSW and ACT, Failure to Report to Police is a criminal offence and may be punishable by fine or imprisonment.

NSW - Concealing Child Abuse (Failure to Report) Offence – Crimes Act 1900 (NSW) s316A

If an adult fails to report a Child Abuse Offence in NSW to the NSW Police, this may constitute a Concealing Child Abuse Offence under s316A of the Crimes Act if they:

- believe, know or reasonably ought to know that a Child Abuse Offence has been committed against another person; and
- believe, know or reasonably ought to know that they have information that might be of material assistance to the NSW Police in securing the apprehension, prosecution or conviction of the person who has committed that offence; and
- do not have a 'reasonable excuse' not to report the information.

Reasonable excuses for not reporting to Police may include

- If you believe (on reasonable grounds) that the information is already known to Police;
- If you have made a Report/ to another government body such as Department of Communities and Justice, Ombudsman or the Office of the Children's Guardian
- If the alleged victim is no longer a child and you have reasonable grounds to believe that the person does not want the information reported to Police;
- If you have reasonable grounds to fear for the safety of the alleged victim or any other person (other than the offender) if the information is reported to Police

c) Reportable Conduct

IN NSW: Report Allegations of Reportable Conduct to the Office of Children's Guardian

In the event of receiving any allegations that any staff member, volunteer or representative who is required by the Association to hold a Working With Children Check for the purposes of their engagement with the Association in NSW has engaged in Reportable Conduct, whether or not the conduct was in the course of their engagement with the Association, the Safe Ministry Team (on behalf of the Head of Entity) must:

- Notify the Reportable Conduct Scheme (administered by the Office of the Children's Guardian) as soon as practicable, but within a maximum of 7 days from receiving the complaint or information
see section 6.2 of the *Procedure for Handling Complaints*.
- As soon as practicable, conduct an investigation or appoint a suitable person to conduct an investigation regarding the reportable allegation
see Section 10 of the *Procedures for Handling Complaints*
- Provide a written "entity report" to the Reportable Conduct Scheme within 30 days of receiving information about the Reportable Allegation
see Section 12 of the *Procedures for Handling Complaints*.

Children's Guardian Act 2019

20 Meaning of "reportable conduct"

Reportable conduct means the following conduct, whether or not a criminal proceeding in relation to the conduct has been commenced or concluded—

- a) a sexual offence, [*an offence of a sexual nature under a law of the State, another State, a Territory, or the Commonwealth, committed against, with or in the presence of a child, s21*]
- b) sexual misconduct, [*conduct with, towards or in the presence of a child that (a) is sexual in nature, but (b) is not a sexual offence. s22*]
- c) ill-treatment of a child,
- d) neglect of a child,
- e) an assault against a child,
- f) an offence under section 43B or 316A of the Crimes Act 1900,
- g) behaviour that causes significant emotional or psychological harm to a child.

IN ACT: Report Allegations of Reportable Conduct to the ACT Ombudsman

In the event of receiving any allegations of Reportable Conduct against a staff member, volunteer or representative of the Association engaged in the ACT., whether or not the alleged conduct was in the course of employment, the *Safe Ministry Team* (on behalf of the Head of Designated Entity) must

- Notify the Reportable Conduct Scheme (administered by the ACT Ombudsman) as soon as practicable, but within a maximum of 30 days from receiving the complaint or information, in accordance with s 17G of the *Ombudsman Act 1989* (ACT).
- The Safe Ministry Team should also follow Section 6.2 of the *Procedure for Handling Complaints*.
- As soon as practicable, conduct an investigation or appoint a suitable person to conduct an investigation regarding the reportable allegation (see section 10 of the *Procedure for Handling Complaints*).
- Provide a written "s17J final report" to the Ombudsman in the form outlined in http://www.ombudsman.act.gov.au/_data/assets/pdf_file/0014/81005/No.-7-17J-final-report.pdf (see section 12e of the *Procedure for Handling Complaints*)

Ombudsman Act 1989 (ACT) 17E

Meaning of Reportable Conduct

(1) In this division:

"reportable conduct" means conduct—

- (a) engaged in by an employee of a designated entity, whether or not in the course of employment with the entity; and
- (b) that results in any of the following, regardless of a child's consent:
 - (i) ill treatment or neglect of the child;
 - (ii) exposing or subjecting the child to—
 - (A) behaviour, or a circumstance, that psychologically harms the child; or
 - (B) misconduct of a sexual nature that does not form part of an offence mentioned in subparagraph (iii);
 - (iii) an offence against any of the following provisions of the Crimes Act 1900 for which the child is either present or a victim at the time of the conduct:
 - (A) part 2 (Offences against the person);
 - (B) part 3 (Sexual offences);
 - (C) part 4 (Female genital mutilation);
 - (D) part 5 (Sexual servitude);
 - (iv) an offence against either of the following provisions of the Education and Care Service National Law (ACT)
 - (A) section 166 (Offence to use inappropriate discipline);
 - (B) section 167 (Offence relating to protection of children from harm and hazards).

Safe Ministry Team responsibilities

The Safe Ministry Team should:

- ensure all necessary reports are made. Reports to different government agencies is required for different purposes and therefore multiple reports may be required.
- keep detailed contemporaneous notes of all information and steps taken.
- also follow all relevant steps outlined in the *Procedures for Handling Complaints*.

8. Accountability Measures

- As soon as is practicable (no longer than 48 hours after notification), the Safe Ministry Team must inform the person completing the initial *Safe Ministry Concerns Form* of what action they have taken, including any reports made and the 'report number' for reports to Police, CYPS and/or the DCJ Child Protection Hotline.
- If the Safe Ministry Team determines that it is not necessary to make a report to Police, CYPS and/or the DCJ Child Protection Hotline, the person who completed the initial *Safe Ministry Concerns Form* may choose to make a report themselves in order to ensure that they have not breached s316A of the *Crimes Act 1900* (NSW), s66AA of the *Crimes Act 1900 (ACT)* or obligations under the Mandatory Reporting legislation.

9. Recordkeeping

The Association must securely retain the *Safe Ministry Concerns Form*, Mandatory Reporters Guide report (if completed) and detailed notes of action taken in relation to any child protection concern for a minimum of 45 years.