

# Engaging and working with youth volunteers

Legal information for community organisations across Australia

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## This fact sheet covers:

- ▶ what's different about youth volunteers?
  - ▶ engaging youth volunteers
  - ▶ managing youth volunteers
  - ▶ protecting youth volunteers, and
  - ▶ insurance considerations
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**Your organisation's obligations to volunteers also apply to youth volunteers. However, when your organisation engages youth volunteers, you must also consider issues that are specific to this group.**

Youth volunteers are an integral part of many not-for-profit organisations. Volunteering can be a richly rewarding experience for youth volunteers to engage with their communities and the participation of youth volunteers can be an invaluable asset to organisations.

However, when engaging youth volunteers, it's important to consider specific legal issues and obligations that may apply to this particular group. These obligations may differ slightly in each state and territory.

## What's different about youth volunteers?

Generally speaking, when we refer to 'youth volunteers', we mean volunteers under the age of 18.

Youth volunteers have distinguishing characteristics that your organisation must consider when recruiting and engaging them:

- Skills and experience – Young people are still developing skills and may have different competencies and physical capabilities from adult volunteers.
- Knowledge of rights and responsibilities – Youth volunteers are likely to have little workplace experience or knowledge of their rights (for example, the right to a safe workplace) and responsibilities (for example, appropriate workplace behaviour and safety).
- Confidence – Young people may lack confidence, so creating an environment where they are comfortable to speak out is important. Other young people may be overly confident, so adequate supervision is also an important part of your organisation's management of youth volunteers.
- Vulnerability – Children and young people are considered to be at greater risk than other members of our community in certain areas. Specific laws apply to protect children and young people.



## Engaging youth volunteers

Before engaging a youth volunteer you should consider:

- whether they have adequate skills and experience to perform the role – does the role require skills or experience that young people may not have yet?
- is your organisation able to meet its duty of care to provide a safe workplace for the young person in respect of their physical, mental and emotional safety?

If you answer 'no' to either question, reflect on whether it would be safe for a youth volunteer to perform the role and whether your organisation can put any safeguards and processes in place to manage their safety.



### Caution

Before engaging a youth volunteer, you must consider whether the youth volunteer is actually a volunteer or whether the substance of the relationship is one of employee and employer. This distinction is important as different entitlements and obligations apply to employees.

See [part 2 of Not-for-profit Law's National Volunteer Guide](#), which deals with the differences between a volunteer and other workers, like employee relationships.

## Parental consent for youth volunteers

An organisation is not formally required (in any state or territory) to get consent from a youth volunteer's parent or guardian for the youth to volunteer with the organisation.

However, from a best practice perspective, you should make sure your organisation gets written consent from a prospective youth volunteer's parent or guardian about the youth volunteer's planned role with the organisation.

To make sure that parents and guardians are able to give informed consent, you should provide clear information to a parent or guardian about the proposed scope of the volunteering role, including:

- what the youth volunteer will be doing
- where the youth volunteer will be volunteering
- when the youth volunteer will be volunteering
- who will be supervising the youth volunteer, and
- the contact details of a person at the organisation the parent or guardian can contact if they have any questions about the volunteering

Your organisation should also get consent from a parent or guardian before a youth volunteer is photographed, audio taped or otherwise filmed in their volunteering role.

If a youth volunteer's volunteering role changes, you should make sure you get separate parental consent for the youth volunteer to take on that role.

## Induction and training

During the induction and training of youth volunteers:

- make sure they understand what they will be doing in their role
- get the volunteer's consent for the collection of their personal information, including consent to photograph, film or otherwise record the volunteer in their role, and explain how you are going to use it
- make sure the volunteer understands the organisation's policies and why they exist
- highlight policies that are particularly relevant to youth volunteers, such as social media, privacy, IT and appropriate workplace behaviour
- explain the importance of a safe workplace and provide training on how to avoid harmful situations where possible, and point out any special safety requirements that relate to youth volunteers
- set out the reporting lines and process for dealing with the youth volunteer's complaints and concerns (or their guardian's complaints and concerns)



- allocate a trusted buddy or mentor to the volunteer
- foster a culture of open communication by encouraging the people in your organisation to express any concerns about child safety
- understand the volunteer's study requirements and term dates to make sure that volunteering doesn't interfere with their study; and
- make sure you have emergency contacts for the youth volunteer and important health information, such as allergy information



### Tip

You should make sure any induction program your organisation holds for youth volunteers is appropriately tailored to that particular age group. This includes both the appropriateness of content and form of delivery. It may be necessary to adapt any existing induction programs your organisation delivers, as required.

## Managing youth volunteers

### Duty and standard of care

#### Duty of care

Maintaining a safe workplace is not only an important consideration for your organisation's reputation, but also a legal requirement under specific state and territory work health and safety legislation and also the common law (judge-made law) of negligence.

Your organisation must ensure, as far as is 'reasonably practicable', the health and safety of your youth volunteers and the people that your youth volunteers interact with in their role (for example, clients, other volunteers, staff and members of the public).

It's important to note that this duty of care may extend beyond the organisation's physical workplace to places where youth volunteers are working on behalf of your organisation, such as other private or public places or even their homes.

#### Standard of care

If your organisation owes a 'duty of care' to a person or category of persons, such as a youth volunteer, your organisation needs to treat those people with an appropriate standard of care.

Essentially, in all states and territories, the standard of care expected is the standard of 'the reasonable person' in the same position and with the same knowledge as the person being judged. The standard of care expected in relation to youth volunteers may be higher than that owed to other volunteers, given the relative vulnerability of youth volunteers to other volunteers.



### Example

Caitlin and Jack are both youth volunteers for a local not-for-profit organisation and regularly assist with the delivery of care parcels to residential homes. Before starting their first volunteer shift, the organisation gives them an induction session about staying safe while on their shift. This includes information about:

- working in pairs
- never entering a stranger's home, and
- what to do if they are in a situation where they are threatened or intimidated by a member of the public



## Breach of duty

If your organisation fails to meet the standard of care owed to youth volunteers or the public interacting with your youth volunteers, it will be considered to have breached its duty and your organisation may be required to compensate the injured person for their loss.

## Work health and safety requirements

Your organisation may have additional obligations under specific state and territory work health and safety legislation.

The primary duties owed by organisations to volunteers (including youth volunteers) across each state and territory are:

- the duty to provide and maintain a working environment that is safe and free of risks to the health of workers (which includes volunteers)
- the duty to 'consult' with workers about safety, and
- the duty to notify the relevant regulator of notifiable incidents, and to preserve incident sites

Each volunteer also has their own obligations in relation to occupational health and safety. This includes:

- taking reasonable care for their own health and safety
- taking reasonable care that their acts or omissions do not adversely affect the health and safety of other persons, and
- complying and cooperating with reasonable instructions, policies and procedures relating to health and safety



### Note

Not all organisations have duties under WHS legislation. For example, if your organisation is a volunteer association, being an association made up entirely of volunteers and does not employ any paid workers, you don't have duties under any WHS legislation. However, we recommend that your organisation put practices and procedures in place that promote the health and safety of your organisation.



### Caution

While the Australian Capital Territory, New South Wales, Northern Territory, South Australia, Tasmania and Queensland have adopted the Harmonised WHS Laws, there are differences between the states and territories. Make sure you always consult the relevant legislation in the applicable state or territory.



### Related Not-for-profit Law resources

For further information about WHS laws see part 4 of our [National Volunteer Guide](#) which sets out the laws that regulate health and safety in the workplace in all states and territories.

Also see Not-for-profit Law's [guide to Community Organisations and work health and safety laws](#).



## Work conditions for youth volunteers

Each state and territory has particular legal obligations that apply to the working conditions of children.

Even though many of these obligations apply to child employment only (as opposed to volunteering), as a matter of best practice, your organisation should use these obligations as a guide when engaging youth volunteers. Generally, these obligations:

- set out the time of day that a child is permitted to work (generally not before 6am or after 10pm)
- set out the maximum hours per week a child is permitted to work
- require that any work not interfere with a child's participation in education or training, and
- set standards of working condition for children (for example, engaging in light work or work that is not harmful to the child's physical, mental or emotional wellbeing)



### Related Not-for-profit Law resource

For further information about work conditions for children in your state or territory, see the [annexure to this fact sheet](#) which summarises the laws in the states and territories.

## Protecting youth volunteers

### Screening requirements

If your organisation is planning on engaging youth volunteers, it's particularly important to make sure the organisation has processes in place to screen employees and volunteers who will be working with these youth volunteers.

Some background screening checks are required by law (either under legislation or contract), while others are optional. Even when a screening check is not required, it's best practice for organisations to conduct some level of screening to make sure they maintain a safe environment for all workers (paid and unpaid) and clients.

Unless there is a legal obligation for your organisation to ensure workers have a particular type of check, organisations have discretion to determine what types of screening processes they will incorporate as part of their induction process.

For example, factors which an organisation should take into account include:

- the number of youth volunteers engaged by the organisation
- how closely youth volunteers work with other adult employees or volunteers of the organisation
- whether all workers will be required to get a certain check or only those workers who will work closely with youth volunteers
- whether youth volunteers work alone with adult employees or volunteers, and
- the relative vulnerability of youth volunteers (taking into account age, disability and any other relevant factors)

### Working with children checks

Each state and territory has requirements that oblige organisations to make sure people engaging in certain categories of work have a working with children check. Generally, these checks examine:

- a person's criminal record in all Australian states and territories to determine whether certain categories of offences have been committed that are relevant to the safety of children (for example, serious sexual, violent and drug offences)
- professional conduct (for example, professional disciplinary bodies)
- compliance with health practitioner legislation (historical and current), and
- reporting obligations or orders under sex offender specific legislation (current or historical)

## Police checks

Another common screening mechanism is through a police check. A police check allows an organisation to be informed about a person's previous convictions and is not limited to child-related offences. Unlike a working with children check, where the result is either a pass or fail, a police check provides a list of outcomes and it's up to the organisation to assess whether they are relevant to the person's role and the risk they pose to youth volunteers.

## Other checks

An organisation may also require workers to submit other background checks, such as references. This will allow an organisation to consult with a worker's references and ask questions about the worker's capacity to work with or engage with children.



### Related Not-for-profit Law resources

For more information, see Not-for-profit Law's [screening guides](#).

## Child Safe Standards

In February 2019, the Federal Government endorsed the National Principles for Child Safe Organisations (**National Principles**). The National Principles draw on recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) and provide a nationally consistent approach to embedding a child safe culture across all organisations in all sectors in Australia.

Although Australian organisations are not legally required to adopt them, the National Principles are considered best practice for fostering child safety and wellbeing culture and practice.

If your organisation interacts with children on a regular basis or plans to engage youth volunteers, we recommend you use these National Principles as a guide to create a child safe environment. You can then be satisfied that your organisation is taking steps to protect children from risks to their health and safety.

In Victoria, organisations that engage youth volunteers (or provide services to children) must comply with the minimum Child Safe Standards as set out in the *Child Wellbeing and Safety Act 2005 (Vic)*.

These standards aim to:

- create and ensure child safe environments
- reduce and remove risks of child abuse
- encourage reporting of any suspected child abuse, and
- improve responses to any allegations of child abuse

The Victorian Government has also recently completed a review of the Victorian standards and made 15 recommendations, including amending the standards to better align with the National Principles. These recommendations have been endorsed and work will start on updating the Standards as a first priority. In the meantime, the current version of Victorian standards are still in operation and remain mandatory for organisations under the *Child Wellbeing and Safety Act 2005 (Vic)*.

In South Australia, certain organisations must provide child safe environments and comply with the requirements under the *Children and Young People (Safety) Act 2017 (SA)* and the *Child Safety (Prohibited Persons) Act 2016 (SA)*. These organisations must:

- have a child safe environments policy in place
- meet working with children check obligations, and
- lodge a child safe environments compliance statement, which should all cover youth volunteers



### Related resources

Access the National Principles, along with helpful supporting resources, on the [Child Safe Organisations website](#).

The National Office for Child Safety has also published a [Complaint Handling Guide](#).

For further information about the Victorian Child Safe Standards, refer to the [Victorian Commission for Children and Young People](#).

You can keep up to date with changes to the Victorian Child Safe Standards on the [Department of Health and Human Services website](#).

For further information about the child safe requirements in South Australia, visit the [Department of Human Services website](#).

## Mandatory reporting

Each state and territory has its own mandatory reporting obligations. These obligations generally require certain categories of people to report reasonable concerns they hold about a child's welfare, which arise in the course of their work. This includes registered medical practitioners, nurses, registered teachers, police officers and others.

Further, almost all states and territories require all adults (regardless of their occupation) who hold a reasonable belief that a sexual offence has been committed by an adult against a child under 16 years of age to report the matter to police. A failure to report is a criminal offence.



### Tip

If your organisation engages or works with children, it's important that everyone who works in your organisation (including volunteers) is aware of their reporting obligations and any potential consequences of failing to meet them.

Reporting obligations should form part of your organisation's standard induction, training and ongoing professional development processes, and you should have written policies and procedures in place. For more information on mandatory reporting requirements, see [our Child Safety \(Vic\) fact sheet](#).



### Related resources

For further information about mandatory reporting in your state or territory, see the [annexure to this fact sheet](#) which summarises the laws in the states and territories.

For more information about child protection and mandatory reporting, also go to the website of the relevant Government Department in your state or territory.

To report concerns that are life threatening, call the Police on 000. For urgent child protection concerns, call the After Hours Child Protection Emergency Services on 13 12 78.

## Insurance considerations

Even if your organisation puts measures in place to avoid or minimise risk to the safety and wellbeing of youth volunteers, there may be potential risks that can't be avoided. Your community organisation should consider insurance options available to protect against those risks.



Your organisation should also be aware of what is and isn't covered in insurance policies, such as whether they apply to youth volunteers.

Review your current policies and, if in doubt, ask your insurer questions, including:

- does the policy have any age limits that may affect a claim?
- are youth volunteers' actions covered?
- are injuries sustained by youth volunteers covered?
- are you required to provide any particular information to the insurer about your youth volunteers?

Make sure your youth volunteers are aware of the protections that apply (and don't apply) to them under your insurance policies. For example, if they are injured while volunteering, will any financial assistance be available?



### Related Not-for-profit Law resources

For more information see our [guide on insurance and risk management for community organisations](#).



### Tip

Ask your insurer to confirm the above in writing so that the position is clear to everyone. And if there is any dispute about the policy's coverage, you can refer to this correspondence.





# Resources

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## Not-for-profit Law resources

### ▶ Volunteers

Our Volunteers page includes further information on laws that relate to volunteers. This page includes our National Volunteer App, Recruiting Volunteers e-Learning Module and National Volunteer Guide. The Guide is in six parts and includes a number of templates and sample policy documents, which should be read together.

**Part 1:** Key legal issues for volunteer involving organisations

**Part 2:** Volunteer or employee or independent contractor

**Part 3:** Volunteer safety

**Part 4:** Volunteers and unlawful workplace behaviour

**Part 5:** Recruiting, inducting and managing volunteers

**Part 6:** Organisational issues and volunteers

Our Volunteers page also features free webinars:

- What is a volunteer? Distinguishing between volunteers and other workers in community organisations
- Volunteer or unpaid worker? Court ordered volunteering, mutual obligation activities and other forms of unpaid work
- Youth volunteers: Key legal issues to be aware of when engaging youth volunteers

### ▶ Work health and safety

Our Work health and safety page includes our Child safety fact sheet for Victorian organisations. This fact sheet covers Victoria's compulsory Child Safe Standards and aims to help community organisations strengthen their child safety practices.

### ▶ Recruitment of employees

For more detailed information about Working with Children Checks and Police Checks, see our Screening Checks Guides for each state and territory

### ▶ Insurance and risk

For more detailed information, read our guide on Insurance & Risk Management.

### ▶ The people involved

This section of our website includes more resources on employees, members and volunteers.

## Legislation

- ▶ *Child Wellbeing and Safety Act 2005 (Vic)*
- ▶ *Children and Young People (Safety) Act 2017 (SA)*
- ▶ *Child Safety (Prohibited Persons) Act 2016 (SA)*



## Other resources

▶ [Fair Work Ombudsman](#)

The Fair Work Ombudsman has published a Best Practice Guide for employing young workers. This has useful information that could also be applied to youth volunteers.

▶ [Commission for Children and Young People](#)

The Commission has published resources for organisations in relation creating safe environments for children

▶ [Child Protection Toolkit](#)

Moore and Our Community have created a Child Protection Toolkit for not-for-profit organisations to help them ensure compliance with the complex legislation in this area

▶ [Child Safe Organisations website.](#)

Access the National Principles, along with helpful supporting resources here.

▶ [The National Office for Child Safety \(now part of the Department of the Prime Minister and Cabinet\)](#)

Access the [Complaint Handling Guide](#) here.

▶ [Victorian Commission for Children and Young People.](#)

For further information about the Victorian Child Safe Standards.

▶ [Department of Health and Human Services\(Victoria\)](#)

Keep up to date with changes to the Victorian Child Safe Standards here.

▶ [Department of Human Services \(South Australia\)](#)

For further information about the child safe requirements in South Australia.

# Annexure: Engaging and working with youth volunteers

Legal information for community organisations across Australia

This annexure summarises state and territory laws on:

- ▶ work conditions for youth workers, and
- ▶ mandatory reporting

This annexure complements our fact sheet on engaging and working with youth volunteers

We have not summarised the state and territory laws that regulate health and safety in the workplace. For more information about these laws see part 4 of our [National Volunteer Guide](#).

## ! Caution

The summaries in this annexure extract some of the key state and territory legal provisions regarding work conditions and mandatory reporting – they are not exhaustive.

If you have a question, you will need to check the particular legislation or get legal advice.

## Work conditions for youth volunteers

### Victoria<sup>i</sup>

Span of hours	Maximum hours	Work restrictions
Children under 15 cannot engage in any activity for the organisation, including door-to-door fundraising, earlier than 6am or sunrise (whichever is earlier) or later than 6pm or sunset (whichever is earlier) <sup>ii</sup> .	Although these restrictions only apply to children employed in a for-profit business, as a matter of best practice, your organisation should apply them to youth volunteers. Maximum hours of work: <ul style="list-style-type: none"> <li>• 3 hours per day (12 hours per week) during school term; and</li> <li>• 6 hours per day (30 hours per week) outside school term<sup>iii</sup>.</li> </ul>	A person must not cause or allow a child to engage in any activity that is not 'light work' (ie. harmful to their health, safety or moral or material welfare), employ a child during school hours or prejudices a child's attendance at school <sup>iv</sup> .



## Australian Capital Territory<sup>v</sup>

Span of hours	Maximum hours	Work restrictions
Children under 15 cannot be employed before 6am or sunrise (whichever is later), or after 10:00pm, or as otherwise agreed to by the Director-General <sup>vi</sup> .	A child under 15 may undertake light work for up to 10 hours per week. Hours of work must be calculated to include all workplaces, not 10 hours for each workplace <sup>vii</sup> .	The hours of work must not interfere with the child's participation in education or training and children under the age of 15 can only be employed if the employment conditions constitute 'light work' (ie. adequate supervision and protection from exposure to hazards and potential hazards) <sup>viii</sup> .

## New South Wales<sup>ix</sup>

Span of hours	Maximum hours	Work restrictions
Children can only be employed for a restricted number of hours per day, during certain times of the day and for a limited number of days per week, varying across the entertainment and exhibition, still photography and door-to-door sales industries <sup>x</sup> .  This ranges from 1 – 5 days per week and 4 to 8 hours per day, depending on the age of the child and the work being performed.		A Code of Practice applies to employers of children in the entertainment and exhibition, still photography and door-to-door sales industries, which (among other things) restricts employers from employing children of compulsory school-age during school hours <sup>xi</sup> .

## Northern Territory<sup>xii</sup>

Span of hours	Maximum hours	Work restrictions
An employer of a child under the age of 15 is guilty of an offence if the employer requires the child to perform any work at any time after 10pm and before 6am <sup>xiii</sup> .	N/A	An employer must not require a child to perform any work that is harmful, or likely to be harmful, to the child's physical, mental or emotional wellbeing <sup>xiv</sup> .

## Queensland<sup>xv</sup>

Span of hours	Maximum hours	Work restrictions
A child who is 16 or under may not work between 10pm and 6am and a child who is 11 or 12 may not do delivery work between 6pm and 6am <sup>xvi</sup> .	A child who is 16 or younger may not work: <ul style="list-style-type: none"> <li>for more than 12 hours during a school week;</li> <li>for more than 38 hours during a non-school week;</li> <li>for more than 8 hour on a school day;</li> <li>if the child worked for the same employer for a period of time that ended within the previous 12 hours<sup>xvii</sup>.</li> </ul>	An employer must take reasonable steps to ensure that the child is not subject to deliberate or unnecessary social isolation or any behaviour likely to intimidate, threaten, frighten or humiliate the child <sup>xviii</sup> .



## South Australia<sup>xix</sup>

Span of hours	Maximum hours	Work restrictions
N/A	N/A	It is unlawful to employ a child of compulsory education age during the hours in which they are required to attend school or participate in an approved learning program <sup>xx</sup> .

## Tasmania<sup>xxi</sup>

Span of hours	Maximum hours	Work restrictions
N/A	N/A	A person must not employ a school-aged child during the hours when the child is required to attend school <sup>xxii</sup> .

## Western Australia<sup>xxiii</sup>

Span of hours	Maximum hours	Work restrictions
<p>A child between the age of 13 to 15 can only be employed to carry out delivery work or work in a shop, retail outlet or restaurant (etc) between 6am and 10pm with the written permission of a parent.</p> <p>A child between 10 and 13 years of age can only be employed to carry out delivery work between 6am and 7pm if accompanied by a parent or authorised adult<sup>xxiv</sup>.</p>	N/A	A person who employs a child to perform in an indecent, obscene or pornographic manner in the course of participating in an entertainment, exhibition or advertisement is guilty of a crime <sup>xxv</sup> .

## Mandatory reporting

### Victoria

Reporting obligations that apply to all adults	Reporting obligations that apply to certain people	Reducing or removing risk of child sex abuse
<ul style="list-style-type: none"> <li>An adult (a person 18 years or older) who has a reasonable belief that a sexual offence has been committed by an adult against a child under 16 years has an obligation to report that information to police.</li> <li>This reporting obligation applies to all adults in your organisation in relation to a belief/information they hold about any child, including youth volunteers.</li> </ul>	<ul style="list-style-type: none"> <li>There is also an obligation to report concerns about a child's welfare in certain circumstances. The <i>Children, Youth and Families Act 2005 (Vic)</i> (<b>VIC Child Protection Act</b>) provides that certain people (including a registered medical practitioner) must report if they believe that a child is 'in need of protection'. The circumstances in which a child is 'in need of protection' are</li> </ul>	<ul style="list-style-type: none"> <li>Under the VIC Crimes Act, people associated with certain kinds of organisations (including employees, owners, volunteers, contractors and office holders) may be charged with a criminal 'failure to protect' offence in certain circumstances.</li> <li>The list of 'relevant organisations' (kinds of organisations covered by the VIC Crimes Act) includes youth organisations, sporting</li> </ul>



- If an adult fails to report this information to police, this is a criminal offence (a 'failure to disclose' offence) punishable by up to three years' imprisonment under section 327 of the *Crimes Act 1958* (Vic) (**VIC Crimes Act**). A 'reasonable belief' does not require proof. Rather, it is formed if a reasonable person in the same position would have formed the belief on the same grounds.
- A person will not be guilty of the failure to disclose offence if they have a reasonable excuse for not reporting the suspected abuse. There are also some exceptions to the failure to disclose offence.

defined in the VIC Child Protection Act and includes when a child has suffered significant harm from physical injury.

groups, charities and benevolent organisations (section 49O of the VIC Crimes Act for the full list).

## Australian Capital Territory

### Reporting obligations that apply to all adults

- An adult (a person 18 years or older) commits an offence if they obtain information that leads them to reasonably believe that a sexual offence has been committed against a child and does not, as soon as practicable after forming the belief, give the information to a police officer (section 66AA(1) of the *Crimes Act 1900* (ACT) (**ACT Crimes Act**)).
- A person is not guilty of an offence if they have a reasonable excuse for not reporting the suspected abuse.
- This reporting obligation applies to all adults in your organisation in relation to a belief/information they hold about any child, including youth volunteers.

### Reporting obligations that apply to certain people

- A mandatory reporter (defined under section 356(3) of the *Children and Young People Act 2008* (ACT) (**ACT Child Protection Act**) to include a doctor, dentist, nurse or psychologist, a teacher, a minister of religion, police officer, child carer or counsellor etc.) has an obligation to report a belief, on reasonable grounds, that a child or young person has experienced or is experiencing sexual abuse or non-accidental physical injury and the belief arises from information obtained by the person during the course of, or because of, the person's work (whether paid or unpaid).
- A mandatory reporter is guilty of an offence punishable by a maximum of 50 penalty units, 6 months' imprisonment or both if they do not, as soon as practicable after forming the belief, report to the Director-General of the Community Services Directorate (section 356(1) of the ACT Child Protection Act).

### Reducing or removing risk of child sex abuse

- People associated with certain kinds of organisations (including employees, owners, volunteers and contractors of an entity that provides services to children) may be charged with a criminal 'failure to protect' offence in certain circumstances (section 66A of the ACT Crimes Act).



## New South Wales

Reporting obligations that apply to all adults	Reporting obligations that apply to certain people	Reducing or removing risk of child sex abuse
<ul style="list-style-type: none"> <li>An adult (a person 18 years or over) who knows, believes or reasonably ought to know that a child abuse offence has been committed against another person, that they have information that might be of material assistance in securing the apprehension of the offender or the prosecution or conviction of the offender for the offence, must bring that information to the attention of a member of the NSW Police Force as soon as it is practicable to do so (section 316A(1) <i>Crimes Act 1900</i> (NSW) (<b>NSW Crimes ACT</b>)).</li> <li>An adult is guilty of an offence punishable by a maximum penalty of 2 years' imprisonment (if the maximum penalty for the child abuse offence is less than 5 years' imprisonment) or 5 years' imprisonment (if the maximum penalty for the child abuse offence is 5 years' imprisonment or more) if they fail to bring that information to the attention of a member of the NSW Police Force as soon as it is practicable to do so (section 316A(1) of the NSW Crimes Act).</li> <li>A person is not guilty of an offence if they have a reasonable excuse for not reporting the suspected abuse.</li> <li>This reporting obligation applies to all adults in your organisation in relation to a belief/information they hold about any child, including youth volunteers.</li> </ul>	<ul style="list-style-type: none"> <li>A person who delivers or holds a management position in healthcare, welfare, education, children's services, residential services or law enforcement, wholly or partly, to children, a person in religious ministry or a person providing religion-based activities to children, or a registered psychologist who has reasonable grounds to suspect that a child is at risk of significant harm (being physical, sexual, emotional or psychological abuse, neglect or exposure to domestic violence) and those grounds arise during the course of or from the person's work, has a duty to report, as soon as practicable, to the Secretary of the Department of Communities and Justice (Secretary) (section 27 of the <i>Children and Young Persons (Care and Protection) Act 1998</i> (NSW) (<b>NSW Child Protection Act</b>)).</li> <li>The Secretary must determine whether a child or young person is in need of care and protection, and is empowered to take whatever action is necessary to safeguard or promote the safety, welfare and wellbeing of the child or young person (section 34 of the NSW Child Protection Act).</li> </ul>	<ul style="list-style-type: none"> <li>People associated with certain kinds of organisations (including employees, volunteers, contractors or other person who carries out work of an entity that provides for an organisation that provides services to children) may be charged with a criminal 'failure to protect' offence in certain circumstances (section 43B of the NSW Crimes Act).</li> </ul>

## Northern Territory

Reporting obligations that apply to all adults	Reporting obligations that apply to certain people	Reducing or removing risk of child sex abuse
<ul style="list-style-type: none"> <li>A person who obtains, or who seeks or agrees to receive any property or benefit, pecuniary or otherwise, for any person, upon an agreement or understanding that the person will compound or conceal an offence is guilty of a crime and is liable to a maximum of 3 years' imprisonment</li> </ul>	<ul style="list-style-type: none"> <li>A health practitioner or someone who performs work of a kind prescribed by regulation has an obligation to report a belief on reasonable grounds that a child aged 14 or 15 years has been or is likely to be a victim of a sexual offence and the age difference</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>



(section 104(1) of the *Criminal Code Act 1983* (NT) (**NT Criminal Code**).

- A person who has a belief on reasonable grounds that a child (a person less than 18 years of age) has suffered or is likely to suffer harm or exploitation (being physical, sexual, emotional or psychological abuse or exposure to physical violence), or that a child aged less than 14 years has been or is likely to be a victim of a sexual offence or an offence against section 128 of the NT Criminal Code (sexual intercourse or gross indecency by a carer against a child who is of or over the age of 16 years) has an obligation to report that information to the CEO of the Department of Children and Families (**CEO**) or a police officer.
  - A person is guilty of an offence under section 26(1) of the *Care and Protection of Children 2007* (NT) (**NT Child Protection Act**) if they do not, as soon as possible after forming that belief, report (orally or in writing) to the CEO or a police officer.
  - A person will not be guilty of an offence if they have a reasonable excuse for not reporting the suspected abuse.
  - These reporting obligation apply to all adults in your organisation in relation to a belief/information they hold about any child, including youth volunteers.
- between the child and offender is greater than 2 years.
  - A health practitioner or someone who performs work of a kind prescribed by regulation is guilty of an offence punishable by a maximum of 200 penalty units under section 26(2) of the NT Child Protection Act if they do not, as soon as possible after forming that belief, report (orally or in writing) to the CEO or a police officer.
  - A person will not be guilty of an offence if they have a reasonable excuse for not reporting the suspected abuse.

## Queensland

Reporting obligations that apply to all adults	Reporting obligations that apply to certain people	Reducing or removing risk of child sex abuse
<ul style="list-style-type: none"> <li>• A person who obtains, or who seeks or agrees to receive any property or benefit, pecuniary or otherwise, for any person, upon an agreement or understanding that the person will compound or conceal an offence is guilty of a crime and is liable to a maximum of 3 years' imprisonment (section 133 of the <i>Criminal Code Act 1899</i> (QLD) (<b>QLD Criminal Code</b>).</li> <li>• This obligation applies to all adults in your organisation in relation to information they hold</li> </ul>	<ul style="list-style-type: none"> <li>• A person employed in the public service or in a child care service has an obligation to report to the chief-executive under the <i>Child Protection Act 1999</i> (QLD) (<b>QLD Child Protection Act</b>) (<b>Chief</b>) a reasonable suspicion that a child in care has suffered, is suffering, or is at an unacceptable risk of suffering, significant harm caused by physical or sexual abuse (section 13F of the QLD Child Protection Act).</li> <li>• A doctor, registered nurse, teacher, police officer, child advocate or early childhood</li> </ul>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>





about any child, including youth volunteers.

- At May 2020, the *Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Bill 2019* is before the Queensland Parliament. It seeks to introduce both failure to report and failure to protect against child sexual abuse offences into the QLD Criminal Code.

education and care professional has an obligation to report to the Chief a reasonable suspicion that a child in care has suffered, is suffering, or is at an unacceptable risk of suffering, significant harm caused by physical or sexual abuse (section 13E of the QLD Child Protection Act).

- School staff have an obligation to immediately report to the school principal or principal's supervisor/director of the school's governing body, and the school principal or principal's supervisor/director of the school's governing body must provide a report to both a police officer and a nominee of the chief executive under the *Education (General Provisions) Act 2006* (QLD) (**QLD Education Act**) an awareness or reasonable suspicion that a child has been or is likely to be sexually abused (and the suspicion is formed during the course of their employment) (sections 364, 365, 365A, 366, 366A of QLD Education Act).
- A failure to report is punishable by a maximum of 20 penalty units.

## South Australia

Reporting obligations that apply to all adults	Reporting obligations that apply to certain people	Reducing or removing risk of child sex abuse
<ul style="list-style-type: none"> <li>• Every person has a duty to keep children and young people safe from harm (section 30 of the <i>Children and Young People (Safety) Act 2017</i> (SA) (<b>SA Child Protection Act</b>)).</li> <li>• This general reporting obligation applies to all adults in your organisation in relation to a belief/information they hold about any child, including youth volunteers.</li> </ul>	<ul style="list-style-type: none"> <li>• A prescribed health practitioner, police officer, community corrections officer, social worker, minister of religion, employee or volunteer of a religious organisation, teacher, employee or volunteer of an organisation which provides services to children and any other person prescribed by the regulations has an obligation to report to the Minister for Child Protection as soon as practicable a suspicion on reasonable grounds (arising during the course of their employment) that a child or young person is, or may be at risk of physical, sexual, emotional or psychological abuse or neglect, unless there is a reasonable excuse not to do so (sections 30 and 31 of the SA Child Protection Act).</li> <li>• A failure to report without reasonable excuse is an offence</li> </ul>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>



punishable by a maximum penalty of \$10,000 (section 31(1) of the SA Child Protection Act).

## Tasmania

Reporting obligations that apply to all adults	Reporting obligations that apply to certain people	Reducing or removing risk of child sex abuse
<ul style="list-style-type: none"> <li>An adult (a person 18 years or over) is guilty of an offence if the person has information that leads the person to form a reasonable belief that an abuse offence has been committed against a child and fails without reasonable excuse to disclose that information to a police officer as soon as practicable (section 105A of the <i>Criminal Code Act 1924</i> (TAS)).</li> <li>An adult who knows, or believes or suspects on reasonable grounds that a child is suffering, has suffered or is likely to suffer abuse or neglect has a responsibility to take steps to prevent the occurrence or further occurrence of the abuse or neglect (section 13(1) of the <i>Children, Young Persons and Their Families Act 1997</i> (TAS) (<b>TAS Child Protection Act</b>)).</li> <li>One step the adult may take to prevent the occurrence of abuse or neglect of a child is to inform the Secretary under the TAS Child Protection Act (Secretary) or a Community-based intake service of their knowledge, belief or suspicion and the basis of that knowledge, belief or suspicion (section 13(2) of the TAS Child Protection Act).</li> <li>These reporting obligations apply to all adults in your organisation in relation to a belief/information they hold about any child, including youth volunteers.</li> </ul>	<ul style="list-style-type: none"> <li>A prescribed person (defined under section 14(1) of the TAS Child Protection Act to include medical practitioners, nurses, police officers and members of the clergy etc.), in carrying out official duties or in the course of their work (whether paid or voluntary) has an obligation to report a belief or suspicion on reasonable grounds that a child has been or is being abused or neglected, or that there is a reasonable likelihood of a child being killed or abused or neglected by a person with whom the child resides to the Secretary or a Community-based intake service of that belief, suspicion or knowledge as soon as practicable (section 14(2) of the TAS Child Protection Act).</li> <li>A failure to report without reasonable excuse is an offence punishable by a maximum fine of 20 penalty units (section 14(2) of the TAS Child Protection Act).</li> </ul>	<ul style="list-style-type: none"> <li>People associated with certain kinds of organisations (including employees, volunteers, contractors or other person who carries out work of an entity that provides for an organisation that provides services to children) may be charged with a criminal 'failure to protect' offence in certain circumstances (section 91(1) of the TAS Child Protection Act).</li> </ul>

## Western Australia

Reporting obligations that apply to all adults	Reporting obligations that apply to certain people	Reducing or removing risk of child sex abuse
<ul style="list-style-type: none"> <li>A person who obtains, or who seeks or agrees to receive any property or benefit, pecuniary or otherwise, for any person, upon an agreement or understanding that the person will compound or</li> </ul>	<ul style="list-style-type: none"> <li>A doctor, nurse, midwife, police officer, teacher or boarding supervisor who believes on reasonable grounds that a child has been the subject of sexual abuse and forms that belief in the</li> </ul>	<ul style="list-style-type: none"> <li>A person who has the care or control of a child and who engages in conduct knowing (or reckless) that the conduct may result in the child suffering harm as a result of physical, sexual,</li> </ul>



conceal an offence is guilty of a crime and is liable to a maximum of 7 years' imprisonment (section 136(2) of the *Criminal Code Act Compilation Act 1913* (WA)) (**WA Criminal Code**).

- This offence applies to all adults in your organisation in relation to information they hold about any child, including youth volunteers.

course of the person's work has an obligation to report that belief to the CEO of the Department of Public Service (**CEO**), a person approved by the CEO or a person who is a member of a class of persons approved by the CEO (sections 124B(1) and(2) of the *Children and Community Services Act 2004* (WA)) (**WA Child Protection Act**).

- A failure to report as soon as practicable without reasonable excuse is punishable by a maximum penalty of \$6,000 (section 124B(1) of the WA Child Protection Act).
- Under the *Family Court Act 1997* (WA) sections 160(1)-(4), the Principal Registrar, a registrar or deputy registrar, family consultant, counsellor, dispute resolution practitioner, arbitrator or legal practitioner independently representing a child's interests who has reasonable grounds for suspecting that a child has been abused or is at risk of being abused, or has been ill-treated or is at risk of being ill-treated, or has been exposed or subjected to, or is at risk of being exposed or subjected to psychological harm may notify the CEO of the suspicion and the basis for the suspicion.

emotional abuse or neglect is guilty of a crime liable to a maximum of 10 years' imprisonment (section 101(1) of the WA Child Protection Act).

## End notes

- <sup>i</sup> *Child Employment Act 2003* (Vic)
- <sup>ii</sup> *Child Employment Act 2003* (Vic), section 21
- <sup>iii</sup> *Child Employment Act 2003* (Vic), section 21
- <sup>iv</sup> *Child Employment Act 2003* (Vic), sections 11 and 20
- <sup>v</sup> *Children and Young People (Employment Standards 2011 (No 1))* (ACT)
- <sup>vi</sup> *Children and Young People (Employment Standards 2011 (No 1))* (ACT), regulation 6.7
- <sup>vii</sup> *Children and Young People (Employment Standards 2011 (No 1))* (ACT), regulation 6.1
- <sup>viii</sup> *Children and Young People (Employment Standards 2011 (No 1))* (ACT), regulation 6.6
- <sup>ix</sup> *Children and Young Persons (Care and Protection) (Child Employment) Regulation 2015* (NSW)
- <sup>x</sup> *Children and Young Persons (Care and Protection) (Child Employment) Regulation 2015* (NSW), Schedule 1, clauses 16-20
- <sup>xi</sup> *Children and Young Persons (Care and Protection) (Child Employment) Regulation 2015* (NSW), Schedule 1
- <sup>xii</sup> *Care and Protection of Children Act 2007* (NT)
- <sup>xiii</sup> *Care and Protection of Children Act 2007* (NT), section 203(1)
- <sup>xiv</sup> *Care and Protection of Children Act 2007* (NT), section 203(2)
- <sup>xv</sup> *Child Employment Regulation 2016* (Qld)
- <sup>xvi</sup> *Child Employment Regulation 2016* (Qld), regulation 7
- <sup>xvii</sup> *Child Employment Regulation 2016* (Qld), regulation 9
- <sup>xviii</sup> *Child Employment Regulation 2016* (Qld), regulation 13
- <sup>xix</sup> *Education Act 1972* (SA)
- <sup>xx</sup> *Education Act 1972* (SA), section 78
- <sup>xxi</sup> *Education Act 1994* (Tas)
- <sup>xxii</sup> *Education Act 1994* (Tas), section 82
- <sup>xxiii</sup> *Children and Community Services Act 2004* (WA)
- <sup>xxiv</sup> *Children and Community Services Act 2004* (WA), section 191
- <sup>xxv</sup> *Children and Community Services Act 2004* (WA), section 192