

INFORMATION SHEET

About the Reportable Conduct Scheme

The Reportable Conduct Scheme (**the Scheme**) makes Western Australian children safer. The Scheme compels heads of organisations that exercise care, supervision or authority over children to notify allegations of, or convictions for, child abuse by their employees to the Ombudsman and then investigate these allegations. The Ombudsman will monitor and oversee the Scheme including reviewing these investigations.

The Ombudsman is responsible for administering the Scheme. Our role includes:

- supporting and guiding organisations that receive allegations in order to promote fair, effective, timely and appropriate responses; and
- independently overseeing, monitoring and, where appropriate, making recommendations to improve the responses of those organisations.

The Scheme has been designed to ensure that the Ombudsman will be aware of allegations of, and convictions for, child abuse involving employees in relevant organisations that exercise care, supervision and authority over children.

The Ombudsman will also be able to share information where appropriate to better prevent and protect children from abuse, this

includes with the Working with Children Screening Unit of the Department of Communities, relevant regulators and the WA Police Force.

Requirements of heads of organisations

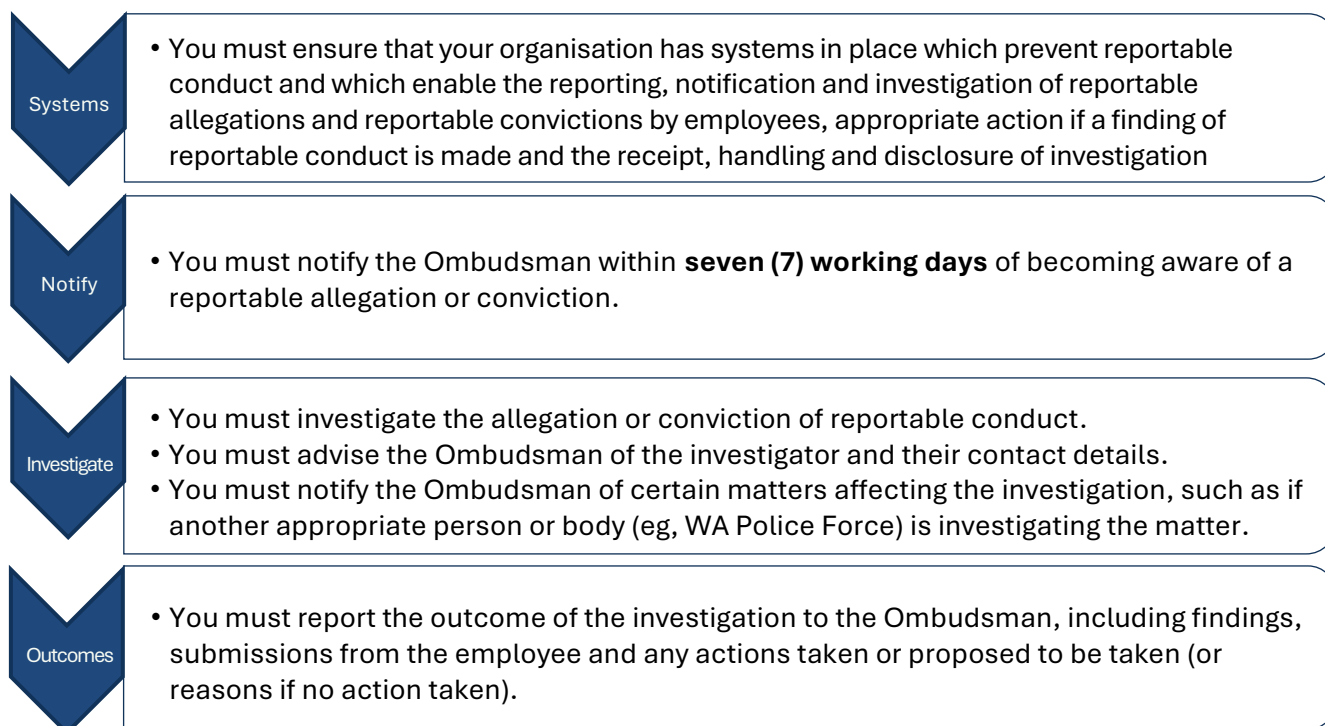
The Scheme imposes new obligations on heads of organisations that are within the Scheme. This includes requirements to:

- notify the Ombudsman of reportable allegations and reportable convictions by their employees;
- investigate the allegation; and
- provide a report to the Ombudsman on the outcome of the investigation.

Organisations will also be required to have systems in place to enable them to better protect against, and respond to, reportable conduct.

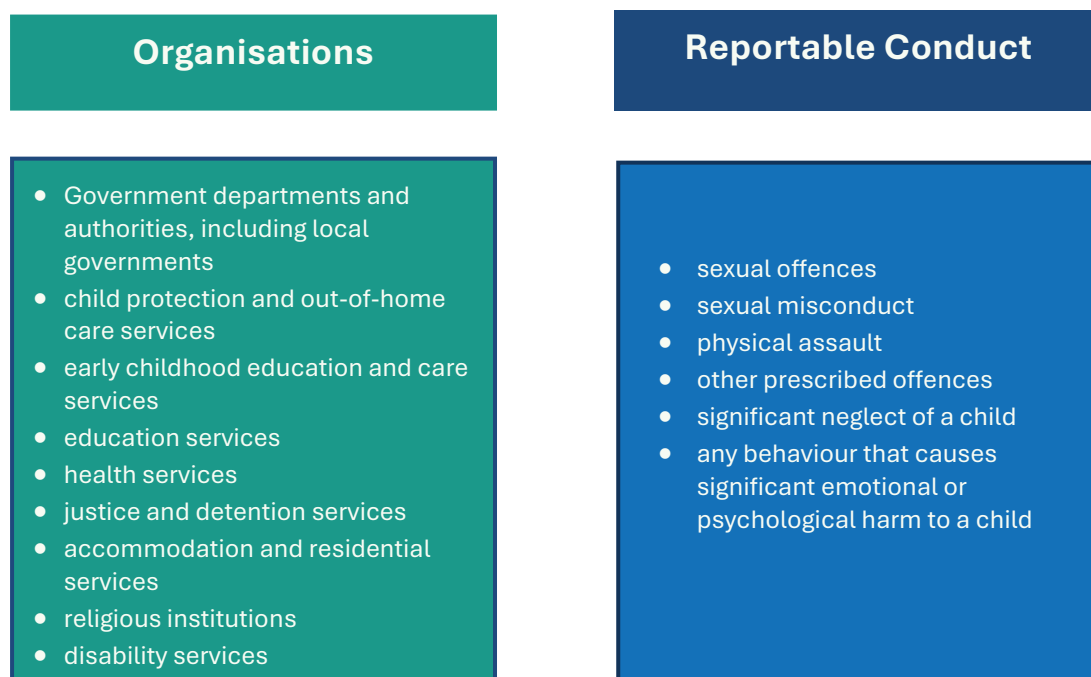
The Scheme does not replace the need to report allegations of child abuse, including criminal conduct to the WA Police Force, the Department of Communities or other applicable regulatory bodies or to otherwise take appropriate action within your organisation.

A snapshot of the head of an organisation's obligations under the Scheme



When does the Scheme commence?

The Scheme commenced on 1 January 2023 with a phased approach over two years to assist organisations to prepare for the new requirements. The diagram below now sets out the organisations and reportable conduct included in the Scheme.



Further information on the types of conduct covered by the Scheme can be found in Information Sheet 3. Further information on the types of organisations covered by the Scheme is set out below.

Which types of organisations are covered by the Scheme?

The Scheme will only apply to organisations that exercise care, supervision or authority over children. The types of organisations covered by the Scheme include:

- Western Australian Government departments and authorities, including local governments;
- child protection and out-of-home-care services;
- providers of approved foster carers and kinships carers;
- providers of residential care and family group homes;
- early childhood education and care services;
- providers of approved education and care services and child care services;
- providers of an approved family day care service;
- education services:
- Government and non-government schools;
- TAFE colleges;
- registered training organisations;
- universities;
- health services:
- public health service providers;
- licensed private hospital service providers;
- mental health service providers that have inpatient beds for children;
- drug and alcohol treatment service providers that have inpatient beds for children;
- ambulance services;
- justice and detention services:
- a provider of a juvenile detention centre; and
- a provider of community justice services funded by the Department of Justice.
- accommodation and residential services:
- providers of a homelessness service that provides overnight beds specifically for children as part of its primary activities and is funded by the Department of Communities;
- providers of boarding facilities for students who are children;
- organisations that provide overnight camps for children as part of its primary activity;
- a provider of any other accommodation or respite services for children;
- religious bodies; and
- disability service providers.

If you need further assistance to determine whether your organisation is within the Scheme now or in the future, please do not hesitate to contact this Office.

Who is considered an ‘employee’ under the Scheme?

The head of an organisation is required to notify the Ombudsman of reportable allegations and convictions reported about their employees. Under the Scheme, an ‘employee’ is broadly defined to include the following persons over 18 years of age:

- an officer or employee of the organisation, whether or not the individual’s work is in connection with any work or activities of the organisation that relate to children;

- a person engaged by the organisation (or by another person or body on the organisation's behalf) to provide services to children, including as a volunteer or contractor;
- a person engaged by the organisation as a carer of a child under a placement arrangement under the *Children and Community Services Act 2004*;
- a family day care educator or family day care educator assistant engaged by or registered with the organisation; or
- a minister of religion or a religious leader if the organisation is a religious body.

The head of an organisation is required to notify the Ombudsman of a reportable allegation or conviction made against one of their **current** employees regardless of whether:

- the alleged conduct occurred before or during the person's employment with, or engagement by, the organisation; or
- the alleged conduct occurred outside of the person's role with the organisation; or
- the alleged conduct occurred prior to the commencement of the Scheme.

Accordingly, historical conduct of an employee is covered by the Scheme. The Scheme does not cover historical conduct of former employees or historical conduct of current employees that was already known to the head of the organisation prior to the commencement of the Scheme. This is because the Reportable Conduct Scheme is designed to address any current risks a person may pose to children in organisations covered by the Scheme.

If you are unclear whether an allegation or conviction should be reported, please do not hesitate to contact this Office.

What are the obligations of employees under the Scheme?

Allegations of, and convictions for, child abuse involving an employee of an organisation covered by the Scheme are to be reported to the head of the organisation. If the matter involves the head of the organisation, it is to be reported directly to the Ombudsman.

Certain types of employees have an obligation to report. Relevant employees who **must**, as soon as practicable, report a reportable allegation or reportable conviction, of which they become aware, include:

- an officer or employee of the organisation; and
- a Minister of religion or religious leader of a religious body.

These employees are those that through induction, ongoing training and established reporting systems provided by the organisation, can be expected to be aware of their obligations to report. Obligatory reporting for these employees increases protection for children by increasing the likelihood that reports will be made.

Other people, including contractors and volunteers, **may** report a reportable allegation or reportable conviction of which they become aware.

What is the timeframe for the head of the organisation to notify the Ombudsman of an allegation or conviction under the Scheme?

Once the Scheme applies to an organisation, the head of the organisation must notify the Ombudsman of any reportable allegations or convictions made against their employees within **seven (7) working days** of becoming aware of the allegation or conviction.

What does the Ombudsman do with the notifications it receives?

The Ombudsman will carefully consider each notification that it receives under the Scheme. Based on the information available, the Ombudsman may decide to:

- give support and guidance to the organisation responding to the allegation;
- check that the organisation is handling the allegation in an appropriate and timely manner; and/or
- carry out their own investigation and make recommendations to the organisation.

Our regulatory approach

The Ombudsman is focused on providing information, guidance and support to organisations to help them meet their obligations under the Scheme.

In the initial stages of the Scheme, the Ombudsman expects that organisations will use their best endeavours to meet the requirements of the Scheme. During this time the Ombudsman's approach will focus on working with organisations to ensure they understand their obligations to report and investigate reportable allegations and convictions.

Where to get help

Organisations covered by the Reportable Conduct Scheme should contact the Ombudsman for clarification and guidance, and to talk through any issues of concern.

Telephone: (08) 9220 7471

Email: reportableconduct@ombudsman.wa.gov.au

Website at ombudsman.wa.gov.au

Acknowledgements: Ombudsman Western Australia wishes to thank the New South Wales Office of the Children's Guardian, the Victorian Commission for Children and Young People and the ACT Ombudsman's office for use of their publications relating to their reportable conduct schemes and their continuing advice and assistance.