



# What conduct must be reported to the NSW Office of the Children's Guardian Practice Guide

*Under the Children's Guardian Act 2019 (NSW)*

1. *certain employees of relevant entities are required to report to the head of their entity; and*
2. *the head of the entity is required to report to the NSW Office of the Children's Guardian,*

*immediately, regarding any Reportable Allegations or Reportable Convictions against employees of that entity.*

**This document provides some guidance as to what constitutes Reportable Allegations and Reportable Convictions.**

## REPORTABLE ALLEGATION

A **Reportable Allegation** means an allegation that a Worker who holds, or is required by the Diocese to hold, a WWCC Clearance for the purpose of engagement with the Diocese (**WWCC Holder**), has engaged in conduct that may be Reportable Conduct, whether or not the conduct is alleged to have occurred in the course of the WWCC Holder's employment with the Diocese. Note that the threshold for notifying an allegation is lower than is required to make a finding of Reportable Conduct. If an allegation is, on its face, reportable, it should be reported.

## REPORTABLE CONVICTION

A **Reportable Conviction** means a conviction involving a WWCC Holder in NSW or elsewhere, of an offence involving Reportable Conduct, whether or not the conduct occurred in the course of the WWCC Holder's employment. It includes a finding of guilt even if the court did not proceed to a conviction.

## REPORTABLE CONDUCT includes:

1. a sexual offence committed against, with or in the presence of a child;
2. sexual misconduct with, towards or in the presence of a child;
3. ill-treatment of a Child;
4. neglect of a Child;
5. assault against a Child;
6. an offence under s 43B of the *Crimes Act 1900* (NSW) for failing to reduce or remove the risk of a Child becoming the victim of abuse;
7. an offence under or 316A of the *Crimes Act 1900* (NSW) for concealing a Child Abuse Offence; or
8. behaviour that causes significant emotional or psychological harm to a Child.



In order to be reportable, the conduct must have been undertaken by an individual who holds, or is required by the Diocese to hold, a WWCC Clearance for the purpose of engagement with the Diocese.

This definition is broad enough to encompass clergy, religious appointees, volunteers, paid employees of the Chancery and Parishes and contractors.

## Specific descriptions

### What constitutes a “sexual offence”?

A sexual offence is an offence of a sexual nature committed against, with or in the presence of a child, in any State, Territory or the Commonwealth. Sexual touching of a child, child grooming, and the production, dissemination or possession of child abuse material, are all considered “sexual offences” and Reportable Conduct.

### What constitutes “sexual misconduct”?

The term “sexual misconduct” is conduct with, towards or in the presence of a Child that is sexual in nature, but is not a sexual offence. This includes:

1. descriptions of sexual acts without a legitimate reason to provide the descriptions;
2. sexual comments, conversations or communications; or
3. comments to a Child that express a desire to act in a sexual manner towards the Child or another Child.

### What constitutes “ill-treatment”?

Ill-treatment occurs when a person treats a Child in an unreasonable and seriously inappropriate, improper, inhumane or cruel manner.

This may include:

1. unreasonable or inappropriate punishment of a Child;
2. a pattern of seriously inappropriate, degrading or hostile comments or behaviour towards a Child; or
3. making excessive and/or degrading demands of a Child.

Raising your voice to attract attention will not be considered ill-treatment.



### What constitutes “Neglect”?

Neglect is a significant failure to provide adequate and proper food, supervision, nursing, clothing, medical aid or lodging for a Child, that causes or is likely to cause harm to a Child, by any of the following persons:

1. a person with parental responsibility for the Child;
2. an authorised carer of the Child; or
3. an employee, if the Child is in the employee’s care.

Examples of Neglect include:

1. failing to protect a Child from abuse;
2. exposing a Child to a harmful environment, such as one in which illicit drugs are being manufactured or used; or
3. failing to provide a Child with basic physical and emotional necessities such as food, shelter, clothing or medical attention.

Although this would rarely arise in a parish or agency context, a failure to keep a Child safe from harm by providing adequate supervision or exposure to harmful situations, eg outdoors, may in some circumstances be Neglect if the Child does suffer a foreseeable injury.

### What constitutes “Assault”?

Assault includes:

1. intentionally or recklessly applying physical force without any lawful justification or excuse; or
2. any act which intentionally or recklessly causes another person to apprehend immediate and unlawful violence.

Examples of Assault include:

1. hitting, striking, kicking, punching or dragging a Child; or
2. threatening to physically harm a Child.

The following do not constitute Assault:

1. exercising appropriate control over a Child;
2. disarming a Child seeking to harm themselves or others or destroy property;
3. separating Children who are fighting;
4. moving a Child out of harm’s way or touching them to attract their attention; or
5. self-defence or the defence of others.



## What constitutes “behaviour that causes significant emotional or psychological harm”?

This refers to conduct that is obviously or very clearly unreasonable and results in significant emotional harm or trauma to a Child. In order to be reportable, there must be evidence of the psychological harm and the harm needs to be shown to have been caused by the conduct of an Employee.

The following are indicators of that a Child that has suffered or is suffering significant emotional or psychological harm:

1. displaying behaviour patterns that are out of character;
2. regressive behaviour;
3. anxiety or self-harm.

### Reference

*The following documentation is available from the Diocesan intranet.*

Policy - Responding to Reportable Conduct

Fact Sheet - Responding to Reportable Conduct

### More information

For further information on Reportable Conduct, you can visit the Office of the Children’s Guardian website at [ocg.nsw.gov.au](http://ocg.nsw.gov.au) or contact the Safeguarding Office (Chancery) at [safeguarding@bbcatholic.org.au](mailto:safeguarding@bbcatholic.org.au) or phone **02 8379 1605**.

### REVISION/ MODIFICATION HISTORY

Date	Version	Current Title	Summary of Changes	Approval Date	Commencement Date
26/06/2020	1	What conduct must be reported to the NSW Office of the Children’s Guardian Practice Guide	New Practice Guide	June 2020	June 2020
23/05/2024	2	As above	Changed to a SGO practice guide and approver to be MfS,	23 May 2024	June 2020



## APPROVAL DATE/REVISION SCHEDULE

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