



**POLICY TITLE:** **Mandatory Reporting and Child Protection**

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Program: Open Support

Classification: Compliance

Approved By: Open Support Committee

Responsible Manager: Quality Manager

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## 1. Purpose and Scope

Under the Children and Young Person's (Care and Protection) Act 1998 (NSW), paid workers of the Open Support are to report children at risk of significant harm to the Secretary, Department of Communities and Justice (**DCJ**).

This policy sets out in plain English, the obligations of workers in relation to mandatory reporting and provides guidance on how to make a report where deemed necessary.

NB. Volunteers do not have any statutory obligation to report. However, Open Support requires all volunteers to follow the principles set out in this policy in relation to reporting children at risk of significant harm and notify the Program Manager or CEO.

## 2. Policy Statement

### 2.1 Definitions

**Mandatory Reporter** is a person who pursuant to the Children and Young Person's (Care and Protection Act 1998) (NSW) has an obligation by law to report where they suspect, on reasonable grounds that a child or young person is at risk of significant harm.

In NSW a Mandatory Reporter includes any 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. It also includes 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 healthcare, welfare, education, children's services, residential services or law enforcement, wholly or partly to children.

A **child** is a person under the age of 16 years

A **young person** is a person aged 16-17 years

Suspecting on **reasonable grounds** that a child is **at risk of significant harm** is the standard that reporters must use in deciding whether or not to report child abuse to **DCJ**.

A child or young person is at **risk of significant harm (ROSH)** if the circumstances that are causing concern for safety, welfare or wellbeing of the child or young person are present to a significant extent.

**Significant** means that which is sufficiently serious to warrant a response by statutory authority irrespective of a family's consent. What is **significant** is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare or wellbeing. Significance can result from a single act or omission or an accumulation of these.

The concept of **reasonable grounds** requires you to consider whether a third party, when faced with similar information, would also draw the same conclusion. It does not mean that Mandatory Reporters have to be certain, but rather that they should

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ensure their concerns are well founded and based on information from a reliable source.

## **2.2 What Must Be Reported**

Any suspicion on reasonable grounds that a child or young person is at risk of significant harm from:

- Physical abuse
- Neglect – including insufficient supervision, physical shelter, environment, food, hygiene, clothing, medical care, mental health care or education
- Sexual abuse
- Psychological harm
- Carer concern – including substance abuse, mental health and domestic and family violence
- Danger to self
- Parent or caregiver unwilling to arrange for education or medical healthcare or
- Concern for an unborn child.

## **2.3 When Must a Mandatory Report Be Made**

Decisions on whether to report should be guided by the NSW Mandatory Reporter Guide using the decision trees available.

Reports must be made as soon as practicable once a suspicion has been formed. The earlier a report is received, the sooner steps can be taken to protect a child, where this is necessary.

Wherever practicable, the decision to make a mandatory report should be discussed with the Service Coordinator and/or the Quality Manager. If a more senior person is not available or the matter is urgent, the staff member should follow the steps below for making a report.

## **2.4 How is a Report Made**

When mandatory reporters have concerns about the safety, welfare or wellbeing of a child or young person they are to use the [Mandatory Reporter Guide](#) - (MRG) in deciding whether to report their concerns to the Child Protection Helpline or identify what alternative response and supports should be provided.

It is recommended that mandatory reporters complete the MRG on each occasion they have risk concerns, regardless of their level of experience or expertise. Each circumstance is different and every child and young person is unique.

For further information refer to the Open Support Mandatory Reporting Procedure

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## 2.5 Worker Misconduct

Where a matter that is subject to mandatory reporting also involves an allegation against a Worker or any person engaged by Open Support to provide services to children, including volunteers, it must also be immediately reported to the Open Support CEO so that it can be referred to the appropriate internal department and/ or external agency.

## 2.6 Confidentiality of Reporter's Identity

Reports made to DCJ are confidential and the Mandatory Reporter's identity is generally protected by law.

It is important to note however that NSW Police may be granted access to the identity of the Mandatory Reporter if this is needed in connection with the investigation of a serious offence against a child or young person. The request must come from a senior NSW Police officer and the Mandatory Reporter must be informed that their identity is to be released. There is no requirement to notify the Mandatory Reporter in circumstances where the disclosure may prejudice the investigation.

## 2.7 What Happens Following a Report

When **DCJ** receive a ROSH report they are required by law to make an assessment and determine whether the child or young person is actually at risk of significant harm.

The information provided in the report will be considered in the context of any other information on the child or the family held by DCJ.

Assessment and/or investigation may involve speaking with the child or young person, their family and other important people in their life. It may also involve talking with people who work with the child or young person or their family.

Not all reports will lead to further investigation. This may be because there is insufficient information or reason to believe that the child or young person is at risk of significant harm.

Mandatory Reporters are informed about the type of action that will be taken based on the nature of the report made.

The following actions may occur as a result of a mandatory report:

- No further action because report does not meet threshold for risk of significant harm or because the outcome of the assessment does not warrant opening the report for ongoing services
- Refer the report to Brighter Futures (an early intervention program designed to build resilience of families and children at risk)
- Offer further assessment or ongoing services for the child or young person or other family members or the family together
- A caseworker will be assigned to the family
- Arrange protective placement of the child or young person.

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Even after a report has been made, Open Support staff must continue to respond to the needs of the child/young person in the context of their work role. This may involve providing a report to NSW Police and/or arranging for medical care.

### 3. Associated Risk

**Financial & Legal:** This policy addresses the risk of non-compliance with the Children and Young Person's (Care and Protection) Act 1998 (NSW).

**Service Delivery & Client Safety Risk:** This policy addresses the risk of ongoing harm to clients of Open Support Services

**Reputational:** This policy addresses the risk of reputational damage to Open Support that would result as a failure to comply with legislation or harm to the safety and wellbeing of clients

### 4. References

- NSW Legislation Children and Young Persons (Care and Protection) Act 1998 <https://legislation.nsw.gov.au/view/html/inforce/2024-04-03/act-1998-157>
- The Mandatory Reporter Guide (MRG) <https://dcj.nsw.gov.au/children-and-families/protecting-our-kids/mandatory-reporters/mandatory-reporters--what-to-report-and-when/the-mandatory-reporter-guide--mrg-.html>
- Australian Institute of Family Studies – Mandatory Reporting of Child Abuse and Neglect , CFCA Resource Sheet, August 2023, <https://aifs.gov.au/resources/resource-sheets/mandatory-reporting-child-abuse-and-neglect>
- ChildStory Reporter, viewed online 12/6/2018, <https://reporter.childstory.nsw.gov.au/s/>

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