



PREVENTING AND RESPONDING TO ABUSE, NEGLECT AND EXPLOITATION POLICY AND PROCEDURE

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1.0 PURPOSE AND SCOPE

This policy and procedure outlines Kindred Health Group's immediate response requirements following verbal assault, bullying, discrimination or racism or an allegation of physical or sexual assault that involves a client.

For incident management and reporting, see the *Incident Management Policy and Procedure*.

The aims of the policy and procedure are to:

- ensure timely and effective responses are taken to address immediate client safety and wellbeing;
- support clients who have experienced physical or sexual assault;
- be accountable to clients for actions taken immediately and planned in response to their experience of an assault;
- ensure due diligence and responsibilities to clients are met; and
- hold perpetrators of physical and sexual assault accountable for their actions.

This policy and procedure applies to staff, students, contractors and volunteers.

2.0 DEFINITIONS

Abuse (in the context of this policy) – Verbal, physical and/or emotional mistreatment and/or lack of care of a person. Examples include sexual abuse and any non-accidental injury.

- **Child abuse** – An act or omission by an adult that endangers or impairs a child's physical and/or emotional health and development. Child abuse can be a single incident but often takes place over time. Abuse, neglect and maltreatment are generic terms used to describe situations in which a child may need protection.
- **Physical abuse:** When a child suffers or is likely to suffer significant harm from an injury inflicted by a parent/guardian, caregiver or other adult. The injury may be inflicted intentionally, or be the consequence of physical punishment or the physically aggressive treatment of a child. Physical injury and significant harm to a child can also result from neglect by a parent/guardian, caregiver or other adult. The injury may take the form of bruises, cuts, burns or fractures, poisoning, internal injuries, shaking injuries or strangulation.



- **Sexual abuse:** When a person uses power or authority over a child, or inducements such as money or special attention, to involve the child in sexual activity. It includes a wide range of sexual behaviour from inappropriate touching/fondling of a child or exposing a child to pornography, to having sex with a child.
- **Emotional and psychological abuse:** Involves continuing behaviour by adults towards children, which erodes social competence or self-esteem over time. It occurs when a person engages in inappropriate behaviours, such as rejecting, ignoring, threatening or verbally abusing a child, or allowing others to do so.
- **Racial, cultural and religious abuse:** Conduct that demonstrates contempt, ridicule, hatred or negativity towards a child because of their race, culture or religion.
- **Neglect:** The failure to provide a child with the basic necessities of life, such as food, clothing, shelter, medical attention or supervision, to the extent that the child's health and development is, or is likely to be, significantly harmed.

Abuser – A person who mistreats and/or harms another person.

Bullying – Repeated verbal, physical, social or psychological behaviour that is harmful and involves the misuse of power by an individual or group towards one or more persons. Bullying occurs when one or more people deliberately and repeatedly upset or hurt another person, damage their property, reputation or social acceptance.

Child or Young Person – Under the Children, Youth and Families Act 2005 (Vic), a person under the age of 17 years.

Client Incident – an event or circumstance that occurred during service delivery and resulted in harm to a client.

Exposure to domestic/family violence: When children and young people witness or experience the chronic, repeated domination, coercion, intimidation and victimisation of one person by another through physical, sexual and/or emotional means within intimate relationships.

Child sex offender – Someone who sexually abuses children, and who may or may not have prior convictions.

Child protection – The term used to describe the whole-of-community approach to the prevention of harm to children. It includes strategic action for early intervention, for the protection of those considered most vulnerable and for responses to all forms of abuse.

Code of conduct – A set of rules or practices that establish a standard of behaviour to be followed by individuals and organisations. A code of conduct defines how individuals should behave towards each other, and towards other organisations and individuals in the community.

Disclosure (in the context of this policy) – A statement that a child or person makes to another person that describes or reveals abuse.

Discrimination – treating a person less favourably than others in similar circumstances because of a personal attribute that has no relevance to the situation.



- **Age discrimination** – Discrimination on the basis of age (regardless of age) or on the basis of age-specific characteristics or characteristics generally associated with a person of a particular age.
- **Disability discrimination** – Discrimination on the basis of physical, intellectual, psychiatric, sensory, neurological or learning disability, physical disfigurement, disorder, illness or disease that affects thought processes, perception of reality, emotions or judgement, or results in disturbed behaviour, and presence in body of organisms causing or capable of causing disease or illness (e.g., HIV virus).
- **Racial discrimination** – Discrimination on the basis of race, colour, descent or national or ethnic origin and in some circumstances, immigrant status.
- **Sex discrimination** – Discrimination on the basis of sex, marital or relationship status, pregnancy or potential pregnancy, breastfeeding, family responsibilities, sexual orientation, gender identity or intersex status.

Sexual harassment – any form of unwanted, unwelcome or uninvited sexual behaviour that is offensive, humiliating or embarrassing.

Domestic/family violence – The repeated use of violent, threatening, coercive or controlling behaviour by an individual against a family member(s) or someone with who they have or have had an intimate relationship, including carers.

Duty of care – A common law concept that refers to the responsibilities of organisations to provide people with an adequate level of protection against harm and all reasonably foreseeable risk of injury. In the context of this policy, duty of care refers to the responsibility Kindred Health Group has to provide its clients with an adequate level of care and protection against foreseeable harm and injury.

Independent Third Persons (ITPs) – ITPs are volunteers trained by Office of the Public Advocate to assist people with a cognitive disability or mental illness during interviews, or when giving formal statements.

Maltreatment (in the context of this policy) – Physical and/or emotional mistreatment, and/or lack of care of a child or person. Examples include sexual abuse, the witnessing of family violence and any non-accidental injury.

Mandatory reporting – The legal obligation of certain professionals and community members to report when they believe, on reasonable grounds, that a child is in need of protection from harm. In Victoria, the following people are mandated to report:

- registered medical practitioners
- nurses
- midwives
- registered teachers and early childhood teachers
- school principals
- school counsellors
- police officers
- out of home care workers (excluding voluntary foster and kinship carers)



- early childhood workers
- youth justice workers
- registered psychologists
- people in religious ministry.

Negligence – Doing, or failing to do something that a reasonable person would, or would not do in a certain situation, and which causes another person damage, injury or loss as a result.

Offender or Perpetrator – A person who mistreats and/or harms a child or person.

Reasonable grounds – See “Identification of Abuse, Neglect and Exploitation,” below, for indicators which supply reasonable grounds for suspecting abuse has occurred.

Reportable incidents – incidents, or alleged incidents, that must be reported to the NDIS Commission are those that:

- arise from acts, omissions, events or circumstances occurring in connection with providing supports or services to a person with disability AND resulted in, or could have resulted in, harm to the person with disability; OR which
- arise from acts by a person with disability that cause, or risk causing, serious harm to another person.

Section 73Z(4) of the *National Disability Insurance Scheme Act 2013* defines a reportable incident as:

- the death of a person with disability
- serious injury of a person with disability including fractures, burns, deep cuts, extensive bruising, concussion, and any other injury requiring hospitalisation.
- abuse of a person with disability behaviour management including verbal, psychological and financial abuse
- neglect of a person with disability behaviour management that is seriously inappropriate or improper
- unlawful sexual or physical contact with, or assault of, a person with disability by a worker or another NDIS participant
- sexual misconduct committed against, or in the presence of, a person with disability, including grooming of the person for sexual activity
- unauthorised use of a restrictive practice in relation to a person with disability.

For further examples, consult the *NDIS Quality and Safeguards Commission Reportable Incidents Guidance*.

Voluntary (non-mandated) notification – A notification to the Department of Families, Fairness, and Housing (DFFH) by a person who believes that another person is in need of protection, where the notification is made out of moral obligation, rather than legislative obligation. The person making the notification is not expected to prove the abuse, and the law protects the anonymity of the person making the notification.



Reportable Conduct Scheme Definitions

Employee – Under the Reportable Conduct Scheme, an employee is a person over the age of 18 years who is:

- (a) employed by an organisation, whether or not the person is employed in connection with any work or activities of the organisation that relate to children, or
- (b) engaged by the organisation to provide services, including as a volunteer (including foster carers and kinship carers), contractor, Minister of religion, officer of a religious body, office holder or officer, whether or not the person provides services to children.

Head of an organisation - the person who is primarily responsible for an organisation's compliance with the Reportable Conduct Scheme. Depending on the particular structure or type of organisation, the head of the organisation may be the Chief Executive Officer (CEO), principal officer or equivalent.

Reportable conduct - there are five types of 'reportable conduct' under the Reportable Conduct Scheme, as listed in the *Child Wellbeing and Safety Act 2005*:

1. **sexual offences** (against, with or in the presence of, a child) – In Victoria, it is an offence to engage in certain sexual behaviours against, with or in front of, a child. Many of these behaviours are reportable conduct under the Reportable Conduct Scheme. This includes: sexual assault, indecent acts, possession of child abuse material, 'grooming' a child in order to commit a sexual offence. A worker or volunteer does not need to be charged with, or found guilty of, a sexual offence for their behaviour to be reportable conduct.
2. **sexual misconduct** (against, with or in the presence of, a child) – encompasses a broader range of inappropriate behaviours of a sexual nature that are not necessarily criminal. Sexual misconduct refers to conduct that: amounts to misconduct, is of a sexual nature, and occurred against, with, or in the presence of, a child.
3. **Physical violence** (against, with or in the presence of, a child), encompassing:
 - Actual physical violence* - a worker or volunteer intentionally or recklessly uses physical force against, with, or in the presence of a child without a lawful reason, which has the ability to cause injury or harm to the child. Actual physical violence can include hitting, punching, kicking, pushing or throwing something that strikes a child or another person.
 - Apprehended physical violence* - a worker or volunteer intentionally or recklessly engages in conduct or behaviour against, with, or in the presence of a child that is capable of causing a child to think that physical force is about to be used against them or another person. This could include words, gestures or actions that cause a child to believe physical force is about to be used against them, regardless of whether or not the worker or volunteer actually intended that any physical force would be applied.
0. **Behaviour that causes significant emotional or psychological harm.**
A child can be significantly emotionally or psychologically harmed by severe or sustained instances of (for example): verbal abuse, coercive or manipulative behaviour, hostility towards, or rejection of, a child; humiliation, belittling or scapegoating. To be reportable conduct under this category:



- the allegation must concern the worker's or volunteer's behaviour
- there must be a clear link between the worker's or volunteer's alleged behaviour and the harm suffered by the child
- the harm must be significant (more than trivial or temporary)

0. **Significant neglect** - occurs when there is a significant, deliberate or reckless failure to meet the basic needs of a child in circumstances where the adult understood the needs of the child, or could have understood those needs if they had turned their mind to the question, and had the opportunity to meet those needs but failed to do so. Examples of different types of neglect could include:

- Supervisory neglect: This may occur when a person responsible for the care of a child is unable or unwilling to exercise adequate supervision or control of the child or young person, or fails to seek or comply with appropriate medical treatment.
- Physical neglect: This may occur where there is the failure to meet a child's physical needs including the provision of adequate and appropriate food, clothing, shelter or physical hygiene needs.
- Educational neglect: This may occur when there is a failure to ensure that a child's formal education needs are being met.
- Emotional neglect: This may occur where there is a failure to provide adequate nurturing, affection encouragement and support to a child.

Victorian Disability Worker Commission Definitions:

Employer of a disability worker: a person that employs the disability worker under a contract of employment or a contract for services.

Impairment: The *Disability Service Safeguards Act 2018* defines 'impairment' as 'a loss or abnormality of structure or function of an intellectual, cognitive, neurological, sensory, psychological or physical nature, whether permanent or temporary'.

To make a mandatory notification about a disability worker who has an impairment you must form the reasonable belief the impairment has, or is likely to have, a detrimental impact on the disability worker's capacity to practise and has placed, or may place, the public at risk of harm.

Notifiable conduct: means when a disability worker has:

- a. practised as a disability worker while intoxicated by alcohol or drugs
- a. engaged in sexual misconduct while practising as a disability worker
- a. placed, or may place, the public at risk of harm because the disability worker has an impairment that detrimentally affects, or is likely detrimentally to affect, the disability worker's capacity to practise as a disability worker, or
- a. placed, or is placing, the public at risk of harm because the disability worker practised, or is practising, as a disability worker in a manner that constitutes a significant departure from accepted professional standards.



Reasonable belief: Before making a mandatory notification, you must form a 'reasonable belief'. To do so, you generally need direct knowledge (not just a suspicion) of the incident or behaviour that led to a concern.

You might directly observe the incident or behaviour. You may have a report from a reliable source or sources about conduct they directly experienced or observed. In that case, you should encourage the person with the most direct knowledge of the incident or behaviour to consider whether to make a notification themselves.

Mandatory notifications should be based on personal knowledge of reasonably trustworthy facts or circumstances that would justify a person of reasonable caution, acting in good faith, to believe that the concern and a risk to the public exists.

These principles about forming a 'reasonable belief' come from legal cases. In short, a reasonable belief is a state of mind based on reasonable grounds. It is formed when all known considerations, including matters of opinion, are objectively assessed and taken into account.

Sexual misconduct: Sexual misconduct encompasses a broad range of behaviours. Sexual misconduct includes when a disability worker has done any of the following:

- engaged in sexual activity with a person they are providing a service to, whether or not that person has given consent
- made sexual remarks about a service user
- touched a service user in a sexual way
- touched a service user in an intimate area without a clinical indication whether or not they give consent
- engaged in sexual behaviour in front of a service user.

Because there is frequently a power imbalance between disability workers and the person receiving the disability service, any sexual activity with a service user is sexual misconduct, even with their consent.

Engaging in sexual activity with a person to whom the disability worker has previously provided a service may also be sexual misconduct, depending on the circumstances.

Significant departure from professional standards: 'Accepted professional standards' includes reference to documents like the code of conduct. It covers both practice and professional behaviour. A significant departure is serious (not slight or moderate) and would be obvious to any reasonable person who practises as a disability worker.

3.0 POLICY

- Kindred Health Group is proactive in preventing the occurrence of abuse and neglect in its services and to its clients. This includes supporting the safety and security of people affected by family violence.



- Physical and sexual assault are crimes against the person. Staff should be aware that many clients, including children, young people and people with a disability, are at greater risk of physical and sexual assault than the general population.
- Kindred Health Group has a moral, ethical and legal responsibility to ensure that all clients are safe in their care, and will provide training, resources, information and guidance to support this. Kindred Health Group is committed to:
 - ensuring that the health, safety and wellbeing of clients at the service is protected at all times;
 - fulfilling its duty of care obligations under the law by protecting clients from any reasonable, foreseeable risk of injury or harm;
 - ensuring that all staff, students and volunteers caring for clients at the service act in the best interests of the client and take all reasonable steps to ensure the client's safety and wellbeing at all times;
 - supporting the rights of all clients to feel safe, and be safe, at all times;
 - developing and maintaining a culture in which clients feel valued, respected and cared for;
 - encouraging active participation from parents/guardians and families at the service, and ensuring that best practice is based on a partnership approach with shared responsibility for clients' health, safety, wellbeing and development; and
 - educating clients of their individual rights by including personal safety education programs within Kindred Health Group services.
- Kindred Health Group understands and complies with obligations under the Reportable Conduct Scheme administered by the Victorian Commission for Children and Young People.
- Kindred Health Group understands and complies with obligations under the Victorian Disability Workers Commission Mandatory Notifications Scheme.

4.0 PROCEDURE

Responsibilities

- Kindred Health Group will:
 - ensure that all staff are aware of, trained in, compliant with, and implement this policy;
 - ensure the cultural needs of clients from Aboriginal and Torres Strait Islander and culturally and linguistically diverse backgrounds are safeguarded through training in cultural competency;
 - ensure that staff are trained to recognise and prevent/minimise the occurrence or recurrence of abuse, neglect and exploitation of clients within a service delivery context;
 - support staff to create an appropriate service culture in accordance with this policy and vision and values of the organisation.
 - ensure there are systems in place to identify and remedy gaps which contributed to a client experiencing abuse, neglect or exploitation;



- ensure staff are trained in early intervention approaches where potential or actual abuse, neglect and exploitation of clients is identified.:
- promote a culture of no retribution for any person who reports abuse, neglect or exploitation of a person with a mental illness and/or disability;
- ensure that staff advise clients, their families and advocates about:
 - support services, which are equipped to identify abuse, neglect and exploitation and able to refer individuals to appropriate specialist services; and
 - their right to pursue grievances and complaints and access to the criminal justice system.
- The Director will ensure:
 - that any concerned person, including but not limited to, the person receiving services, another client, relative, friend or person from the community is able to make a report or an allegation of abuse, neglect and exploitation, without fear of retaliation or retribution;
 - that all Kindred Health Group staff supporting clients are respectful of their rights and needs; and
 - the requirement – to report the abuse, neglect or exploitation of clients to the relevant authority in line with the requirements of the Incident Reporting and Investigation Guideline – is implemented.
- Kindred Health Group staff will:
 - support the creation a culture of no retribution for reporting of suspected abuse, neglect or exploitation;
 - support other staff to create an appropriate service culture in accordance with this policy;
 - provide services to clients in a manner consistent with this policy;
 - report all alleged or suspected instances of abuse, neglect and exploitation in accordance with this policy, as well as the *Incident Reporting Policy and Procedure*;
 - cooperate with the investigation of any complaint or grievance relating to the provision of Kindred Health Group services; and
 - provide appropriate support to the person making the report.

Responding to Client Incidents

- Assure the client that the incident will be taken seriously, discuss their options with them and ask them how they would like to be supported throughout the process.
- If a staff member is accused or suspected of harming the client, they should be removed from contact with all clients pending an investigation.
- Where the client is a child, report the matter under the Reportable Conduct Scheme to the Commission for Children and Young People.



- Where the incident may involve notifiable conduct by a Disability Worker, report the matter to the Victorian Disability Workers Commission.
- Where the incident may involve reportable incidents, report the matter to the NDIS Commission.
- Where a client is accused or suspected of harming another client, they should be removed from contact with other clients, where possible, pending an investigation.
- Consider the impact of the incident on the other clients within the setting and provide them with appropriate support. It is important that they are not treated simply as potential witnesses.
- If they can provide informed consent to contact and receive specialist services, the client (or, if not, his or her key support person) should be asked whether he or she wishes to contact specialist/victim support services such as crisis care, counselling, advocacy, a legal information service or a lawyer.
- Notify other service providers known to be working with that client, if appropriate. Refer to section 3.7 of the *Client Incident Management Guide* (DFFH) for further information.
- Agreed actions for the client's immediate and ongoing needs must be recorded on the *Client Support Plan*. This must include:
 - steps being taken to ensure the client's ongoing safety and wellbeing
 - treatment or counselling the client may access to address their safety and wellbeing
 - modifications in the way services are provided (for example, same gender care or placement)
 - how best to support the client through any action the client takes to seek justice or redress, including making a report to police
 - any ongoing risk management strategy required where this is deemed appropriate.

Responding to allegations and incidents of racism

Kindred Health Group takes a zero tolerance approach to racism. We will identify and confront racism within our organisation.

We take complaints about racism seriously, and respond to them promptly and thoroughly, with appropriate consequences.

This is guided by our:

- Feedback, Compliments and Complaints Policy and Procedure
- Equity, Anti-Discrimination, and Workplace Harassment Policy and Procedure
- Human Resources Policy and Procedure
- Client Rights and Responsibilities Policy and Procedure
- Child Safe Policy and Procedure

We also demonstrate a positive commitment to promoting equality and inclusion (see our *Service Delivery Policy and Procedure*, and *Service Access and Equity Policy and Procedure*).



Any instance of alleged racism are to be reported or escalated to the Director, so that they are able to oversee the organisations' response to these issues.

Identification of Abuse, Neglect and Exploitation

- Indicators of abuse include:
 - a client alleges that abuse has occurred, by a staff member, volunteer, another client, or other person
 - a staff member or volunteer observes or is told about the alleged abuse
 - a staff member or volunteer suspects that abuse has occurred (for example, a client may have unexplained injuries, a client may be distressed or anxious, or clothes may have been ripped)
 - a client's behaviour changes significantly (this might include self-destructive behaviour, sleep disturbances, acting-out behaviour, emotional distress, or persistent and inappropriate sexual behaviour)
 - a client complains of physical symptoms or a staff member observes symptoms (this might include bruising, abdominal pain, sexually transmitted disease or pregnancy).
- Where a staff member considers that a client's behavioural changes or symptoms may be a result of abuse, they should report their concerns immediately to the Director or their supervisor.
- Kindred Health Group acknowledges that clients may be at risk of abuse or harm from third parties not related to Kindred Health Group. Where Kindred Health Group identifies that client/s may be at risk of abuse or harm from third parties, we will work within our remit to remove the participant from this cause of harm. Actions may include but are not limited to alerting the appropriate authorities i.e. police, NDIS Commission. If staff are in any doubt regarding appropriate next steps, they will discuss this with their supervisor. The Director may also contact the NDIS Commission for advice on appropriate next steps.

NOTE: Kindred Health Group distinguishes between inappropriate and appropriate touching, and between sexual misconduct and appropriate conversations about sexual support and family planning needs. Where Kindred Health Group staff may need to make physical contact and/or have conversations with clients about sexual support and family planning needs, staff will ensure the following:

- Clients are supported to understand their rights (see *Client Rights and Responsibilities Policy*), what constitutes inappropriate behaviour (see *Staff Code of Conduct*, and further detail in this policy [*Preventing and Responding to Abuse, Exploitation, and Neglect*]), and their options for making a complaint (see *Feedback, Compliments, and Complaints Policy*)
- Staff obtain specific, informed, and ongoing consent from the client and documents this on the client's file (see *Assessment, Planning, and Review Policy*; *Client Consent Form*)



- Staff explain to client and their representative the purpose of any physical contact and/or conversations on sexual support/ family planning and how it relates to the client's assessment and case plan (which is also documented on client files) (see Assessment, Planning, and Review Policy)
- Staff will ensure that they work within the limits of their skill/ knowledge, and within the scope of the purpose of their work with the client (see Staff Code of Conduct, relevant Position Description)
- Staff will consult with their supervisor for guidance on appropriate risk assessment and mitigation measures, which may include but are not limited to: having a support person of the client's choosing with them during the required contact and/or discussions (see Risk Management Policy, and Client Risk Assessment form)

None of the above will act as an impediment to clients and/or their representatives lodging a complaint. Due process and reporting as per Kindred Health Group policies will be followed in the event that a complaint is received.

Responding to abuse, neglect and exploitation

- Allegations of abuse should always be treated seriously. The client's feelings about themselves and their willingness to raise concerns in the future may be influenced by initial reactions to their allegation. If abuse is disclosed, or a staff member becomes aware of abuse, a helpful response may include:
 - listening carefully to and reassuring the client
 - reassuring the client who disclosed abuse that they did the right thing by telling someone about their concerns
 - asking the client what can be done to make them feel safe, and explaining the actions you will take next.
- Where Kindred Health Group staff become aware of an allegation of abuse they must, so far as is possible:
 - immediately ensure the safety of the alleged victim and
 - prevent any further contact between the alleged victim and the alleged perpetrator. This may include reallocating staff or volunteers to alternative duties.
- Where the alleged victim requires immediate medical attention, a medical practitioner or ambulance should be called, or the alleged victim taken to the nearest hospital accident and emergency department.
- Where a staff member is the alleged perpetrator of abuse and requires medical attention, any medical practitioner called should be independent of the service where the alleged abuse took place.
- Kindred Health Group acknowledges that clients may be at risk of abuse or harm from third parties not related to Kindred Health Group. Where Kindred Health Group identifies that client/s may be at risk of abuse or harm from third parties, we will work within our remit to remove the participant from this cause of harm. Actions may include but are not limited to



alerting the appropriate authorities i.e. police, NDIS Commission. If staff are in any doubt regarding appropriate next steps, they will discuss this with their supervisor. The Director may also contact the NDIS Commission for advice on appropriate next steps.

Child Safety Reporting

In Victoria, under the Children, Youth and Families Act 2005, mandatory reporters must make a report to child protection, if:

- in the course of practising their profession or carrying out duties of their office, position or employment
- they form a belief on reasonable grounds that a child is in need of protection from physical injury or sexual abuse.

If a worker is worried about a child's wellbeing but does not believe they are in need of protection, a referral may be made to Child FIRST or [The Orange Door](#). Workers will escalate child safety concerns to the Director (or delegate) for discussion and reporting.

A child may be in need of protection if they have experienced or are at risk of significant harm, and their parents have not protected, or are unlikely to protect them from that harm. Significant harm may relate to:

- physical injury
- sexual abuse
- emotional or intellectual development
- physical development or health
- abandonment or parental incapacity.

To make a report, the Director (or delegate) will contact the child protection intake service covering the local government area (LGA) where the child normally resides. Telephone numbers to make a report during business hours (8.45am-5.00pm), Monday to Friday, are listed below.

- North Division intake: 1300 664 977
- South Division intake: 1300 655 795
- East Division intake: 1300 360 391
- West Division intake - metropolitan: 1300 664 977
- West Division intake - rural and regional: 1800 075 599

After hours Child Protection Emergency Service - 13 12 78

(5.00pm - 9.00am Monday - Friday, 24 hours on weekends and public holidays)

A state-wide after hours emergency service that receives new reports, as well as concerns for existing child protection clients who are considered to be at immediate risk and require urgent after hours service.

Where a client is the alleged perpetrator



- Staff must consult with Police about whether to inform the client of the report to Police. The police may want to interview the client and take a statement. Clients with a cognitive disability must have an independent third person present during the interview, and this will be arranged by police. Where the client is under the age of eighteen years, an independent person must be present during the police interview.
- Staff must contact the service most directly responsible for the client's care who will ensure that the client has legal representation and is assisted during the investigation and hearing. (See also the *Incident Management Policy and Procedure*).
- The incident should be reported to the NDIS Commission.

Where a staff member is the alleged perpetrator

- If a staff member is accused or suspected of harming the client, they should be removed from contact with all clients pending an investigation
- After reporting to the Police, the Director must be immediately notified of the report.
- Depending on the nature of the allegation, the Director's response regarding the alleged perpetrator should comply with Kindred Health Group's *Human Resources Policy and Procedure*. Responses include redirecting the staff member to alternate duties that do not involve direct client care, or standing the staff member down.
- The incident should be reported to the NDIS Commission where an NDIS participant is the alleged victim.
- Where the alleged victim is under 18 years of age, the incident must be reported to the Victorian Commission on Children and Young People, under their Reportable Conduct Scheme. Further guidance on notifying the Commission of alleged reportable conduct can be found in Kindred Health Group's Incident Management Policy and Procedure.
- From 1 July 2020, if the allegations involve notifiable conduct by a disability worker (whether registered or unregistered), the incident must be reported to the Victorian Disability Workers Commission. Please see the Incident Management Policy for further guidance on how to report.

Where a staff member is the alleged victim

- Allegations or assaults where a Kindred Health Group staff member is the alleged victim should be dealt with in accordance with Kindred Health Group's *Incident Management Policy and Procedure*.
- The incident should be reported to the NDIS Commission where an NDIS participant is the alleged perpetrator.

Notification of next of kin or guardian – all clients

Clients under 18 years and receiving disability services

- Kindred Health Group must ensure that the next of kin or guardian is contacted.



- The Director (or delegate) must explain the following to the next of kin or guardian:
 - the nature of the allegation
 - the standard procedure for reporting allegations to Victoria Police
 - that it is a matter for the client to decide whether or not to participate in the police investigation (Victoria Police may also provide this information)
 - any action taken by staff since reporting the allegation.
- The Director will ask the guardian or next of kin if they wish to be present at the interview – subject to Victoria Police advice and legal requirements.

Clients over 18 years and receiving disability services

- If over 18 years of age, the client may decide whether or not to inform the next of kin of the allegations.
- Where a client with a cognitive impairment or mental illness decides *not* to advise the next of kin, it should be clearly documented how the client demonstrated that they made an informed decision.
- If the client chooses to notify next of kin, Kindred Health Group will assist the client to make contact, if possible. If the client is unable to make an informed decision regarding contact and the client does not have a guardian, the service provider should contact the next of kin as appropriate.

Clients with a legal guardian

- Kindred Health Group will ensure that the legal guardian is contacted.
- Kindred Health Group will explain the nature of the allegation, the standard procedure for reporting allegations to Victoria Police, that the client may choose whether or not to participate in the police investigation and any action taken by staff since reporting the allegation (Victoria Police may also provide this information).
- The guardian should be asked if they wish to be present while the client's statement is being taken – subject to Victoria Police advice and legal requirements.

Clients on a Care by Secretary order

- Kindred Health Group will contact the client's allocated case worker and explain the nature of the allegation, the standard procedure for reporting allegations to Victoria Police, that the client may choose whether or not to participate in the police investigation and any action taken by staff since reporting the allegation (Victoria Police may also provide this information).
- The case worker should be asked if they wish to be present while the client makes their statement – subject to Victoria Police advice and legal requirements.

Clients on a family reunification order



- Kindred Health Group will ensure that the next of kin or guardian is contacted (this is mandatory if the client is under the age of 18).
- Kindred Health Group will explain to them the nature of the allegation, the standard procedure for reporting allegations to Victoria Police, that it is a matter for the client to decide whether or not to participate in the police investigation and any action taken by staff since reporting the allegation (Victoria Police may also provide this information). The next of kin or guardian should be asked if they wish to participate in the interview – subject to Victoria Police advice and legal requirements.

Clients receiving child protection services who do not wish their next of kin or guardian to be contacted

- If the client is a person under the age of 18 who does not wish their next of kin or guardian to be notified, this should be discussed with the departmental child protection director. A decision in relation to notification will need to consider factors including the client's age and capacity, where they are living and their best interests. If necessary, legal advice should be sought, and if a decision is taken not to notify the next of kin or guardian, this must be clearly documented and placed on the client's file.

Police Involvement: suspected criminal acts

- Where an immediate police response is required, call 000.
- If a suspected criminal act has occurred, report the incident to Victoria Police.
- The client must consent to calling the Victoria Police, unless:
 - the client is under 18 years of age;
 - the client has a cognitive impairment;
 - there is evidence aside from the client's statements of a crime having been committed;
 - the client suffered serious harm;
 - the client's decision was made under duress;
 - the client or other service users are still at risk of violence or abuse.
- Assist the client to make an informed decision to participate in the Victoria Police investigation, by providing the following information to the client:
 - The matter will be or already has been reported to Victoria Police.
 - The client will be supported by the service provider throughout the investigation process.
 - Victoria Police may investigate the incident.
 - Police officers may want to interview the client and take a statement. The client may choose whether or not to participate in the police investigation.
 - Victoria Police will decide whether or not to proceed with charging the alleged offender (police officers may be better placed to provide this information to the client).



- Where an incident has not been reported to Victoria Police, the incident investigation process required under this guide should still be followed (See *Incident Management Policy and Procedure*).

Assisting Police Investigations

(The following are subject to specific directions from Police)

While some discussion may be required to establish safety and a basic understanding of what has occurred, do not question the alleged perpetrator or victim.

- Staff should preserve any physical or documentary evidence that may be critical to an investigation by Victoria Police or the service provider. This may require discussions with Victoria Police.
- Where an alleged sexual abuse has just occurred, it may be appropriate to:
 - encourage the victim not to shower or change (if the victim feels they must shower or change, ask them to put the clothing they were wearing at the time of the incident in bags, which should be sealed, labelled and secured);
 - encourage the victim not to eat or drink until after Victoria Police have been contacted and provide further instruction;
 - where possible, lock the door to the room or restrict access to the area where the incident occurred so any physical evidence inside that area remains undisturbed.
- If multiple clients witnessed the incident, clients should be separated where possible so as to minimise the risk that their evidence may be compromised before they are interviewed.
- Victoria Police should be assisted in conducting their investigation. The investigation may involve police officers taking photographs of any physical injuries.
- The police officer may need the carer/worker's assistance to explain this procedure to the client. Kindred Health Group staff should not assist the Victoria Police with client interviews (see 'Independent Third Person', below)

Supporting the client through the justice process

- Kindred Health Group will assist the client to access legal representation if required. If the client has a designated case manager, Kindred Health Group will contact the case manager to ensure that the client is assisted during the investigation and hearing if required.
- Service providers should support clients through the justice process, including police investigation, prosecution and crimes compensation processes as appropriate. This may include:
 - Ensuring the client has access to appropriate communication aides and tools to facilitate disclosures and the provision of evidence.
 - Ensuring the client has access to an interpreter should they be from culturally or linguistically diverse backgrounds.
 - Ensuring the client has access to a key support person of their choosing.



- Alerting police to the need for an Independent Third Person or Independent Person and the client's particular communication support needs, and the need for timely interviews to facilitate the recall of information.
- Facilitating arrangements with police for interviews and examination of evidence.
- Facilitating arrangements with specialist support services.
- Working proactively with the client to consider whether they will provide a witness statement, including making sure they understand they have time to make their decision if they are initially reluctant and the right to seek independent legal advice (in some instances Victoria Police may be better placed to provide this information).

Additional Client Supports

Parent, guardian or Independent Person

- If the client is under the age of 18 years, a parent, plenary guardian or Independent Person must be present if they are going to give a statement.

Independent Third Person

- Police are responsible for arranging the Independent Third Person.
- It is the responsibility of Victoria Police to contact the Independent Third Person
- The role of the Independent Third Person is to:
 - assist in interviewing clients with a cognitive impairment or mental illness or who use an alternative form of communication, such as symbols, signs or facilitated communication. facilitate communication,
 - ensure that the client understands his or her rights, and to support the client.
- Kindred Health Group staff should advise the Victoria Police if the client may require an Independent Third Person.
- Kindred Health Group staff **should not** act as the Independent Third Person.

Victim Support Services

- Specialist victim support services including crisis care, counselling, advocacy, legal information and advice, should be considered to aid the alleged victim.

Centre Against Sexual Assault (CASA)

CASA should always be contacted in cases of alleged sexual abuse, **with client consent**.

Client consent to contact CASA should be obtained, provided they have the capacity to consent and are at least 18 years old.



Consent should be obtained from the client's guardian or next of kin, where the client does not have the capacity to consent, or is under the age of 18 – ***unless the alleged perpetrator is the client's guardian.***

If the client (or guardian on his or her behalf) does not consent to contacting CASA, and the client has the capacity to make this decision, Kindred Health Group will put in place other appropriate supports for the client.

Criminal injuries compensation and victim support

- Application for compensation from the Victims of Crime Assistance Tribunal may be pursued by the client or their legal administrator after the incident has been reported to Victoria Police.
- In relation to sexual abuse, a Centre Against Sexual Assault counsellor/advocate can support clients who wish to pursue compensation.
- The alleged victim may also wish to contact:
 - Victims of Crime: <https://www.victimsofcrime.vic.gov.au/>
 - the Court Network on 1800 681 614 or at <http://www.courtnetwork.com.au/>.

A&TSI and CALD clients

- For clients who are from culturally and linguistically diverse communities or from Aboriginal and Torres Strait Islander communities, staff should consider referring the client to specialist agencies or specialist staff for additional support.

Clients from Aboriginal and Torres Strait Islander communities

- Service providers should facilitate an integrated, holistic approach with other service providers, which may include accessing both mainstream and local Aboriginal and Torres Strait Islander support services. The client may not want to access the Aboriginal services located in the local area where they reside. Where this is the case, staff should support the client to access services outside of their local area. Appropriate services may include the Aboriginal and Torres Strait Islander Corporation Family Violence Prevention and Legal Service or the Victorian Aboriginal Health Service.

Use of an interpreter

- Where the client uses a language other than English, an interpreter should be arranged as soon as practicable to interpret for the client, police and other persons involved in the process. Contact the Victorian Interpreting and Translating Service (VITS) on (03) 9280 1955 (24 hours, seven days a week).
- Some alleged victims may be reluctant to speak to an interpreter because they fear that what they say may be passed on to their local community. In this case, it is possible to



request a telephone interpreter from another state, or to not disclose the alleged victim's name to the interpreter. When using an interpreter directly, consideration should be given to arranging an interpreter who is not associated with the client or his or her immediate cultural community.

- In the case of alleged sexual abuse, consideration should be given to the gender of the interpreter and any impact this may have on the alleged victim.
- A sign language interpreter may be needed to assist in communication with a client who is deaf. Interpreters can be obtained via the Victorian Interpreting and Translating Service (VITS).
- For further information, refer to the Language Services policy and guide: <https://DFFH.vic.gov.au/publications/language-services-policy-and-guidelines>.

Culturally specific Centre Against Sexual Assault services

- CASA should be contacted to arrange culturally specific services for alleged victims from culturally and linguistically diverse communities.

Ongoing support

- Irrespective of gender, victims of sexual assault frequently experience negative outcomes including dissociation, posttraumatic stress disorder, depression and anxiety. Victims of physical assault also frequently experience shock, numbness, fear, depression and anxiety. In recognition of this, after an allegation of abuse, additional support and/or a review of supports provided to the client may be required.
- A quality of support review must also be undertaken by the Director for clients who are victims or alleged perpetrators of an assault. Agreed actions for the client's immediate and ongoing needs must be recorded on the client's care plan. This must include:
 - steps being taken to assure the client's safety and wellbeing in the future
 - treatment or counselling the client may access to address their safety and wellbeing
 - modifications in the way services are provided (for example, same gender care or placement)
 - how best to support the client through any action the client takes to seek justice or redress including making a report to Police
 - providing direct support to clients to discuss the incident
 - any ongoing risk management strategy required where this is deemed appropriate.

Debriefing for staff and clients

Service providers are ultimately responsible for the welfare and support of their staff, including the appropriate provision of debriefing services.



Staff

- Kindred Health Group will ensure:
 - that staff who are witnesses or otherwise impacted by the event have access to additional management support or counselling where required.
 - that people who are distressed following an abnormal event are facilitated in their recovery and helped return to their pre-incident level of functioning as soon as possible, for example by:
 - allocating a safe place for retreat,
 - giving staff the option of being immediately and temporarily relieved of their duties,
 - providing communication with families and
 - offering to organise transport home.

Clients

- Kindred Health Group will ensure:
 - that other clients, particularly witnesses to the alleged event, are supported.
 - that the impact of the event on other clients and how they can be best supported is considered.
 - that clients, and particularly witnesses, receive support or counselling, or other modifications to services, as appropriate, including:
 - allocating a safe place and
 - communicating with families.
- In relation to a sexual abuse, CASA can provide assistance with debriefing and secondary consultation.

NDIS Commission: Reportable Incidents

Reporting

- Reportable Incidents may also qualify as Notifiable Incidents (see glossary above), criminal incidents or child-related incidents, and should be reported to all appropriate agencies.
- Reportable Incidents – including alleged incidents – must be reported to the NDIS Commissioner
- The Director is responsible for reporting all Reportable Incidents unless the role is otherwise delegated.
- If a person with disability discloses an incident that occurred in the past, it should generally be treated in the same way as any other reportable incident, noting that the immediate response may differ.
- The reporting officer must provide the following information to the NDIS Commission where it can be collected:



- the name and contact details of:
- the registered NDIS provider,
- the person making the notification;
- the name and contact details of the persons involved in the incident (alleged victim and alleged offender);
- a description of the reportable incident, including:
 - the nature of any injuries sustained, and details such as time, date and place it allegedly occurred,
 - a description of the impact on, or harm caused to, the person with disability (Note: where the reportable incident is a death this does not need to be provided),
- the immediate actions taken by the provider in response to the reportable incident including any actions relating to the health, safety and wellbeing of the participant, involved in the incident including medical treatment provided, or whether the incident has been reported to the police or any other body.

Circumstances in which certain information relating to reportable incidents need not be obtained or notified

- In an instance where a notifiable incident has occurred (or alleged to have occurred), but a notification to the NDIS Commission of relevant information would, or reasonably be expected to:
 - (a) prejudice the conduct of a criminal investigation; or
 - (b) expose a person with disability to a risk of harm:
- Only in the above circumstances, Kindred Health Group is not required to obtain or notify the NDIS Commission of the following information:
 - (a) a description of the reportable incident;
 - (b) A description of the impact on, or harm caused to, the person with a disability (except in the instance of the death of a person with a disability);
 - (c) if known—the time, date and place at which the reportable incident occurred;
 - (d) the names and contact details of the persons involved in the reportable incident;
 - (e) the names and contact details of any witnesses to the reportable incident;
 - (f) a description of the reportable incident, including the impact on, or harm caused to, the person with disability;
 - (g) if known—the time, date and place at which the reportable incident occurred;
 - (h) the names and contact details of the persons involved in the reportable incident;



- (i) the names and contact details of any witnesses to the reportable incident.
- If in doubt as to whether this applies, contact the NDIS Commission for advice.

Forms and Timeframes

- Unauthorised use restrictive practices must be reported to the NDIS Commission within 5 business days.
- Forms are available at <https://www.ndiscommission.gov.au/document/656>
- All other Reportable Incidents must be reported immediately (within 24 hours of key personnel becoming aware of the incident)
- Forms are available at <https://www.ndiscommission.gov.au/document/661>

Working with Police

- A police investigation takes priority over a reportable incident investigation.
- Clearance must be obtained from police before taking any action that might compromise the investigation. Kindred Health Group will manage any ongoing risk and should maintain an open dialogue with police about any investigation they are conducting.
- Kindred Health Group will inform the NDIS Commission where a Police investigation delays conducting a required investigation and finalising a report.

NDIS Commission: Investigating Incidents

- Kindred Health Group will investigate and respond to all Reportable Incidents. The nature of any investigation or actions following an incident will be proportionate to the harm caused and any risk of future harm to people with disability.
- If the NDIS Commission requires a Reportable Incident to be investigated, either internally or by an external independent investigator, Kindred Health Group will fully comply with the Commission's requests.
- Where an incident relates to potential staff-to-client abuse or poor quality of care, some degree of independence is required for the investigation. Depending on the nature of the incident and the organisation, one of the following may be appropriate to conduct the investigation:
 - an area of the organisation that is sufficiently independent from staff who are the subject of any allegations, such as another division or an independent investigative function
 - another service provider independent from the staff who are the subject of any allegations
 - an external investigative body.
- An investigation must:
 - be in proportion to the nature and significance of the incident and any associated allegations;



- include the identification of any previous relevant allegations that should be considered regarding the relevant individuals;
- include a degree of independence appropriate to the seriousness of the incident;
- adopt a person-centred and rights-centred approach, taking into account what is important to the client;
- abide by the standard principles of good investigations:
 - procedural fairness
 - confidentiality and privacy
 - appropriate interview techniques
 - evidence based
 - properly documented
 - result in an investigation report
- Internal and external investigators must be appropriately trained in conducting serious workplace investigations, including investigating serious incidents that may involve a criminal element.
- The Director (or delegated investigator) will appropriately assess and/or investigate all incidents having regard to the views of any person with disability impacted by an incident and including the following:
 - whether the incident could have been prevented;
 - how well the incident was managed and resolved;
 - what, if any, remedial action needs to be undertaken to prevent further similar incidents from occurring, or to minimise their impact;
 - whether other persons or bodies need to be notified of the incident.

Investigation Reports

- If required, Kindred Health Group will supply details to the NDIS Commission in connection with any internal or external investigation or assessment that has been undertaken in relation to the reportable incident, including:
 - the name and position of the person who undertook the investigation;
 - when the investigation was undertaken;
 - details of any findings made;
 - details of any corrective or other action taken after the investigation;
 - a copy of any report relating to the investigation;
 - information about whether persons with disability impacted by the incident (or their representative) have been kept informed of the progress, findings and actions relating to the investigation or assessment;
 - any other information required by the NDIS Commission.



- The details outlined above should be included in the final report to the NDIS Commission which must be provided within 60 business days following the initial notification. The NDIS Commission may extend the period for providing the final report – for example, if there is a concurrent police investigation the reportable incident investigation will be justifiably delayed.
- The notification must be made in writing, by completing a form approved by the NDIS Commission and returning it to the NDIS Commission via email.

NDIS Commission: Corrective and Restorative Action

- Clients affected by incidents will be provided information about how the incident has been managed and the measures taken to ensure against recurrence.
- All investigations should determine whether corrective and/or restorative measures are required. The NDIS Commission may require Kindred Health Group to take corrective and/or measures. The NDIS Commission may work with Kindred Health Group to implement the measures, and monitor progress.
- Restorative measures may include, but are not limited to:
 - providing ongoing support to people with disability impacted by a reportable incident
 - giving an apology
 - providing compensation - for example, through an enforceable undertaking.
- Corrective measures may include, but are not limited to:
 - disciplinary action
 - training or education of workers
 - modification of the environment
 - development or amendment of a policy or procedure
 - changes to the way in which supports or services are provided
 - other practice improvements.

NDIS Commission: Record Keeping

- Records of all reportable incidents that occur or are alleged to have occurred must be kept for a period of seven years from the date of notifying the NDIS Commission.
- Kindred Health Group will retain:
 - completed reportable incident notification forms
 - records of investigations, including:
 - records of interviews,
 - evidence collected,
 - any relevant correspondence,
 - investigation reports and outcomes.



- Incidents involving clients under 18 years old should be kept until the client turns (or would have turned) 25 years old.
- The Director (or delegate) will be responsible for creating and maintaining incident records, while the provider will be required to retain them.

Supporting Clients through the Justice Process

Client Incidents and alleged criminal acts

- If a client is suspected of committing a criminal act, report the incident to Victoria Police.
- While some discussion may be required to establish safety and a basic understanding of what has occurred, do not question the alleged perpetrator or victim without Victoria Police approval.
- If the client needs to talk about what happened, listen and support the client.
- Service providers should support clients through the justice process, including police investigation, prosecution and crimes compensation processes as appropriate. This may include:
 - Ensuring the client has access to appropriate communication aides and tools to facilitate disclosures and the provision of evidence.
 - Ensuring the client has access to an interpreter should they be from culturally or linguistically diverse backgrounds.
 - Ensuring the client has access to a key support person of their choosing.
 - Alerting police to the need for an Independent Third Person or Independent Person and the client's particular communication support needs, and the need for timely interviews to facilitate the recall of information.
 - Facilitating arrangements with police for interviews and examination of evidence.
 - Facilitating arrangements with specialist support services.
 - Working proactively with the client to consider whether they will provide a witness statement, including making sure they understand they have time to make their decision if they are initially reluctant and the right to seek independent legal advice (in some instances Victoria Police may be better placed to provide this information).
 - Including clients affected by incidents in the management and resolution of the incident, where doing so does not expose the client to added trauma or risk, by:
 - keeping the client informed of the investigation,
 - consulting with the client, where possible, concerning:
 - the release of information to third parties
 - the investigation process
 - corrective actions
 - supporting clients who were witness to an incident.



- Where a client perpetrates a reportable offence and requires legal representation and assistance during the investigation and hearing, Kindred Health Group will assist the client or contact the service most directly responsible for the client's care to organise support.

Criminal injuries compensation and victim support

- Application for compensation from the Victims of Crime Assistance Tribunal may be pursued by the client or their legal administrator after the incident has been reported to Victoria Police.
- In relation to sexual abuse, a Centre Against Sexual Assault counsellor/advocate can support clients who wish to pursue compensation.
- The alleged victim may also wish to contact:
- Victims of Crime: <https://www.victimsofcrime.vic.gov.au/>
- Court Network on 1800 681 614 or <http://www.courtnetwork.com.au>

Victorian Commission on Children and Young People (CCYP) – Reportable Conduct Scheme

The Reportable Conduct Scheme ('Scheme') requires in scope organisations to:

- have in place systems to prevent child abuse and, if child abuse is alleged, to ensure allegations can be brought to the attention of appropriate persons for investigation and response, and
- ensure that the Victorian Commission on Children and Young People (VCCYP) is notified and given updates on the organisation's response to an allegation.

It is an offence to fail to notify and update the VCCYP about reportable allegations.

The Reportable Conduct Scheme does not replace the need to report allegations of child abuse, including criminal conduct and family violence to Victoria Police.

What organisations are covered by the Reportable Conduct Scheme?

- The Scheme applies to organisations that exercise care, supervision or authority over children, whether as part of their primary functions or otherwise.
- Schedules 3, 4 and 5 of the Child Wellbeing and Safety Act 2005 lists the types of organisations and services that must comply with the requirements of the Scheme.

Who can an allegation be made about under the scheme?

A reportable allegation can be made about certain workers or volunteers over 18 years of age who are or were:

- an employee of an organisation covered by the scheme
- a minister of religion, religious leader or officer of a religious body
- a foster or kinship carer



- a volunteer, contractor, office holder, officer or other position directly engaged by an organisation covered by the scheme to provide services.

If an employee resigns, the Head of Organisation must still notify the Commission of the reportable allegation and conducting an investigation.

Similarly, if there is a reportable allegation about your employee that relates to their conduct outside of the workplace, you must report this allegation and investigate.

Criteria for reporting allegations to the VCCYP

- All reportable allegations must be reported to the Commission.
- An allegation will be reportable to the Commission if it meets the following requirements:
 - the allegation relates to an employee of an organisation that is required to comply with the Scheme. The Scheme covers all employees of an organisation—not only those who work with children.
 - the organisation exercises care, supervision or authority over children.
 - the employee to whom the reportable allegation relates is at least 18 years of age when the conduct occurred.
 - the alleged conduct is reportable conduct or misconduct that may involve reportable conduct (even if the conduct occurred outside of work)
 - the alleged victim is under 18 years of age when the alleged conduct occurred.
- A reasonable belief has been formed that the alleged conduct occurred. A reasonable belief is more than suspicion. There must be some objective basis for the belief. For example, a person is likely to have a reasonable belief if they:
 - observed the conduct themselves
 - heard directly from a child that the conduct occurred
 - received information from another credible source (including another witness).
- Heads of organisations do not need to agree with or share the belief that the alleged conduct has occurred, however they are still obligated to notify the Commission of allegations of reportable conduct based on reasonable belief.

Timeframes for reporting allegations to the Commission

Information to be provided to the Commission

The Head of Organisation should use the online form to notify of a reportable allegation -

<https://ccyp.vic.gov.au/reportable-conduct-scheme/notify-and-update/>

This form may be used by someone other than the Director, if the reportable allegation concerns alleged reportable conduct by the Head of Organisation.



Investigating Reportable Conduct

If an allegation is criminal in nature, you **MUST** get clearance from Victoria Police before beginning your investigation.

An investigation into a reportable allegation is a workplace investigation aimed at gathering and examining information to establish facts and make findings in relation to allegations of child abuse against an employee. The investigation may also make recommendations about what disciplinary or other action should be taken (if any).

An effective investigation requires a systematic approach to assessing and managing an allegation, followed by a sound decision-making framework that enables procedural fairness for all parties in the investigation process.

Kindred Health Group has policies and procedures in place to guide reportable conduct investigation including a Code of Conduct, processes for managing and investigating complaints, misconduct, discipline, grievances, dispute resolution and employee welfare and supports. Refer to the Incident Management Policy and Procedure, Human Resources Policy and Procedure, and Staff Code of Conduct for further guidance.

A reportable conduct investigation should apply the ‘balance of probabilities’ as the standard of proof. A person conducting an investigation and making findings should actually be persuaded, based on the available information, that reportable conduct has occurred before making such a finding.

During a reportable conduct investigation, the subject of an allegation may choose, but is not required, to give information or documents that support their version of events. However, the subject of an investigation is not obliged to prove or disprove any fact or issue that is being investigated.

Procedural fairness

All investigations into reportable conduct must be undertaken in a fair and reasonable manner. This will usually include ensuring that, before any findings are made or disciplinary action is taken, the subject of an allegation:

- is notified of any adverse information that is credible, relevant and significant
- has a reasonable opportunity to respond to that information.

Procedural fairness does not require that employees or others must be notified of allegations when the Commission is first notified. Consideration should also be given to when the subject of the allegation should be first told about an allegation, in order to ensure the investigation is not compromised but remains procedurally fair.

Key steps in an investigation

Understanding the issues	Think about: the type of conduct alleged
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	<p>the seriousness of the alleged conduct the context in which the alleged conduct occurred a history of previous reportable allegations against the employee the potential for continuing risk to children Is the allegation possibly criminal in nature and required to be reported to Police.</p>
<p>Planning an investigation</p>	<p>To determine the most appropriate investigative approach for your organisation and the circumstances of the allegation, you may want to consider: the powers necessary to investigate the allegation the resources and skills that are required the authorisation necessary to undertake the investigation who will undertake the investigation and conflicts of interest record keeping.</p>
<p>Coordinating an investigation</p>	<p>Develop an investigation plan setting out the tasks that you will undertake, and the order in which they will be undertaken Be clear about the powers that you will exercise and your reasons for exercising them Identify areas requiring legal advice or expert advice (such as a medical practitioner) Will you use an investigation log or running sheet in which activities undertaken are entered and dated.</p>

Information gathering

Information relevant to your investigation can be gained from a number of key sources:

- Documents such as policies, procedures, incident reports, records of employment, rosters, emails can provide vital evidence. Objects, such as mobile phones and computers, inspection of premises, or photographic records can also provide physical evidence.
- Speaking with people including witnesses, organisational management, other staff members and the person the allegation has been made against enables you to gather their direct observations, experience and recollections of events or actions. Particular care must be taken when it is proposed that an investigation involve children or the person who is the subject of the allegation.
- Information from people with specialist knowledge, such as a medical practitioner may be relevant to an investigation.

Reporting

The investigation report should document the terms of reference of the investigation, together with how the investigation was undertaken, what evidence and information was obtained, what conclusions were made and, if applicable, any recommendations for consideration.

The report should be provided to the head of the organisation or their delegate to inform a decision as to the appropriate disciplinary or other action to be taken.

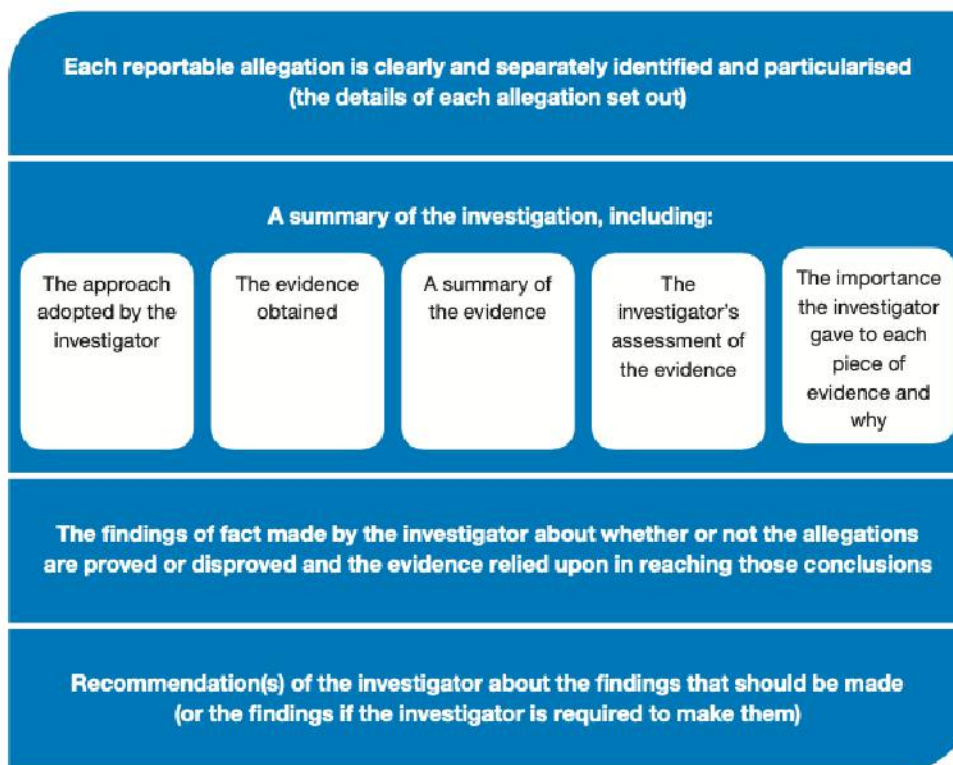


Welfare and support

A reportable conduct investigation can be stressful and demanding on all people involved. Vital to the intent of keeping children safe is the need to ensure appropriate support to an alleged victim. Steps must be taken to mitigate risks that the alleged victim is not re-traumatised by the investigation process.

Kindred Health Group has appropriate welfare and support systems to support staff and volunteers. Please refer to Human Resources Policy and Procedure for further information.

Investigation Report Requirements



Victorian Disability Worker Commission (VDWC) – Mandatory Notifications

- All disability workers and disability employers must make mandatory notifications to the Victorian Disability Worker Commission if they form a reasonable belief that a disability worker has engaged in notifiable conduct (see definitions).
- You must notify the VDWC as soon as practicable after you form a reasonable belief that behaviour that constitutes notifiable conduct has occurred. This is a requirement of the *Disability Service Safeguards Act 2018*.
- If you are a disability worker and you do not make a mandatory notification to the Victorian Disability Worker Commission, this may constitute behaviour for which health, conduct or performance actions may be taken against you.



- Information on how to make mandatory notifications to the VDWC can be found at <https://www.vdwc.vic.gov.au/making-complaints/notifications>

Review of Incident Management System

- A quality of support review must also be undertaken by the Director for clients who are victims or alleged perpetrators of an assault. Agreed actions for the client's immediate and ongoing needs must be recorded on the client's care plan. This must include:
 - steps being taken to assure the client's safety and wellbeing in the future
 - treatment or counselling the client may access to address their safety and wellbeing
 - modifications in the way services are provided (for example, same gender care or placement)
 - how best to support the client through any action the client takes to seek justice or redress including making a report to Police
 - any ongoing risk management strategy required where this is deemed appropriate.

POLICY AMENDMENT RECORD		
DATE	BRIEF DESCRIPTION OF AMENDMENT	AUTHORISED