

ACT Reportable Conduct Case Studies



The ACT Ombudsman is responsible for the Reportable Conduct Scheme (the Scheme). The following information provides ACT designated entities with fictitious case studies they can use to improve awareness of reportable conduct and the ability to identify reportable conduct within their entity.

What is reportable conduct?

Reportable conduct covers allegations or convictions of child abuse or misconduct toward children and young people. Designated entities must report allegations of reportable conduct by an employee, volunteer or carer to the ACT Ombudsman. Reportable conduct includes:

- sexual offences and convictions where a child is a victim or is present.
- offences against the person, including physical offences and convictions, where a child is a victim or is present.
- convictions, or findings of guilt, under a territory law or a state or Commonwealth law, involving reportable conduct.
- offences against the Education and Care Service National Law (inappropriate discipline or offences relating to protecting children from harm).
- ill-treatment of a child (including emotional abuse, hostile use of force/physical contact, and restrictive intervention).
- neglect
- psychological harm
- misconduct of a sexual nature.

Assessing an allegation of reportable conduct:

When a designated entity is initially informed of an allegation, it must be determined if, on face value, the allegation is reportable. To be reportable the alleged conduct needs to:

- involve the ill-treatment, neglect, psychological harm or sexual abuse of a child.
- involve conduct that may reach the defined reportable conduct thresholds of severity.
- involve an alleged victim who was under the age of 18 years when the conduct is alleged to have occurred.
- have been undertaken by an employee of a designated entity.
- have occurred after 1 July 2017 or been reported to the designated entity for the first time after 1 July 2017.

The Reportable Conduct Scheme is allegation based, so at this stage, consideration does not need to be given to whether the conduct occurred as it was reported. When using the following case studies, please note that sufficient information has not been provided to determine a possible finding.

Case study 1 (*Ill-treatment – hostile use of force*)

During afternoon tea at Out of Hours School Care, a child is loudly chanting a song with lyrics that include explicit language. The educator asks the child to stop chanting twice. When the child does not comply with the request, the educator walks over to the child and taking them by both wrists pulls them away from the rest of the children and towards the door. The child yells at the educator to let them go, drops to the floor, and tries to pull their wrists out of the educator's grasp. The educator lifts the child back onto their feet by the wrists and continues to pull them towards the door. Once the child reaches the door they get free of the educator and join a group of children playing on the climbing equipment. They loudly tell the Educator who is supervising the equipment that the other Educator hurt their arms.

This is an allegation of reportable conduct:

- Out of School Care providers are designated entities.
- The person subject of the allegation is an employee of a designated entity.
- The alleged conduct could be categorised as *ill-treatment of a child – hostile use of force/physical contact*.
- The educator has used physical force that had the potential to result in an injury.

Case study 2

A two-year-old child is sitting in the sandpit filling a bucket with sand. An educator approaches the child from behind and without speaking to them, picks up the child and takes them to the bathroom to change their nappy. The child becomes distressed when they are picked up and starts to cry. Despite the child's distress, the educator does not speak to the child until they reach the bathroom, where they ask the child to lie down on the change mat.

This is NOT an allegation of reportable conduct:

- The Education and Care provider is a designated entity.
- The person subject of the allegation is an employee of a designated entity.
- However, the alleged conduct would not rise to being unreasonable seriously inappropriate, inhumane or cruel.
- While the conduct does not meet the threshold for a reportable conduct allegation, it can still be addressed through the designated entity's employment policies and codes of conduct.

Case study 3 (*Ill-treatment of a child – emotional abuse*)

A seven-year-old is bouncing their basketball on the way into an assembly in the school hall. A teacher asks them to leave the ball outside. The child continues to walk into the hall, bouncing the ball. The teacher walks over to the child, roughly snatches the ball off them and yells, "Are you deaf or just stupid?" I told you to take the ball outside, because you were so rude, you are not going to get your ball back."

This is an allegation of reportable conduct:

- Government and non-government schools are designated entities.
- The person subject of the allegation is an employee of the designated entity.
- The alleged conduct could be categorised as *ill-treatment of a child – emotional abuse*.

Case study 4 (*Neglect - reckless acts*)

A kinship carer is caring for her 5-year-old grandchild who has severe asthma that requires regular medical intervention. There is an asthma care plan in place. It is known the child is highly allergic to cats, dogs and horses. When the carer's neighbour is unexpectedly taken to hospital the carer agrees to look after her neighbour's cat. The carer brings the cat into her home.

When her grandchild goes to bed the first night the cat is in the house, they have a serious asthma attack and needs to be transported to hospital by ambulance. Despite her grandchild being so unwell, the carer refuses to make alternate arrangements for the cat, stating that any number of things could have caused the asthma attack.

This is an allegation of reportable conduct:

- The approved out of home care provider is a designated entity.
- The foster carer is an employee of a designated entity.
- The alleged conduct could be categorised as *neglect - reckless acts*.
- *It appears that despite being aware of the child's asthma condition, the kinship carer has recklessly placed the child at risk of significant harm.*

Case study 6

Two educators are taking a group of children from the Out of School Hours care setting to a nearby park on a prearranged excursion. As the group is waiting to cross the road, a child moves to step off the curb into the path of oncoming traffic. The nearest educator grabs the child by the upper arm, pulls her backwards, and yells 'stop!'.

The child stumbles back away from the road, falls on her bottom and starts to cry. The child is comforted by the educators, and the group continues onto the park. When the group returns to the Out of School Hours Care setting, the child tells another educator that her arm is sore where she had been grabbed. There are no marks on the child's arm and after having ice applied, the child advises that it feels better.

This is NOT an allegation of reportable conduct:

- The Out of School Hours care provider is a designated entity.
- The person subject of allegation is an employee of a designated entity.
- While the alleged conduct involves the educator having physical contact with the child it would not rise to being reportable conduct, as the educator's contact with the child had been intended to move the child out of harm's way.

Case study 7 (*ill-treatment of a child - emotional abuse*)

At a church event, a volunteer who is doing face painting becomes angry at a 6-year-old child who keeps trying to jump the queue, despite being asked to wait their turn. The volunteer gets very close to the child's face and aggressively yells 'Go away, you are not having your face painted, I can't stand you and your bad manners'.

This is an allegation of reportable conduct:

- Churches that provide services that bring people into contact with children are designated entities.
- The person subject of the allegation meets the definition for an employee of a designated entity.
- The alleged conduct could be categorised as *ill-treatment of a child - emotional abuse*.
- The volunteer has potentially humiliated, intimidated, rejected and verbally assaulted the child.

Case study 8 (*Neglect - supervisory neglect*)

A 6-year-old child approaches a teacher on playground duty at lunch time and tells them their ball has gone over the school fence. The teacher asks if the child can see where the ball landed. When the child confirms they can see the ball through the fence, the teacher tells them to retrieve the ball carefully, but does not go with the child to supervise the retrieval.

While the child is outside the fence a member of the public approaches the child and takes the child to the school office, advising they had found the child outside the school fence.

This is an allegation of reportable conduct:

- Government and non-government schools are designated entities.
- The person subject of allegation is an employee of the designated entity.
- The alleged conduct could be categorised as *neglect - supervisory neglect*.
- The teacher appears to have failed to adequately supervise the child and placed the child at risk of significant harm.

Case study 9 (*Misconduct of a sexual nature – crossing professional boundaries*)

On a trip to the Zoo, two children in residential care take photos of the other children and the residential care workers with various exhibits. At the end of the day, one of the residential care workers asks the children to send them the photos to make a record of the day.

When an attempt to air drop the photos fails for one of the children, the worker gives the child their personal mobile number so they can message the photos to them. After sending the photos, one of the children continues to send memes and reels to the worker and the worker responds with emojis. Over the next month, the messages between the worker and the child become more frequent, with the child confiding in the worker. When the worker takes annual leave, the child becomes distressed and messages the worker asking if they can visit them at their house. Due to the level of the child's distress, the worker agrees to the visit.

Before the visit occurs, the child is overheard telling another child about the planned visit by the residential care worker on shift, who reports the plan to their supervisor.

This is an allegation of reportable conduct:

- The residential care provider is a designated entity.
- The person subject of allegation is an employee of a designated entity.
- This allegation could be categorised as *misconduct of a sexual nature – crossing professional boundaries*.
- While the conduct is not explicitly sexual, it involves an inappropriate and overly personal or intimate relationship with a child.

Case study 10 (*Misconduct of a sexual nature – crossing professional boundaries*)

A church receives an email from a concerned mother because she has found a gift in her 10-year-old daughter's bag from a youth group leader. The gift contained a block of chocolate, a handmade bracelet and a note explaining how happy the leader was that the child was attending the upcoming camp. When asked who else had received gifts from the leader, the child explained, 'no-one, I'm that leader's favourite'.

This is an allegation of reportable conduct:

- Churches that provide services that bring people into contact with children are designated entities.
- The person subject of the allegation meets the definition of an employee of the designated entity.
- The alleged conduct could be categorised as *misconduct of a sexual nature – crossing professional boundaries*.
- While the conduct is not explicitly sexual, it involves an inappropriate and overly personal or intimate relationship with a child.

Case study 11 (*Reportable conviction*)

While inducting a new residential care worker, an approved out of home care provider is advised that the employee has a conviction related to family violence recorded against them from 2012.

Further questioning reveals the conviction related to an offence against the person and the conduct occurred in the presence of a child.

This conviction needs to be reported to the Reportable Conduct Scheme:

- The approved out of home care provider is a designated entity.
- The person with the conviction is an employee of a designated entity.
- The designated entity first became aware of the conviction after the commencement of the scheme.
- A conviction involving offences against the person, are reportable conduct and must be reported to the ACT Ombudsman.

Case study 12 (*Ill-treatment of a child - inappropriate restrictive intervention*)

An educator in the babies' room is serving fruit for morning tea, when one of the young children at the table starts throwing pieces of fruit at other children, the educator picks up the child and loudly says 'no throwing food'. The child begins to cry, and the educator takes the child into the cot room, places the child in a cot and repeats 'no throwing food' before leaving the room.

Approximately 5 minutes later the educator returns to the cot room and picks up the still crying child. Before placing the child back at the morning tea table, the educator repeats 'no throwing food'.

This is an allegation of reportable conduct:

- Education and care providers are designated entities.
- The person subject of the allegation is an employee of the designated entity.
- The alleged conduct could be categorised as *ill-treatment of a child - inappropriate restrictive intervention*.
- The educator has placed the child in sole confinement, placing unreasonable limitation on the child's freedom of movement.

Case study 13 (*Neglect - abandonment*)

A foster carer is providing emergency care for two children aged 4 years and 6 years. One morning, the carer is getting the children ready for school and preschool. No other adults are at the home. When it is time to leave, the younger child says they do not want to go to preschool today and refuses to get in the car.

After trying to persuade, coax and encourage the child into the car, so they can drop the older child to school, the carer decides to leave the younger child at home alone while they drive the older child to school which is a 40-minute round trip.

The carer places the child in front of their favourite TV show and locks the door before leaving the house. At the next home visit, the child tells a case worker they are scared when they are left home alone.

This is an allegation of reportable conduct:

- Approved out of home care providers are designated entities.
- The person subject of allegation is an employee of the designated entity.
- The alleged conduct could be categorised as *neglect - abandonment*.
- The foster carer appears to have left a child without age-appropriate care for an unreasonable amount of time.

Case study 14

A child gets in the car after training with a local sporting club and has a bleeding nose. The parent asks what happened and the child explains, the coach got angry at the child for talking and pushed the child hard from behind. The child fell forward banging their nose into the ground and causing it to bleed.

This is NOT an allegation of reportable conduct:

- Local sporting clubs are not designated entities.
- The parent could lodge a complaint with the management of the sporting club and report the matter to ACT Police.

Case study 15 (*Neglect – failure to protect from abuse*)

A child returns to the classroom after lunch distressed and crying with a bleeding graze on their elbow. They tell the classroom teacher that two other students in the class have been stealing their lunch every day this week, and today the students threatened them until they jumped from the top of the play equipment against their wishes and that's how they hurt their elbow. The teacher tells the child to calm down and to go wash their elbow and get a drink of water before they return to their desk.

That afternoon the student tells their parent what happened, and the parent sends an email to the principal raising their concerns.

This is an allegation of reportable conduct:

- Government and non-government schools are designated entities.
- The person subject of allegation is an employee of a designated entity.
- The alleged conduct could be categorised as *neglect – failure to protect from abuse*. It appears the teacher failed to respond to information strongly indicating potential or serious abuse of a child.

Case study 16

While on a year 10 excursion to a museum, the teacher asks students to move through the exhibits in pairs and complete some tasks. The teacher requests the students meet in the foyer at 2:30pm to return to school. Once the students disperse, the teacher moves through the exhibits, engaging with students as they come across them.

While moving through the exhibits, a student slips down some stairs and sprains their ankle. The student seeks assistance from museum staff and the teacher is contacted.

This is NOT an allegation of reportable conduct:

- Government and non-government schools are designated entities.
- The person subject of allegation is an employee of the designated entity.
- The student sustained an injury as the result of an accident, not a lack of age-appropriate supervision.
- While not directly supervising each student, the teacher remained in their proximity and when the student was injured, the museum staff were able to contact the teacher.

Case study 17 (*Misconduct of a sexual nature – sexually explicit comments and other overtly sexual behaviour*)

During a year nine health class, a small group of students begins expressing their views about becoming sexually active. The teacher tries to redirect the students back to the task they have been set. When the students refuse to engage with the set task, the teacher informs the small group of students they will need to come back at lunchtime to complete the task.

When the students return at lunchtime they initially begin working on the task, but when the conversation from the lesson begins again the teacher participates providing the students with explicit details of their own sexual experiences as an adolescent. The following day, several of the students report the incident to the wellbeing teacher.

This is an allegation of reportable conduct:

- Government and non-government schools are designated entities.
- The person subject of allegation is an employee of a designated entity.
- The alleged conduct could be categorised as *misconduct of a sexual nature – sexually explicit comments and other overtly sexual behaviour*.
- It appears the teacher has engaged in an inappropriate conversation of a sexual nature with the students.

Case study 18 (*Psychological harm*)

At the beginning of the school year, a classroom teacher is advised that a student in their year three class has a generalised anxiety disorder and is particularly fearful of verbally answering questions in class.

During term one the classroom teacher implements a teaching strategy where each student must answer a maths or spelling question before they go out to morning tea and lunch. Most of the students seem to enjoy answering the questions.

During the first week of the strategy, the classroom teacher remains in the classroom with the student she had been advised about, after the rest of the class had gone to breaks, insisting the student answer a question before leaving. The classroom teacher reluctantly lets the student go after about 15 minutes without answering a question, making their disappointment and displeasure known to the student. The student often leaves the classroom in tears.

In the following weeks, the classroom teacher continues this conduct daily and begins asking the student very basic questions and telling the student 'This is a kindergarten question, surely you can answer this'.

By week four of term the student is refusing to attend school, is seeing their psychologist more frequently and is placed on anti-anxiety medication. During therapy, the student discloses the teacher's conduct and the impact it was having on them.

This is an allegation of reportable conduct:

- Government and non-government schools are designated entities.
- The person subject of allegation is an employee of a designated entity.
- The alleged conduct could be categorised as *psychological harm*.
- It appears the teacher's persistence with the teaching strategy, despite knowing the student's circumstances and witnessing the student's distress, has potentially caused trauma for the student and exacerbated a pre-existing condition.

Case study 19 (*Misconduct of a sexual nature – grooming*)

When the bell goes for lunch, the classroom teacher approaches a year eight student and asks if they would like to stay back and look at photos of their new puppy. The student remains in the classroom with the teacher for most of lunch. The teacher 'friends' the student on social media, so they can send them photos of the puppy.

The teacher then invites the student to meet them at a dog park near their home, so they can meet the puppy. After this the student regularly meets the teacher at the dog park, and remains in the classroom with the teacher during breaks talking and looking at photos and videos on the teacher's phone.

The teacher tells the student, 'I'm not really supposed to be alone with students, so please don't tell anyone or we will get in trouble'. One day during one of these lunchtime interactions, the teacher shows the student a picture of themselves in revealing swimwear, asks the student if they thought the teacher 'looks nice in the photo' and asks what the student wears when they go swimming.

During another lunchtime interaction, the teacher stands behind the student, running their fingers through the student's hair and complimenting the student on how lovely their hair is.

On the student's birthday, the teacher gives the student a birthday card, with \$50 in it and signs the card, 'our little secret'. The student's parent notices they seem to have a lot of money to spend and asks where they got it, the student discloses what had been happening.

This is an allegation of reportable conduct:

- Government and non-government schools are designated entities.
- The person subject of allegation is an employee of a designated entity.
- The alleged conduct could be categorised as *misconduct of a sexual nature – grooming*.
- It appears the teacher has been spending inappropriate special time with the student, giving them gifts, initiating inappropriate physical contact and requesting they keep their interactions a secret.

Case study 20 (*ill-treatment of a child - emotional abuse*)

A child concern report is lodged with Child Youth Protection Services (CYPS) stating that a parent is frequently heard loudly and aggressively berating and threatening his children. During the incidents the parent can be heard using explicit language and the children can be heard crying and screaming.

The parent is an administration officer for an ACT Directorate and volunteers as a sports coach for a non-government school in the ACT.

This is an allegation of reportable conduct:

- All ACT Directorates are designated entities.
- The person subject of allegation is an employee of a designated entity.
- The alleged conduct could be categorised as *ill-treatment of a child - emotional abuse*.
- CYPS would likely share information regarding the allegations with the ACT Directorate and the non-government school and both entities would need to provide a section 17G notification to the ACT Ombudsman and investigate the allegations.

Please note: This document is intended as a guide only. For this reason, the information should not be relied on as legal advice or regarded as a substitute for legal advice in individual cases. To the maximum extent permitted by the law, the Commonwealth Ombudsman is not liable to you for any loss or damage suffered as a result of reliance on this document. For the most up-to-date versions of cited Acts, please refer to the [Federal Register of Legislation](#).

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