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Reporting bodies

Reporting bodies are organisations that have a legal obligation to report findings of sexual misconduct and serious physical assault involving children by a child-related worker to the Office of the Children's Guardian.

They must also inform the employee about that finding and that they have a statutory obligation to report the misconduct to the Office of the Children's Guardian.

Reporting bodies are listed under:

- Section 35(4) of the *Child Protection (Working with Children) Act 2012*

- Clause 25 of the Child Protection (Working with Children) Regulation 2013

What must be reported

Reporting bodies must report

- sexual misconduct committed against, with or in the presence of a child, including grooming of a child
- any serious physical assault of a child.

More information can be found on the [NSW Ombudsman website](#).

Investigate and report findings

Reporting bodies must investigate allegations of such conduct to make an informed finding as to whether or not the conduct occurred. To determine whether or not the conduct meets the criteria, reporting bodies should consider the nature of the conduct itself and the context in which it occurred.

If the investigation results in a finding that sexual misconduct or serious physical assault occurred, the reporting body must report this finding to the Office of the Children's Guardian. This is the time to report the finding, even if appropriate disciplinary action in respect of the misconduct has not yet been determined or review or appeal processes remain available.

The Ombudsman may report other misconduct to the Office of the Children's Guardian.

How to report findings to the OCG

To report misconduct, an employer must first register with the new Working With Children Check system to receive login details for the employer's organisation. Details on this can be found in the [Employer section](#).

To submit a relevant misconduct finding in respect of a child-related worker you need permission from the OCG to do so. Send an email to Check@kidsguardian.nsw.gov.au to request permission. Once granted, you will be able to submit your reports online using your employer login details.

1. Go to www.check.kids.nsw.gov.au
2. Click the **Employer** button.
3. Click **Log in and Verify**
4. Enter your employer login details and click Submit.
5. Select the *Submit workplace report finding* tab across the top of the screen.
6. A form will appear. Fill in the required fields and click **Submit**.

Keeping records

Keep records for 30 years.

A reporting body (or any successor) must keep all records of allegations, investigations and findings about a notification for at least 30 years, unless the records are given to the Office of the Children's Guardian. If a reporting body or any successor to a reporting body ceases to exist all records must be lodged with the Office of the Children's Guardian before the body or successor ceases to exist.

Informing workers who are the subject of a relevant misconduct finding

A worker who is the subject of a relevant misconduct finding must be informed of that finding and that that his or her employer has a statutory obligation to report the misconduct to the Office of the Children's Guardian. Workers are able to use the *Government Information (Public Access) Act 2009 (GIPA)* to seek access to information held by government agencies about the recorded misconduct finding.

They may do this even after they have left the reporting body's organisation, and cannot be charged any fees by the reporting body to access this information. This is stipulated in section 46(2) of the *Child Protection (Working with Children) Act 2012*.

The OCG will notify the GIPA applicant and relevant agencies of the process for each application, as they are each dealt with individually.

For more information about the GIPA Act, call the Office of the Information Commissioner on 1800 463 626, visit [the Information and Privacy Commission website](#) where you can download the fact sheet on Ways to access government Information.

Potential consequences for the worker

As well as a national criminal history check, an application for a Working With Children Check involves a review of workplace records. Applicants who receive a clearance are subject to ongoing monitoring for five years, which is how long a Working With Children Check clearance remains valid.

A new criminal or workplace record which appears against a worker's name during this five year period may trigger a risk assessment and in some cases result in a bar or interim bar against working with children, depending on the seriousness of the offence or conduct.

Withdrawing a finding of relevant misconduct

A reporting body may amend or withdraw a notification of a finding of relevant misconduct if:

- the finding was quashed, withdrawn or amended
- there was an error in the notification or the finding
- the notification was wrongly made
- the person against whom the finding was made has died.

The Office of the Children's Guardian requires written notification of amendments or withdrawals of a finding of relevant misconduct. The representative of the reporting body must provide a statutory declaration as to the reasons for the amendment or withdrawal.

