

# Mandatory Reporting Of Suspicion of Abuse (Child and Elderly)

Created December 2011  
Reviewed June 2015 (Version 4)

# Mandatory Reporting



**This package may contain reference to sensitive issues which may be confronting. Should you feel you may be distressed by the topics please contact your education Representative.**

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## Overview of Mandatory Reporting in Healthcare

HCA staff employed by Healthcare Australia are expected to comply with Australian legislative requirements and ANMC nursing standards (if applicable), in the reporting of abuse and or assault of clients in their care. Clients who are vulnerable and open to abuse represent many different subgroups, but the focus of this package will be on the elderly and children.

Elderly clients may reside in approved residential facilities and or in the community in their own homes. When residing in an approved residential facility, the older Australian's rights are protected by the Aged Care Act 1997. The Act specifies exact procedures to be followed when reportable incidents occur.

Elderly clients who reside in their own homes and are provided services funded by HACC, or similarly funded packages are not specifically identified in the Aged Care Act, however, their rights and responsibilities are catered for by the ARAS HACC Advocacy program. HCA Nurses employed in community care for the elderly, must report incidents to their service provider e.g. Domiciliary Care, Local Council, RDNS, etc., regarding procedures to be followed.

Clients who are aged up to and including 18 years of age are deemed to be children and young people. Mandatory reporting laws in all Australian states specify those conditions under which an individual e.g. nurse, is legally required to make a report to the statutory child protection service in their jurisdiction. The maltreatment types that are mandatory to report cover physical abuse, sexual abuse, neglect, exposure to family violence dependent on the Australian state in which the abuse occurred.

HCA requires its nurses to have an understanding of the current legislation relating to mandatory of reporting whether they work directly with vulnerable groups or not. This two unit course provides current best practise and awards the student with two-hours continuous professional development once the tutorial and short assessment are successfully completed, and the nurse has reflected on their individual practise (see the guide to reflection at the end of this tutorial).

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## Section One:

# Mandatory Reporting of Abuse of the Elderly - Identifying and Reporting Abuse

### Objectives:

- Provide a background to compulsory reporting in aged care.
- To revise compulsory reporting requirements.
- To understand what happens when a report is made.
- To understand internal processes for reporting abuse.

## Protecting Older People

If you work in an aged care service you may see signs of older people being abused. Fortunately this doesn't happen very often but it is important that you know:

- What abuse is;
- How to recognise if someone is being abused; and
- Know what to do about it.



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## Identifying and Reporting Abuse

### Background:

Compulsory reporting and protection requirements commenced on 1 July 2007 following amendments to The Aged Care Act 1997 (the Act).

The Act was announced as a series of measures to provide 'greater protection' for aged care residents. Other measures include mandatory police checking of aged care staff, the establishment of the 'Office of Aged Care Quality and Compliance' and the role of the Aged Care Commissioner. The Aged Care Act defines abuse that must be reported. The Act describes these abuses as 'reportable assaults'. Unlawful sexual contact and unreasonable use of force are forms of abuse considered 'reportable assaults'.

### ABUSE OF THE ELDERLY IS DEFINED AS:

*"A single or repeated act or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person"*

**(World Health Organization, 2008)**



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## Forms of Abuse

This section describes the different forms of abuse and exploitation that can occur and the signs that may indicate that an older person has been abused.

### Physical Abuse

Physical abuse is a non-accidental act which results in physical pain or injury, and which may include physical coercion and physical restraint.

Signs of physical abuse may include:

- Bruises;
- Welts or rashes;
- Lacerations and abrasions;
- Broken or healing bones;
- Cringing or acting fearful;
- Drowsiness;
- Noticeable decline in physical wellbeing;
- Conflicting stories between residents, staff or family members about the cause of injuries;
- Unexplained accidents or injuries;
- Unexplained hair loss;
- Agitation;
- Burns;
- Weight loss;
- Facial swelling or missing teeth;
- Pain or restricted movement.

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## Sexual Assault

Sexual assault is the general term used for a broad range of unwanted sexual behaviour, whether through physical force, emotional intimidation or any type of coercion. Sexual assault is a crime. Sexual abuse is a form of sexual assault. Abuse and assault are mainly about violence and power over another person, rather than sexual gratification or pleasure.

Sexual abuse includes rape, indecent assault, sexual harassment and sexual interference. Sexual activity with an adult who is incapacitated by a mental or physical condition (such as dementia) that impairs his or her ability to grant informed consent, is defined as sexual assault/abuse.

Sexual abuse can be overt and obvious (rape, penetration, oral-genital contact) or more subtle (inappropriate comments or interest in the older person's body). It can also include practices such as the inappropriate, and possibly painful, administration of enemas or genital cleansing.

Signs of sexual abuse include:

- Unexplained sexually transmitted disease or infections;
- Bruising in genital areas, inner thighs or around the breasts;
- Unexplained vaginal or anal bleeding;
- Fear of certain people or places;
- Fingertip bruising on upper arms;
- Torn, stained or bloody underclothing, continence pads or bed linen;
- Difficulty in walking or sitting;
- Use of sexually explicit language or references by a resident;
- Changes in sleep patterns, sleep disturbance, recurring nightmares.

**\*\*Both physical abuse and sexual assault are indicated as reportable assaults as per the Aged Care Act 1997\*\***

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## Neglect

Neglect is the failure of a carer to provide the necessities of life to a person for whom they are caring. Neglect can be intentional or unintentional.

Unintentional neglect occurs when a carer does not have the skills or knowledge to care for a dependent person, although this is a situation that is unlikely to occur in the residential care setting. The carer may not be aware of the types of support that are available, or they may be ill themselves and unable to provide care.

Neglect is considered intentional when an older person is abandoned or not provided with adequate food, clothing, personal items, medical or dental care. Inappropriate use of medication (overuse, under-use or misuse), not providing adequate hygiene and personal care, and not allowing other people to provide adequate care are also forms of neglect.

## Social Abuse

Social abuse involves preventing a person from having contact with friends or family or access to social activities. Forms of social abuse include discouraging or stopping a resident from seeing other people, including family or friends, and preventing them from joining in activities in or outside the residential aged care facility.

## Financial Abuse

Financial abuse involves the illegal or improper use or mismanagement of a person's money, property or resources. Stealing, fraud, forgery, embezzlement, forced changes to a will, inappropriate removal of a resident's decision making powers and misuse of power of attorney are all forms of financial abuse or exploitation.

## Psychological/Emotional Abuse

Psychological or emotional abuse is language or actions designed to intimidate another person and is usually characterised by a pattern of behaviour repeated over time, intended to maintain a 'hold of fear' over them. Forms of psychological abuse include:

- Intimidation, humiliation and harassment – e.g. threats, calling a resident names, treating a resident like a child, shouting at a resident;
- Withholding of affection;
- Refusing a resident access to family members or close friends;
- Depriving a resident of sleep;
- Inappropriate removal of a resident's decision-making powers.

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## Reporting an Abusive Situation

It is important always to search for the cause of a change in a resident's behaviour or unexplained physical symptom. If a resident shows one or more of the possible signs of abuse, it does not automatically mean she or he is being abused, but it must be reported.

HCA staff must report to a supervisor at the facility or next most senior manager if:

- A resident shows a change in behaviour or mood or any of the signs described above;
- You observe someone behaving towards a resident in a way that makes you feel uncomfortable;
- A resident tells you that they are being abused by another person;
- A person tells you that they are abusing a resident;
- A resident, staff member or visitor tells you that they have observed abusive acts;
- You observe an action or inaction that may be considered abusive.

**Note: Do not dismiss what a resident with dementia tells you as merely 'dementia talk'.**

## Responding to an Abusive Situation

Procedures for HCA Care Staff when reporting any form of abuse:

- Reassure and comfort the older person;
- Report directly to your supervisor;
- Complete an incident form;
- Record your observations or discussions with (or concerning) the resident that might indicate that abuse has occurred;
- Do not attempt to ask extra questions or to investigate in any way. That is not your role;
- Do not disturb the area or remove any items involved in the incident;
- Report to your supervisor any additional changes or concerns that you think of or observe later.

**\*\* Staff may report allegations or suspicions of physical or sexual abuse direct to the Department of Social Services (DSS)- Aged care Complaints Scheme on 1800 550 552, if they feel unable to report their concerns to their supervisor or to a more senior manager of the facility\*\***

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## Procedures for Supervisors - Physical or Sexual Abuse

If you suspect that abuse has occurred, or abuse or suspected abuse is reported to you:

- Place the interests of the resident first;
- Determine whether the situation is urgent (happening now). If yes, consider whether you can take immediate action to stop the abuse occurring, without endangering the resident, yourself or other people;
- Call for the police (if necessary);
- Call for an ambulance (if necessary);
- Report to your Senior Manager/Director;
- Seek medical treatment (if necessary);
- Treat the area as a crime scene until advice is given otherwise;
- Do not remove any articles or items from the area;
- Ensure the older person does not wash or shower;
- Do not allow others to enter into the area;
- Ensure that there is no risk of exposure to or contact with the alleged perpetrator (i.e. the person who is alleged to have carried out the abuse) by the resident;
- Reassure the resident;
- Provide support to the care staff involved;
- Counsel the resident and document the events;
- If the abuse is of a sexual nature, seek immediate advice from the nearest Sexual Assault Service;
- Establish if the resident has the capacity (is competent) to understand their circumstances and make decisions. If unsure, seek a medical assessment of this.

## Approved Provider Responsibilities

### Reportable Assaults

Approved providers or other authorised personnel receiving allegations or suspecting this type of assault must report this as soon as reasonably practicable, within 24 hours.

Reports must be made to Police and the Department of Social Services (DSS)- Aged care Complaints Scheme by the Provider.

Under Federal law all aged care service providers are required to report suspicions, allegations or witnessed events of Elder Abuse to their relevant funding bodies & local police

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## Reportable Assault – Exception

Unwelcome sexual contact and unreasonable use of force may not be deemed reportable if the following circumstances exist:

- Resident who committed assault has medically diagnosed medical impairment, documented before the assault occurred;
- Resident who committed assault has a behaviour management plan in place;
- It is a subsequent report of factually the same or similar incident;

(The approved provider (or their representative) will determine if these circumstances exist and whether or not reporting should proceed).

## Impairment Exception

For the purposes of exception from reporting to the police or DSS, an assessment of a resident’s cognitive or mental impairment must be undertaken by one or more of the following personnel:

- Aged Care Assessment Team (ACAT);
- The resident’s GP;
- A registered nurse;
- Another health professional with the appropriate clinical expertise, e.g. such as geriatrician, psycho-geriatrician, geriatric nurse, and clinical psychologist.

Assessments undertaken in a community and / or hospital setting may also be considered.

## Repeated Reports

The requirement to report reportable assaults does not apply to later allegations which could include the following:

- Related to the same, or substantially the same, factual situation or event as an earlier allegation;
- Has previously been reported to a Police Officer and the Department;
- Where different people report the same event and/or the same person makes allegations repeatedly where these allegations have been followed up.

Consolidated records must be maintained in relation to the above circumstances.

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## Scenario One:

Thelma is a 78 year old with dementia who lives with her daughter, on this day her neighbour brings her to day therapy instead of her daughter. Thelma is always in long sleeved clothing when she comes to day therapy. On this day her neighbour tells you she has serious concerns of Thelma's safety. She tells you that Thelma has bruises all over her arms, and that she often hears yelling coming from the house. Thelma's daughter has always seemed loving and caring towards her mother.

### Questions:

- What type of abuse could this be?
- Do we know abuse has occurred?
- What should you do?
- What other explanation could there be?

### Upon Investigation

Thelma was admitted to hospital for full examination and suspected high risk of further investigation.

During the investigation the following findings were made;

Thelma was diagnosed of Thrombocytopenia (blood clotting disorder) responsible for the bruising.

Thelma is profoundly deaf (the yelling the neighbour could hear).

**No Abuse had occurred.**

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## Scenario Two:

You have worked at the Nursing Home for 4 years as a Registered Nurse. When completing the morning medications one of the residents Mrs Ward is crying and looks very distressed.

When you ask her what is wrong, she tells you that one of the carers overnight was very aggressive when assisting her to the toilet. Mrs Ward said she pushed her into the wall, and was squeezing her arm. She also states that the carer swore at her. Mrs Ward tells you she is scared of this carer, and refuses to identify who the alleged staff member is.

### Questions:

- What should you tell the resident?
- Who should you inform?
- If you were the manager of the Nursing Home what do you do?

## Protecting those who Report

The approved provider has an obligation to ensure that any staff member reporting a suspected or alleged reportable assault is not victimised for making the report and their identity is protected.

Where a disclosure is made in good faith, the staff member is protected from civil or criminal liability for making the disclosure as well as defamation proceedings and adverse employment consequences.

Disclosure of information qualifies for protection if:

- The person is an approved provider of residential aged care or a staff member of such an approved provider.

The disclosure is made to one or all of the following:

- A Police Officer, or DSS, or the approved provider;
- One of the approved provider's key personnel;
- Another person authorised by the approved provider to receive such reports.

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Disclosures to people other than those identified above: Employees are bound by a confidentiality agreement; disclosure of incidents is a breach of confidentiality, and may result in termination of employment.

### Anonymous reporting of reportable assault:

An employee may also report an assault anonymously or confidentially to the Aged Care Complaints Investigation Scheme. However, the protections outlined above would not apply in this circumstance. Employees may elect to make the report to an independent third party, rather than through the channels described above.

Providing false or misleading information is a prosecutable offence. Such information is generally vexatious and deliberately intended to mislead.

### THE ROLE OF THE DEPARTMENT

- Upon receiving a report of abuse, DSS (Department of Social Services) has the role to determine whether or not the facility has policies and procedures in place for reporting and managing resident abuse.
- It is not the Department's role to investigate the abuse or deal with/punish the alleged perpetrators.

### THE ROLE OF THE POLICE

- Police are to determine whether or not an assault occurred.
- Police will interview witnesses to the victim of the alleged assault (if possible), the victim of the alleged assault and the alleged perpetrator of the assault.
- Police will determine whether or not there is sufficient evidence to form a case and recommend charges.
- If charges are laid, the alleged offender is dealt with via the judicial system.



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## THE ROLE OF THE FACILITY

- The facility will investigate allegations of abuse as per its complaints management process.
- Evidence collected from the investigation will be used to recommend disciplinary action commensurate with the severity of the alleged assault and the level of evidence to prove that it occurred.
- The results of investigations are confidential.
- Report as soon as possible – from the point of police investigation, the trail will go ‘cold’. Provides the opportunity to check the resident for any signs of abuse – bruising, scratches.
- Alleged victim, witnesses will have a fresher recollection of what happened.

## In Conclusion

- All HCA employees have a responsibility to respond to, and report all suspicions and allegations of abuse of the elderly to the manager of the facility.
- All HCA employees working with the elderly in the community have a responsibility to respond to, and report all suspicions and allegations of elder abuse to the manager of the service provider.
- Prevention of abuse of the elderly is best achieved through awareness and understanding of our obligations.
- This course is mandatory for HCA nurses as a commitment to help the prevention of abuse in healthcare.

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## Section Two:

### Mandatory Reporting of Suspicion of Child Abuse - Protecting Children and Young People

If you work in an environment caring for children and young people you may see signs of abuse.

#### It is important that you know:

- What is considered abuse
- How to recognise if someone is being abused, and
- The procedure to follow if abuse or suspected abuse is identified

### Mandatory reporting of Suspicion of Child Abuse

#### Objectives:

- What is mandatory reporting
- Who is mandated to make a notification
- What types of abuse are mandated reporters required to report
- About whom can notifications be made?
- Is the identity of reporters protected

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## What is Mandatory Reporting?

Mandatory reporting can be defined as the legal requirement within Australian states and territories to report suspected instances of child abuse and neglect. All Australian states and territories have legislation in place, to protect children and young people but there are variations in terms of who is mandated to report, and which type of suspected abuse is reportable.

## Who is mandated to make a notification?

HCA staff working with children or young people are mandated to report according to the legislation of the respective state in which they are working. The relevant Acts and Regulations in the various Australian states and Territories contain lists of particular occupations that are mandated to report. These can vary quite widely from a limited number through to every adult.

Nurses, both Registered and Enrolled, and Midwives are occupations that are included in most states and territories. The following information is not inclusive of all mandated occupations; only those which are representative of HCA staff.

For full details access <https://aifs.gov.au/cfca/publications/mandatory-reporting-child-abuse-and-neglect>

**ACT:** A person who is: a doctor; a dentist; a nurse; an enrolled nurse; a midwife; a person who, in the course of the person's employment, has contact with or provides services to children, young people and their families and is prescribed by regulation

**NSW:** A person who, in the course of his or her professional work or other paid employment delivers health care, welfare, education, children's services, residential services or law enforcement, wholly or partly, to children

**NT:** Any person with reasonable grounds, registered health professionals

**QLD:** A doctor or registered nurse, a person employed in a departmental care service or licensed care service

**SA:** Doctors; pharmacists; registered or enrolled nurses; dentists; psychologists, a local government or non-government agency that provides health, welfare, education, sporting or recreational, child care or residential services.

**TAS:** Registered medical practitioners; nurses; midwives; dentists; dental therapists or dental hygienists; registered psychologists; persons who provide child care or a child care service

**VIC:** Registered medical practitioners, midwives, registered nurses

**WA:** Doctors; nurses and midwives.

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## Types of Abuse required to be reported

The forms of child abuse are categorized into four abuse types:

- Physical abuse
- Emotional abuse
- Sexual abuse
- Neglect

Each state and territory identifies the type of abuse or suspected abuse which needs to be reported. This can vary from all categories of abuse to only some abuse types.

- **ACT:** Physical abuse, sexual abuse
- **NSW:** Physical abuse, sexual abuse, emotional/psychological abuse, neglect, exposure to family violence
- **NT:** Physical abuse, sexual abuse, emotional/psychological abuse, neglect, exposure to family violence
- **QLD:** Physical abuse, sexual abuse,
- **SA:** Physical abuse, sexual abuse, emotional/psychological abuse, neglect
- **TAS:** Physical abuse, sexual abuse, emotional/psychological abuse, neglect, exposure to family violence
- **VIC:** Physical abuse, sexual abuse
- **WA:** Physical abuse, sexual abuse,

For further details access <https://aifs.gov.au/cfca/publications/mandatory-reporting-child-abuse-and-neglect>

## Definition of a child or young person

A child or young person is deemed to be any individual who is aged up to and including 18 years of age, with the exception of NSW. In NSW it is not mandatory to report suspicions of risk or harm to young people aged 16 and 17.

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## Protection for reporters

The identity of notifiers, whether mandated or not, is explicitly protected however there are some limitations e.g. disclosure to Family Courts.

## Procedures for Reporting

HCA employees must follow the specific policies and procedures for mandatory reporting of child abuse of the facility or organisation where they were working. For further information about child abuse access the National Child Protection Clearing house: located at <https://aifs.gov.au/cfca/>

## National Child Protection Clearinghouse (NCPC)

The National Child Protection Clearinghouse is funded by the Commonwealth Department of Family and Community Services as part of the Commonwealth's response to the problem of child abuse. The Clearinghouse has operated from the Australian Institute of Family Studies since 1995 and provides an information/advisory service to workers in the field. The goal of the Clearinghouse is to inform policy, practice and research into child abuse prevention.

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## Congratulations



**You have completed the reading for this part of the course. You should now complete the multi-choice assessment quiz to successfully complete the Mandatory Reporting course online.**

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## Advisory Panel (June 2015)

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## Images

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