



**Child Safe**  
**Complaints Handling Procedure**  
*November 2024*

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## 1) Purpose

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The *Child Safe Complaints Handling Procedure* (this Procedure) outlines how BlueFit responds to, reports, investigates, and records child safety complaints. BlueFit encourages all individuals to feel comfortable and supported when raising concerns or making child safety complaints.

BlueFit treats all child safety complaints seriously and addresses them promptly and appropriately.

## 2) Scope

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This Procedure applies to BlueFit staff and Board members. For the purpose of this Procedure, BlueFit staff includes full time employees, part time employees, casual employees, contractors, Board members and volunteers. This Procedure extends to all aspects of BlueFit's activities and programs.

## 3) Terms and Definitions

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For the purposes of this Procedure:

Term	Meaning
<b>Blue Card</b>	Refers to the legislative requirement to obtain a Blue Card to work or volunteer with children in Queensland.
<b>CALD</b>	Culturally and Linguistically Diverse.
<b>Child</b>	Refers to a person under the age of 18 years, unless under the law applicable to the child, majority is attained earlier.
<b>Child abuse</b>	Refers to the acts or omissions (neglect) that result in, or have the likelihood to result in, harm to a child. The forms of child abuse are sexual abuse, emotional abuse, neglect, physical abuse, and exposure to family violence.
<b>Child grooming</b>	Child grooming is a form of sexual abuse. It refers to actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child, to lower the child's inhibitions in preparation for sexual activity.

<b>Child Safety Officer (CSO)</b>	Refers to the individuals appointed by BlueFit who are responsible for matters relating to child safety, including the management of child safety complaints.
<b>Complainant</b>	Refers to the person who is making a complaint.
<b>Emotional/psychological abuse</b>	Refers to inappropriate verbal or symbolic acts by an adult towards a child and/or a pattern of failure over time to provide a child with adequate non-physical nurturing and emotional availability.
<b>Exposure to family violence</b>	Refers to any form of abusive behaviour by a person towards another family member. The abuse can be physical, sexual, emotional, psychological, economical, threatening or coercive type behaviour. It is also a form of abuse when a child is exposed to, hears or witnesses any of the effects of the abusive behaviours.
<b>Facility</b>	Refers to a facility operated by BlueFit.
<b>National Safety Manager</b>	Refers to the individual appointed by BlueFit who is responsible for child safety matters across the organisation.
<b>Neglect</b>	Refers to the failure to provide a child with conditions that are culturally accepted as being essential for their physical and emotional development and wellbeing, such as food, clothing, shelter, hygiene, medical attention, or adequate supervision. Neglectful behaviours are an act of omission or by wilful choice.
<b>Patron</b>	Refers to any adult (who is not a BlueFit staff member) who visits a BlueFit Facility.
<b>Physical abuse</b>	Refers to the use of deliberate physical force against a child that intentionally or unintentionally results, or has the likelihood of resulting, in harm.
<b>Respondent</b>	Refers to the person who is the subject of a complaint.
<b>Sexual abuse</b>	Refers to when a person exposes a child to or involves a child in, sexual activity that the child does not fully comprehend, the child is unable to give informed consent to, the child is not developmentally prepared for and that is contrary to acceptable community standards.
<b>Staff</b>	Refers to full time employees, part time employees, casual employees, contractors and volunteers.
<b>Working with Children Check (WWCC)</b>	Refers to the legislative requirement to obtain a WWCC clearance to work or volunteer with children.

## 4) Child Safety Complaint Procedure

When responding to child safety complaints, the steps outlined in this procedure should be followed. Staff should also refer to the:

- a) **Appendix A** - Complaint Handling Flowchart
- b) **Appendix B** - Child Safety Incident Report Form
- c) **Appendix C** - Child Safe Legal Obligations

## 5) Child Safe Complaints Process

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### 5.1 Stages of the Complaints Process

BlueFit's complaints process involves the following five stages:

1. Receive
2. Respond
3. Report and Record
4. Investigate
5. Debrief

### 5.2 Receiving Complaints

A child safety complaint may include the following:

- A **suspicion** that child abuse may be occurring, or that a child may be at risk of abuse
- A **concern** that has been raised about a child's safety or wellbeing
- An **allegation** that has been made against a person concerning their behaviour towards a child
- A **disclosure** of abuse made by a child, or an adult on behalf of a child
- A **breach** of BlueFit's *Child Safe Policy, Child Safe Code of Conduct*, or supporting procedures.

After receiving a complaint, staff should:

- Immediately contact the Facility CSO for support and guidance on how to respond. If there is a conflict of interest, contact your Regional CSO or the National Safety Manager.
- Identify whether the complaint was initiated by a child or an adult (making a complaint on behalf of the child).
- Determine the most suitable approach to take when responding to the complaint (*refer to Sections 5.3. and 5.4.*).

### 5.3 Responding to Child-initiated Complaints

When responding to a child who is making a complaint, the following process should be followed:

Listen to a child who is making a disclosure, and ensure that you:

- Allow the child to use their own words when expressing their concerns
- Consider whether the child's parent/guardian should be present

- Remain calm, patient, and be supportive
- Ensure the environment is safe, comfortable, and respectful of the child's right to privacy
- Do not ask suggestive or leading questions
- Do not interrogate the child. You should avoid asking too many questions that may overwhelm them
- If the alleged incident happened on-site, ask the child if the person is still in the building and if they can describe the person. If the abuse happened at home, ask the child to provide more detailed information.

Reassure the child that:

- They have done the right thing by speaking up
- What has happened is not their fault, and validate their feelings
- You believe them and you are taking their concern seriously.

Respect the child and ensure that you:

- Allow the child to take their time to disclose information
- Explain what the next steps will be (using age-appropriate language)
- Avoid making promises that you cannot keep, for example, that you will not tell anyone what they have just told you
- Explain that you may need to tell someone else to keep them safe
- Ask the child what kind of support they would like from you and/or BlueFit.

#### **5.4 Responding to Adult-initiated Complaints**

When responding to an adult who is initiating a child safety complaint on behalf of a child, you should, if the child is present, adopt the process outlined at Section 5.3.

If the affected child is not present at the time an adult-initiated complaint is made, the following factors should be identified during the complaints process:

- Whether the child is aware that the complaint has been raised on their behalf
- The nature of any communication between the complainant and the affected child
- How involved the affected child would like to be in the complaints process
- When to contact the child or their parent/guardian

- How much information to provide the child about the next steps in the complaints process
- The extent of the parent/guardian's involvement in the complaints process.

## 5.5 Reporting Child Safety Complaints

When dealing with child safety complaints, the reporting requirements outlined in the Complaints Handling Flowchart and supporting procedure should be addressed. Refer to **Appendix A**.

## 5.6 Recording Child Safety Complaints

BlueFit staff are required to complete the **Child Safety Incident Report Form** on SALT. The following information is required to complete the form

1. The complainant's details, including name, position, email and the date
2. Category of the incident
3. The details of the affected child, including their name, contact details, whether they have any additional needs
4. Incident description, providing as much detail as you can, including any witness accounts
5. Whether any interim immediate action was taken
6. Whether Police or Child Protection Authorities have been contacted

Once the form is complete, sign and submit the incident form in SALT.

## 5.7 Investigate

BlueFit communicates with the relevant external authority (if the complaint was reported), prior to initiating an internal investigation. This is to ensure that BlueFit does not compromise or interfere with any criminal or child protection investigations.

During the investigation phase, the National Safety Manager, the Child Safeguarding Committee and the relevant Facility CSO will provide assistance to, and cooperate with, Police and child protection authorities (as required).

The National Safety Manager is responsible for initiating BlueFit's internal investigation process. The National Safety Manager (in consultation with the Safeguarding Committee and the Leadership Team) ensures the following during the investigation phase:

- Immediate risks to a child's safety are addressed
- Any affected child is offered continuous support, including having access to a support person at all times
- The investigation is planned, fair, proportionate and thorough, with findings supported by the available evidence

- Principles of procedural fairness are applied
- All information and evidence collected is managed securely, with access only by persons approved by the National Safety Manager
- Affected parties are kept informed with relevant information throughout the process
- The investigation process, findings and outcome are documented clearly in an investigation report.

## 5.8 Risk Evaluation and Safety Measures

After a child safety complaint is received, the National Safety Manager and the Leadership Team evaluate the level of risk the respondent poses to children at the relevant BlueFit facility. Once the risk level and the category of the incident are determined, BlueFit will implement actions to ensure children are safe within the facility. Actions may include, but are not limited to:

- Removal and/or ban of the alleged perpetrator from the facility
- Restrictions against an individual e.g. removal of staff from child-related duties
- Disciplinary action, as outlined in *Section 5.9*.
- Provision of ongoing monitoring of and support for the affected child
- Delivery of further training to BlueFit staff.

## 5.9 Disciplinary Action

After the required reporting steps are complete, the National Safety Manager and the Leadership Team may take the following disciplinary action:

- If the respondent is a staff member, the following actions may be taken to maintain a child safe environment at BlueFit:
  - Removal, suspension or ban from attendance at BlueFit Facilities
  - Suspension or termination of employment with BlueFit.
- If the respondent is a patron, including a parent/guardian, another child, or another person associated with BlueFit, the following actions may be taken:
  - Immediate removal from BlueFit Facilities
  - A temporary or permanent ban from BlueFit Facilities.
- If the respondent is a contractor or subcontractor, disciplinary action will be taken in accordance with the particular circumstances.

## 5.10 Debrief

At the conclusion of the complaints process, the National Safety Manager will debrief the affected parties on the final outcome and reasons for the decision.

- **The affected child and their parent/guardian:**
  - Follow up with the child and/or their parent/guardian and inform them of the final outcome and resolution
  - If appropriate, connect the child and/or their parent/guardian with support services
  - Document all communications and ensure accurate records are kept.
- **The respondent:**
  - Debrief and inform them of the final outcome and resolution
  - Provide referrals to external agencies for additional and ongoing support such as counselling services (if required)
  - Document all communications and ensure accurate records are kept.
- **BlueFit staff:**
  - Debrief affected staff, and offer counselling services if required (and if appropriate)
  - Debrief relevant staff and provide relevant information (if appropriate)
  - Document all communications.
- **External Authorities:**
  - BlueFit may also be required to communicate with external bodies including the Police, government bodies, or child protection authorities.

## 5.11 Support and Protection for Affected Parties

The National Safety Manager and/or the Facility CSO will:

- Keep parents/guardians informed of the progress and actions taken throughout the complaint process. The affected child will also be informed with appropriate information.
- Provide ongoing support to a child, or any other person who makes a complaint. Support may include assistance with the reporting process and/or professional counselling.

BlueFit will not penalise anyone who makes a complaint in the best interest of the child.

## 6) Additional Considerations

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### Confidentiality and Information Sharing

BlueFit keeps information relating to complaints confidential, to the extent permitted by law.

All personal information obtained throughout the complaints process is recorded, stored, and managed in accordance with relevant privacy laws.

BlueFit may be required to share information about incidents or complaints with external authorities (police and/or child protection authorities) to comply with the law. BlueFit may share relevant information obtained through a complaints process to:

- Uphold the duty of care to protect children from harm
- Ensure relevant parties are appropriately informed regarding a complaint
- Comply with legislation for each State or Territory which requires BlueFit to share information with the police or other prescribed bodies.

## 7) Record Keeping

BlueFit keeps complete and accurate records of all serious child abuse matters for a period of **40 years**. All other documents are retained for a minimum of **7 years**. Please refer to BlueFit's *Child Safe Policy* for further guidance on record keeping practices.

## 8) Referral and Support Services

**Table 2:** National and State/Territory referral and support services.

<b>Kids Helpline</b>	Free 24/7, support and advice for children and young people aged 5 to 25.	<b>1800 55 1800</b>
<b>Lifeline</b>	Provides all Australians access to crisis support and suicide prevention services.	<b>13 11 14</b>
<b>1800 RESPECT</b>	Support if you, or someone you know, is experiencing sexual assault or domestic and family violence (all ages).	<b>1800 737 732</b>
<b>Parent Line NSW</b>	Free telephone counselling and support for parents and carers with children aged 0 – 18 who live in NSW.	<b>1300 1300 52</b>
<b>Parent Line QLD</b>	Free counselling and support for parents and carers with children aged 0 – 18 who live in QLD.	<b>1300 301 300</b>
<b>Family Advice Line SA</b>	Free advice for families affected by relationship or separation issues in SA.	<b>1800 050 321</b>
<b>Parent Line Victoria</b>	Free counselling and support for parents and carers with children aged 0 – 18 who live in Victoria.	<b>13 22 89</b>
<b>Family Support Network WA</b>	Integrate services that provide support for families and young people at risk who live in WA.	<b>1800 199 008 or (08) 9223 1111</b>

## 9) Related Policies and Procedures

This Procedure should be read in conjunction with the following related documents:

Related Policies, Procedures and/or Guidelines
Child Safety Policy
Child Safe Code of Conduct
Child Safe Risk Management Procedure
Disciplinary Policy

## 10) Relevant Legislation

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- *Child Protection Act 1999 (QLD)*
- *Child Protection Regulation 2011 (QLD)*
- *Child Protection (Working with Children) Act 2012 (NSW)*
- *Child Safe Organisations Act 2024 (QLD)*
- *Child Safety (Prohibited Persons) Act 2016 (SA)*
- *Child Wellbeing and Safety Act 2005 (Vic)*
- *Child Wellbeing and Safety Regulations 2017 (Vic)*
- *Children's Guardian Act 2019 (NSW)*
- *Children and Community Services Act 2004 (WA)*
- *Children and Young People (Safety) Act 2017 (SA)*
- *Children and Young Persons (Care and Protection) Act 1998 (NSW)*
- *Children and Young Persons (Care and Protection) Regulation 2012 (NSW)*
- *Children, Youth and Families Act 2005 (Vic)*
- *Civil Liability Act 1936 (SA)*
- *Civil Liability Act 2002 (NSW)*
- *Civil Liability Act 2003 (QLD)*
- *Crimes Act 1900 (NSW)*
- *Crimes Act 1958 (Vic)*
- *Criminal Code Act 1899 (QLD)*
- *Criminal Law Consolidation Act 1935 (SA)*
- *Parliamentary Commissioner Act 1971 (WA)*
- *Privacy Act 1988 (Cth)*
- *Worker Screening Act 2020 (Vic)*
- *Wrongs Act 1958 (Vic)*

# 11) Document Control

## Distribution Record Register

Copy	Issued to	Controlled Copy		Authorised by	Recipient Signature	Issue Date
		Y	N			
1						
2						
3						
4						
5						

## Amendment Record Register

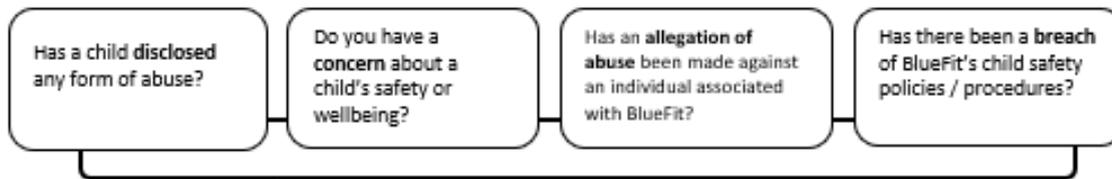
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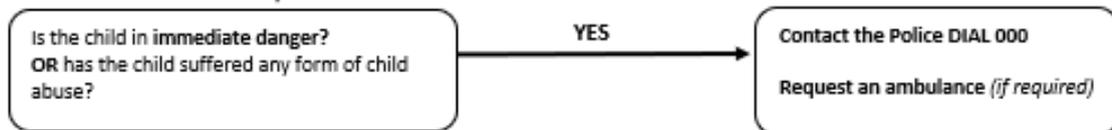
Rev. #	Date	Details		Description of Changes	Approved By
		Section #	Para. #		
1	14/11/2024	Table 5	QLD/WA	Child Safe Legal Obligations	Mel Atkins
2					
3					
4					
5					

# Appendix A - Child Safe Complaints Flowchart

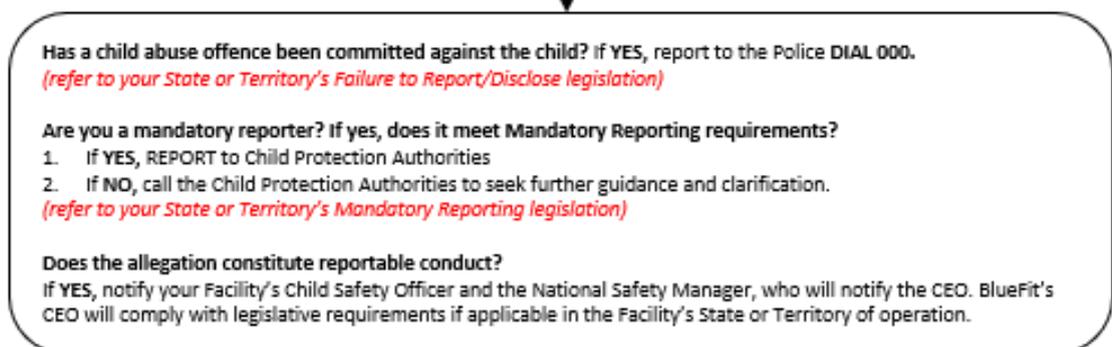
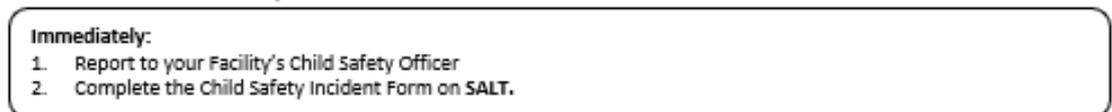
## 1. IDENTIFY AND RECEIVE



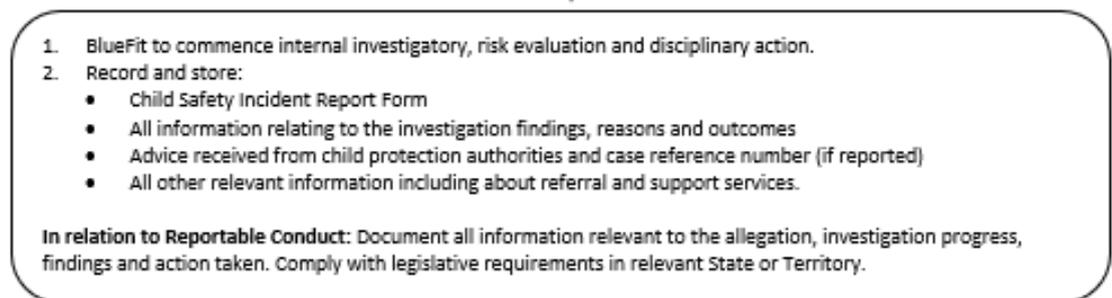
## 2. RESPOND



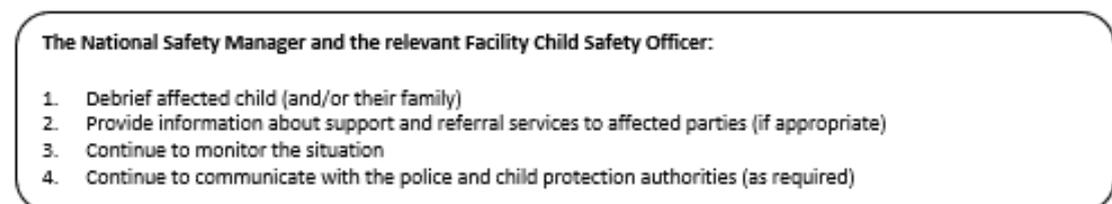
## 3. REPORT



## 4. INVESTIGATE AND RECORD



## 5. DEBRIEF



**Table 4: Reporting requirements**

Child Safe Complaint Procedure		
<b>1</b>	<b>Contact Police</b>	<p>Immediately contact the police, <b>DIAL 000</b>, if:</p> <ul style="list-style-type: none"> <li>● A child is in immediate danger</li> <li>● If a child has experienced any form of child abuse</li> <li>● If you have a legal obligation to report. Staff should contact their Facility CSO or the National Safety Manager if they are unsure of their legal reporting obligations.</li> <li>● The complaint involves an allegation or disclosure of any criminal conduct that requires police involvement.</li> </ul> <p>For non-emergency related matters, contact the Police on <b>131 444</b>.</p>
<b>2</b>	<b>Notify the Facility Child Safety Officer (CSO)</b>	<p>Regardless of whether the police were contacted, staff should immediately notify their Facility's CSO. If there is a conflict of interest, staff should report to the National Safety Manager.</p>
<b>3</b>	<b>Record the Complaint (SALT)</b>	<p>Record the complaint using the <i>Child Safety Incident Form (on SALT)</i>. When completing the form, staff must:</p> <ul style="list-style-type: none"> <li>● Gather the child's details and as much relevant information as required to record the complaint objectively (including any witness accounts).</li> <li>● Ensure that all available information is recorded as soon after the incident as possible and on the same day as the complaint was received.</li> <li>● Consider whether information should be obtained directly from the child, or whether the parent/guardian should be involved. This may depend on the following factors: <ul style="list-style-type: none"> <li>○ The age and maturity of the child</li> <li>○ The physical and emotional development of the child</li> <li>○ Cultural barriers</li> <li>○ Cognitive impairment or communication difficulties</li> <li>○ The child's level of understanding of what has happened and the potential consequences</li> <li>○ Whether the complaint involves the parent/guardian.</li> </ul> </li> </ul> <p>All child safety complaints must be recorded regardless of whether the complaint meets the statutory reporting threshold.</p>

4	<b>Child Protection Authorities</b>	Make a report to the relevant child protection authority in accordance with <b>mandatory reporting</b> legislation applicable in your Facility's State/Territory of operation.
5	<b>Reportable Conduct</b>	<p>If your Facility has obligations in accordance with its State/Territory Reportable Conduct Scheme, and the complaint involves reportable conduct:</p> <ul style="list-style-type: none"> <li>● Notify your Facility's CSO and/or the National Safety Manager. Report to the CEO.</li> <li>● The CEO must notify the relevant authority in accordance with the legislation applicable to the facility's State/Territory of operation</li> <li>● BlueFit conducts an internal investigation on the concern, disclosure, or allegation concerning reportable conduct.</li> </ul>

## Appendix B - Child Safety Incident Report Form

This form should be completed for all child safety complaints at BlueFit facilities. Before completing this form, please ensure that all requirements outlined in the Child Safe Complaints Handling Procedure have been followed and advice has been sought from external authorities where appropriate.

This record and any notes must be kept confidential and stored securely in accordance with record keeping guidelines outlined in the Child Safe Policy. The National Safety Manager should provide records to the relevant external authorities if required.

Child Safety Incident Report Form	
<b>Complainant's Details</b>	Name: Phone: Email Address:
<b>Classification of Complainant</b> <i>e.g. Facility Manager, Swim Coach, Patron, Contractor, etc.</i>	
<b>Date Complaint received:</b>	
<b>Child's Details</b>	Name: Age: Address:
<b>Does the child identify as being from Aboriginal and Torres Strait Islander background?</b>	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Unknown
<b>Does the child have a disability?</b>	<input type="checkbox"/> No <input type="checkbox"/> Yes, please provide relevant details: ..... .....
<b>Does the child come from a Culturally and Linguistically Diverse background?</b>	<input type="checkbox"/> No <input type="checkbox"/> Yes, please specify ..... ..... .....

<p><b>Does the child require communication support?</b></p> <p><i>Communication support may include an interpreter, a support person, family member etc.</i></p>	<p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes, please specify</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>If yes, please provide any information relating to the child's preferred communication methods, support needs and involvement in the complaints process:</p>
<p><b>Category of the Incident</b></p>	<p><input type="checkbox"/> Emotional or psychological abuse</p> <p><input type="checkbox"/> Neglect</p> <p><input type="checkbox"/> Sexual abuse</p> <p><input type="checkbox"/> Grooming</p> <p><input type="checkbox"/> Physical abuse</p> <p><input type="checkbox"/> Exposure to family violence</p> <p><input type="checkbox"/> Breach of BlueFit's Child Safe Policy/Code of Conduct.</p> <p><input type="checkbox"/> Other inappropriate behaviour.</p> <p>Please detail: .....</p> <p>.....</p> <p>.....</p>
<p><b>Name of person complained about</b> (Respondent)</p>	
<p><b>Classification of Respondent</b> <i>e.g. Manager, Coach, Patron etc.</i></p>	
<p><b>Date of incident</b></p>	
<p><b>Time of incident</b></p>	
<p><b>Location of incident</b></p>	

<p><b>Witnesses</b> <i>(if more than 3 witnesses, attach additional details to this form)</i></p>	<p>Name (1):</p> <p>Contact details:</p> <p>Name (2):</p> <p>Contact details:</p> <p>Name (3):</p> <p>Contact details:</p>
<p><b>Details of complaint/reason for suspecting abuse</b> <i>Use as much detail here as necessary including:</i></p> <ul style="list-style-type: none"> <li><i>what was said, (where possible, noting the exact words used by the person making the allegation);</i></li> <li><i>what you observed (e.g. injury, harm, disclosure) and any other details relevant to the incident.</i></li> </ul>	
<p><b>Interim immediate action (if any) taken to ensure child's safety and/or to support needs of person complained about</b></p> <ul style="list-style-type: none"> <li><i>Interim action may include transfer of alleged perpetrator to non-child-related duties, suspension, removal</i></li> </ul>	
<p><b>Provide details of any harm or injuries to the child, and if the child or others received medical attention.</b></p>	

<p><b>Police contacted</b> <i>Complete if relevant</i></p>	<p>Who: <i>name of Police Officer reported to</i>          When: <i>date and time you contacted the Police</i>          Advice provided:           Case reference number (if known):</p>
<p><b>Facility Child Safety Officer, National Safety Manager, another manager/supervisor</b></p>	<p>Who: <i>name of person reported to</i>           When: <i>when did you contact them</i></p>
<p><b>Child Protection Authorities</b> <i>Complete if relevant</i></p>	<p>Who: <i>name of contact person</i>          When: <i>date and time you made contact</i>          Advice provided:           Case reference number (if known):</p>
<p><b>Completed by</b></p>	<p>Name:           Position:           Signature: <span style="float: right;">Date:</span></p>
<p><b>Signed by</b></p>	<p>Complainant name (if it is not a child):</p>

## Appendix C - Child Safe Legal Obligations

The legislation governing child safe obligations varies across jurisdictions. Some of the key legal reporting obligations applicable to BlueFit and its staff are outlined in this section. Refer to the section relevant to your Facility's State/Territory of operation for guidance:

1. NSW
2. Queensland
3. South Australia
4. Victoria
5. Western Australia.

### Legal Obligations

The following child safe legal obligations are outlined in this section:

**Table 5: Child Safe Legal Obligations**

Legal Obligation	Description
<b>Failure to Report / Disclose offence</b>	The offence imposes a responsibility on adults to make a report to the police if they have knowledge that a child abuse offence has been committed against a child.
<b>Failure to Protect offence</b>	The offence imposes responsibility on all adults engaged in child-related work to ensure that the children under the care of the organisation are protected from risks of harm and abuse.
<b>Duty to Prevent Harm to a Child</b>	A civil duty that requires child-related organisations to take reasonable precautions to prevent an individual associated with the organisation from perpetrating child abuse.
<b>Mandatory Reporting</b>	<p>The legislative requirement for selected classes of people to make a report to government authorities, if they have reasonable grounds to suspect that a child is at risk of abuse.</p> <p><b>The following BlueFit Staff are mandatory reporters:</b></p> <ul style="list-style-type: none"> <li>• <b>All staff in South Australia</b></li> <li>• <b>All Childcare staff in Western Australia.</b></li> </ul> <p><b>Note:</b> BlueFit staff employed at Local Council owned facilities <b>may be</b> mandatory reporters. BlueFit should seek confirmation from Council (for relevant facilities).</p>

<b>Reportable Conduct</b>	<p>Reportable Conduct Schemes are established in some jurisdictions and require staff to report known, suspected or alleged abuse, harm, misconduct or inappropriate behaviour to the CEO. The CEO is required to notify the relevant State/Territory government department and conduct internal investigations.</p> <p><b>Note:</b> <i>BlueFit facilities under the ownership of Local Council <b>may be</b> captured by the Reportable Conduct Scheme. BlueFit should seek confirmation from the Council (for relevant facilities).</i></p>
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## 1. New South Wales

### 1.1. Voluntary Reporting

Any person who suspects, on reasonable grounds, that a child or young person is at risk of significant harm may make a report to the Department of Communities and Justice (DCJ) – **Child Protection Helpline (132 111)**.

If you are unsure whether you have reasonable grounds to make a report, speak to your Facility's CSO, or the National Safety Manager, or seek guidance from the Child Protection Helpline (132 111).

If it is an emergency, where there are urgent concerns for the child's health or life, call the police on 000.

### 1.2. Concealing child abuse offence – *Crimes Act 1900 (NSW) s 316A*

The offence applies to **all adults** in NSW, including BlueFit staff. Under the legislation, an adult who:

- Knows, believes, or reasonably ought to know that a child abuse offence has been committed against a child
- Must report the information to the police as soon as possible, unless there is a reasonable excuse for not reporting the information.

A reasonable excuse may include fear for safety or where the information has already been reported to the Police. If found guilty of the offence, the maximum penalty is imprisonment for 5 years.

### 1.3 Failure to reduce or remove risk of child becoming victim of child abuse – *Crimes Act 1900 (NSW) s 43B*

The offence applies to adults in NSW who carry out work for a child-related organisation, including BlueFit staff. An adult will be guilty of an offence if:

They know of a serious risk that another adult worker will commit a child abuse offence against a child who is, or may come, under the care, supervision, or authority of the organisation, and

- By reason of the person's position, they have the power or responsibility to reduce or remove that risk, and
- They negligently fail to reduce or remove that risk.

If found guilty of the offence, the maximum penalty is imprisonment for 2 years.

#### **1.4. Duty of organisations to prevent child abuse - *Civil Liability Act 2002 (NSW)* Part 1B**

The duty to prevent this applies to organisations that exercise care, supervision, or authority over a child (under 18 years). This includes BlueFit Facilities in NSW.

Under the legislation, BlueFit has a duty to take **reasonable precautions**, to prevent an individual associated with BlueFit, from committing child abuse (sexual or physical abuse) against a child who is under BlueFit's care.

An **individual is associated with an organisation** if the individual is an office holder, officer, employee, owner, volunteer, or contractor of the organisation.

The following factors may be considered to determine whether an organisation took reasonable precautions to prevent child abuse:

- The nature of the organisation
- The resources reasonably available to the organisation
- The relationship between the organisation and the child
- Whether the organisation has delegated in whole or in part the exercise of care, supervision, or authority over a child to another organisation
- The role in the organisation of the individual who perpetrated the child abuse
- The level of control the organisation had over the individual who perpetrated the child abuse
- Whether the organisation complied with any applicable standards (however described) in respect of child safety.

## **2. Queensland**

## 2.1. Voluntary Reporting

Any person may make a report under the *Child Protection Act 1999* (QLD) if they reasonably suspect that:

- A child may be in need of protection; or
- An unborn child may be in need of protection after he or she is born.

A child in need of protection is a child who:

- Has suffered significant harm, is suffering significant harm, or is at unacceptable risk of suffering significant harm, and
- Does not have a parent able and willing to protect the child from harm.

A reporter who is acting honestly will not be liable under civil or criminal law, or under administrative process for making a report. It is also not a breach of any code of professional etiquette.

## 2.2. Failure to report belief of child sexual offence – *Criminal Code Act 1899* (QLD) s 229BC

The offence applies to all adults in QLD (including BlueFit staff), if:

- The adult believes on reasonable grounds that a sexual offence is being or has been committed against a child by another adult, and
- The child either is or was under 16 years, or a person with an impairment of the mind, and
- Without reasonable excuse, the adult fails to report the information to the Police as soon as possible.

A reasonable excuse may include fear for safety or where the information has already been reported to the Police. If found guilty of the offence, the maximum penalty is imprisonment for 3 years.

## 2.3. Failure to protect child from child sexual offence – *Criminal Code Act 1899* (QLD) s 229BB

All adults who work in an institution that provides services to children have obligations under the Failure to Protect offence.

A person commits an offence if:

- the person knows there is a **significant risk** that another adult (alleged offender) will commit a child sexual offence against a child
- the alleged offender is associated with an institution or is a regulated volunteer;
- the child is under the care, supervision, or control of an institution; and

- the child is either under 16 years or a person with an impairment of the mind; and
- the person has the power or responsibility to reduce or remove the risk; and
- the person wilfully or negligently fails to reduce or remove the risk.

A person guilty of an offence may be subject to a maximum penalty of 5 years imprisonment.

#### **2.4. Liability of Institutions for Child Abuse – *Civil Liability Act 2003 (QLD) Part 2A***

The duty to prevent this applies to institutions that provide an activity, program or service that enables a person to have contact with a child. The duty applies to BlueFit and its facilities in QLD.

Under the legislation, BlueFit has a duty to take all reasonable steps to prevent a person associated with BlueFit from committing abuse against a child who is under BlueFit's care, supervision, control, or authority.

A person is associated with an institution if they are an officer, office holder, representative, leader, owner, member, employee, agent, volunteer, or contractor of the institution.

### **3. South Australia**

#### **3.1. Mandatory Reporting**

Mandatory reporting requirements for South Australia (SA) are outlined below. All BlueFit staff in SA are mandatory reporters.

**Table 6: Mandatory Reporting Requirements in South Australia**

<b>Key legislation</b>	<i>Children and Young People (Safety) Act 2017 (SA) Chapter 5</i>
<b>Child Protection Authority</b>	Department for Child Protection (DCP)
<b>Who is a child?</b>	A person under the age of 18 years.
<b>Mandatory reporters</b>	<p>Relevant to BlueFit, mandatory reporters include:</p> <ul style="list-style-type: none"> <li>● Employees of, or volunteers in, an organisation that provides <b>sporting or recreational or childcare</b>, for children and young people</li> <li>● A mandatory reporter is a person who: <ul style="list-style-type: none"> <li>○ provides such services directly to children and young people; or</li> <li>○ holds a management position in the organisation, the duties of which include direct responsibility for, or direct supervision of, the provision of those services to children and young people.</li> </ul> </li> </ul> <p>A person is employed if the person:</p> <ul style="list-style-type: none"> <li>● is self-employed; or</li> <li>● carries out work under a contract for services; or</li> <li>● undertakes practical training as part of an educational or vocational course; or</li> <li>● carries out work as a volunteer.</li> </ul>
<b>When is a mandatory report required</b>	<p>A mandatory report is required if:</p> <ul style="list-style-type: none"> <li>● The person suspects on reasonable grounds that a child or young person is or may be, at risk; and</li> <li>● That suspicion was formed in the course of the person's employment.</li> </ul> <p>The person must report to the DCP as soon as practicable after forming the suspicion.</p> <p><b>Maximum penalty: \$10,000.00</b></p>

<b>Report to the DCP</b>	<ul style="list-style-type: none"> <li>• If it is an emergency contact the police on <b>000</b> immediately.</li> <li>• If you are concerned about a child or have a reasonable suspicion that the child is, or may be, at risk of harm, call the Child Abuse Report Line (CARL) on <b>13 14 78</b> (available 24/7)</li> <li>• For guidance on what to include in your report, refer to <a href="#">Preparing to Report</a>.</li> </ul>
<b>When is a child 'at risk'?</b>	<p>A child or young person will be taken to be 'at risk' if the child or young person:</p> <ul style="list-style-type: none"> <li>• Has suffered or is likely to suffer harm (including sexual, physical, emotional abuse or neglect); or</li> <li>• Is likely to be subjected to an unlawful medical or other procedure, unlawful marriage or other activity that would be a criminal offence</li> <li>• Has been abandoned by their parents/guardians.</li> </ul>
<b>Protection for Reporters</b>	<p>All reporters who act in accordance with the <i>Children and Young People (Safety) Act 2017</i> will not be held to have breached any code of professional etiquette or ethics or to have departed from any accepted form of professional conduct.</p> <p>The identity of all reporters (mandatory and voluntary) is protected and must not be disclosed except if made with the consent of the reporter or by court order.</p>

### 3.2. Voluntary Reporting

Any person can make a report to the Department of Child Protection (**131 478**) if the person has a reasonable suspicion that a child has been or is being abused or neglected.

### 3.3. Failure to report suspected child sexual abuse – *Criminal Law Consolidation Act 1938 (SA) s 64A*

This offence applies to all BlueFit staff in SA. A prescribed person is guilty of an offence if the person knows, suspects or should have suspected that another person (*the abuser*):

- Has previously engaged in the sexual abuse of a child while an employee of the institution and:
  - The child is still under 18 years; or
  - The abuser is still an employee of the institution or another institution; or
  - The sexual abuse occurred during the preceding 10-year period; or

- Is an employee of the institution, and is engaging, or is likely to engage, in the sexual abuse of a child, and
- The prescribed person refuses or fails to report that to the police.

The maximum penalty is imprisonment for 3 years.

### **3.4. Failure to protect child from sexual abuse – *Criminal Law Consolidation Act 1935 (SA) s 65***

This offence applies to all BlueFit staff in SA. A prescribed person is guilty of an offence if they:

- Know that there is a substantial risk that another person (the abuser) who is also an employee of the institution or, will engage in the sexual abuse of a child:
  - who is under 17 years of age; or
  - in relation to whom the abuser is in a position of authority; and
- Have the power or responsibility to reduce or remove that risk; and
- Negligently fails to reduce or remove that risk.

The maximum penalty is imprisonment for 15 years.

### **3.5. Duty of Institutions to Prevent Child Abuse – *Civil Liability Act 1936 (SA) Part 7A***

The duty to prevent applies to entities that provide an activity, program or service that enables a person to have contact with a child. The duty applies to BlueFit and its facilities in SA.

Under the legislation, BlueFit has a duty to:

- Take all reasonable steps to prevent the abuse of a child (under 18 years)

**Note:** *abuse includes sexual abuse, serious physical abuse, and psychological abuse of the child related to sexual abuse or serious physical abuse of the child.*

- By a person associated with BlueFit
- While the child is under the care, supervision, control, or authority of BlueFit.

A person is associated with an institution if they are an officer, officer holder, representative, leader, owner, employee, agent, volunteer, or contractor.

## **4. Victoria**

### **4.1. Voluntary Reporting**

A person may make a report to the Department of Families, Fairness and Housing (DFFH) child protection department, if:

- They have formed a reasonable belief that a child has suffered or is likely to suffer significant harm as a result of abuse or neglect, and
- That the child's parent has not protected or is unlikely to protect the child from that type of harm.

### Contact Child Protection

To make a report, you should contact child protection at the office that covers the local government area (LGA) where the child normally resides. To make a report during business hours (8.45am to 5pm), Monday to Friday, contact:

- North Division: 1300 598 521
- South Division: 1300 555 526
- East Division: 1300 360 452
- West Division: 1300 360 462

If you are not sure which number to call, check the [Child protection contacts page](#) for details on the LGAs covered by each intake service.

### For Immediate Help

To report concerns that are life threatening, contact Victoria Police on 000. To report concerns about the immediate safety of a child after hours, call the **After Hours Child Protection Emergency Service** on **13 12 78**.

### The Orange Door

If you have a significant concern for the wellbeing of a child but do not believe they are at risk of significant harm, a referral to The Orange Door may be appropriate. A referral would be appropriate where families:

- Are experiencing significant parenting problems that may be affecting the child's development
- Are experiencing family conflict, including family breakdown
- Are under pressure due to a family member's physical or mental illness, substance abuse, disability or bereavement
- Are young, isolated or unsupported
- Are experiencing significant social or economic disadvantages that may adversely impact on a child's care or development.

Contact numbers to make a referral in each local government area are listed on the [Family violence support and extra help for children and families \(orangedoor.vic.gov.au\)](#)

### 4.2. Failure to Disclose Sexual Offence Committed Against a Child – *Crimes Act 1958* (Vic) s327

This offence applies to all BlueFit staff. An adult commits an offence if:

- The adult has information that leads them to form a reasonable belief;
- That another adult has **sexually offended against a child** (under 16 years) in Victoria; and
- The adult fails to report the information to police as soon as possible (unless they have a reasonable excuse for not reporting the information).

A reasonable excuse may include fear for safety or where the information has already been reported.

If you **fail to report** the information, you may be charged with a criminal offence. The maximum penalty is three years imprisonment.

#### **4.3. Failure by a person in authority to protect a child from a sexual offence – Crimes Act 1958 (Vic) s 490**

This offence applies to all BlueFit staff. An adult in child-related work in an organisation will commit an offence if:

- They know another adult associated with the organisation poses **a substantial risk** of abusing a child (**under 16 years**), and
- They have the power or responsibility to reduce or remove the risk, and
- They negligently fail to do so.

A person negligently fails to reduce or remove a risk if that failure involves a great falling short of the standard of care that a reasonable person would exercise in the circumstances. The maximum penalty is five years imprisonment.

A person associated with the organisation may include, but is not limited to an officer, employee, manager, owner, volunteer, or contractor.

#### **4.4. Organisational Liability for Child Abuse – Wrongs Act 1958 (Vic) s 88**

The duty to prevent applies to organisations that exercise care, supervision, or authority over children. The duty applies to BlueFit and its facilities in Victoria. Under the legislation, BlueFit owes a duty to:

- Take care that, in all the circumstances of the case, is reasonable to prevent the abuse of a child (under 18 years) **Note:** *Child abuse includes physical abuse or sexual abuse.*
- By an individual associated with the organisation
- While the child is under the care, supervision, or authority of the organisation.

An individual is associated with an organisation if they are an officer, office holder, employee, volunteer, or contractor of the organisation.

Reasonable precautions vary depending on factors including but not relevant to:

- The nature of the relevant organisation
- The resources that are reasonably available to the relevant organisation
- The relationship between the relevant organisation and the child
- Whether the relevant organisation has delegated the care, supervision, or authority over the child to another organisation
- The role in the organisation of the perpetrator of the abuse.

## 5. Western Australia

### 5.1. Mandatory Reporting

Mandatory reporting requirements for Western Australia (WA) are outlined in the table below.

**Table 7: Mandatory Reporting Requirements in WA**

<b>Key legislation</b>	<i>Children and Community Services Act 2004 (WA)</i>
<b>Child Protection Authority</b>	Department of Communities - Department of Child Protection and Family Support
<b>Who is a child?</b>	A person under 18 years of age.
<b>Who is a Mandatory Reporter?</b>	Early childhood workers are mandatory reporters under the Act.
<b>When reporting is required</b>	<p>Mandatory reporters must make a report to child protection, if:</p> <ul style="list-style-type: none"> <li>a) The person believes on reasonable grounds that a child has been the subject of sexual abuse</li> <li>b) The person forms the belief in the course of the person's work (whether paid or unpaid).</li> </ul> <p>A report must be made to the Department of Communities as soon as practicable after forming the belief.</p>
<b>What is a belief on reasonable grounds?</b>	This means a belief that a reasonable person, doing the same work, would have formed on those grounds. Grounds for forming a belief are matters of which you have become aware, and any opinions in relation to those matters.

<p><b>What is sexual abuse under the Act?</b></p>	<p>Sexual abuse in relation to a child includes sexual behaviour in circumstances where:</p> <ul style="list-style-type: none"> <li>a) The child is the subject of bribery, coercion, a threat, exploitation, or violence; or</li> <li>b) The child has less power than another person involved in the behaviour; or</li> <li>c) There is a significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.</li> </ul> <p>These behaviours can include grooming, exposure to pornographic material, sexual penetration, inappropriate touching, exposure to other sexual acts and soliciting children for sexual exploitation.</p>
<p><b>How to make a report?</b></p>	<p>Mandatory reporters should:</p> <ul style="list-style-type: none"> <li>a) Refer to the <a href="#">Mandatory Reporters Guide</a> to determine whether they believe a child has been or is being sexually abused</li> <li>b) If they form a belief on reasonable grounds that a child has been or is being sexually abused, then make a report to Communities Mandatory Reporting Service on: <ul style="list-style-type: none"> <li>• Phone: 1800 708 704</li> <li>• Lodge a mandatory report on the <a href="#">MR Web Portal</a>.</li> </ul> </li> </ul> <p><b>If you believe a child is in immediate danger or in a life-threatening situation, call WA Police Force on 000.</b></p>
<p><b>Protections for Reporters</b></p>	<p>Mandatory reporters who make a report in good faith:</p> <ul style="list-style-type: none"> <li>• Do not incur any civil or criminal liability</li> <li>• Are not taken as having breached any duty of confidentiality</li> <li>• Are taken to have not breached any professional ethics or standards or any principles of conduct applicable to a person's employment.</li> </ul>
<p><b>Advice or Support</b></p>	<p>If you are a mandatory reporter and you have not formed a belief that a child has been or is being sexually abused but are sufficiently concerned, you can contact Communities' Central Intake Team on 1800 273 889.</p>

## 5.2. Voluntary Reporting

Under the *Children and Community Services Act 2004 (WA)*, a voluntary report can be made to the Department of Child Protection and Family Support if the person has concerns about the wellbeing of a child.

If a reporter is being prosecuted for any offence relating to their report, it will be a defence if the reporter proves that they honestly and reasonably believed all of the reasonable grounds for their belief.

## 5.3. Reportable Conduct

Western Australia has a Reportable Conduct Scheme (**the Scheme**) established under the [Parliamentary Commissioner Act 1971 \(the Act\)](#). The Act is administered by the WA Ombudsman. The Scheme applies to relevant entities identified in the Act. A **'relevant entity'** includes child care services as defined in the [Child Care Services Act 2007 \(WA\)](#) section 4.

The Scheme requires the head of an organisation to notify the Ombudsman if they become aware of reportable allegations of, or convictions for, child abuse committed by an employee.

An **'employee'** is broadly defined to include persons over 18 years of age, irrespective of whether or not the individual's work is in connection with work or activities that relate to children. Employee also include contractors and volunteers.

A **'reportable allegation'** means any information that leads a person to form a belief on reasonable grounds that an employee has engaged in reportable conduct, whether or not the conduct is alleged to have occurred in the course of the employee's employment.

**'Reportable conduct'** includes a sexual offence, sexual misconduct, physical assault, significant neglect of a child, any behaviour that causes significant emotional or psychological harm to a child, and other prescribed offences.

A **'reportable conviction'** is a conviction for an offence of a sexual nature committed against, with, or in the presence of a child, or other prescribed offences.

The **'head of an organisation'** is BlueFit's CEO. Under the Scheme, the head of an organisation is obligated to:

- Notify the Ombudsman of reportable allegations and reportable convictions by their employees **within 7 working days** of becoming aware of the allegation
- Investigate reportable allegations and convictions relating to employees

- Provide a report to the Ombudsman on the outcome of the investigation
- Ensure the organisation has systems in place to:
  - Prevent reportable conduct by employees within the course of their employment
  - Enable people to report reportable allegations involving an employee to the CEO
  - Enable people to report reportable allegations involving the CEO to the Ombudsman
  - Notify the Commissioner of a report of a reportable allegation or conviction
  - Investigate a reportable allegation or conviction, including appropriate action in response to a finding of reportable conduct
  - The receipt, handling, and disclosure of investigation information.

The process for reporting to the Ombudsman is as follows:

### 1) **Notify the Ombudsman (within 7 working days)**

The head of the relevant entity must give written notice to the Commissioner of the following information within 7 working days after becoming aware of the reportable allegation or reportable conviction:

- (a) details of the reportable allegation or reportable conviction;
- (b) the name (including any former name or alias) of the employee;
- (c) the date of birth of the employee;
- (d) the identifying number of any application made by the employee for an assessment notice under the Working with Children (Criminal Record Checking) Act 2004 or any current assessment notice issued to the employee under that Act;
- (e) whether the police have been contacted about the reportable allegation or reportable conviction;
- (f) the risk assessment made, and the risk management action taken, or proposed to be taken, by the relevant entity;
- (g) the name, address and telephone number of the relevant entity;
- (h) the name of the head of the relevant entity;
- (i) how the head of the relevant entity intends to proceed with the matter;
- (j) any information prescribed by the regulations.

### 2) **Investigate**

As soon as practicable after the head of a relevant entity becomes aware of a reportable allegation or reportable conviction involving an employee of the relevant entity, the head of the relevant entity:

- a) Must investigate the reportable allegation or reportable conviction, and ensure it is carried out in a timely way. The head of the relevant entity may:
- arrange for an employee of the relevant entity to investigate the reportable allegation or reportable conviction on behalf of the head of the relevant entity; or
  - engage a person or body as an independent investigator to investigate the reportable allegation or reportable conviction on behalf of the head of the relevant entity;
- b) must inform the Ombudsman of the name and contact details of the person or body, or position or unit in the relevant entity, responsible for conducting the investigation on behalf of the relevant entity.
- c) As soon as practicable after conducting an investigation in relation to an employee, the head of a relevant entity must either:
- Make a finding of reportable conduct in relation to the employee if the head of relevant entity has formed the view, on reasonable grounds, that reportable conduct involving the employee has occurred; or
  - make a finding that there are no grounds, or no reasonable grounds, for the head of the relevant entity to form the view that reportable conduct involving the employee has occurred.
- d) As soon as practicable after making a finding of reportable conduct in relation to an employee, the head of the relevant entity must ensure that:
- Appropriate action is taken in relation to the employee in response to the finding; and
  - If the head of the relevant entity has formed the view that it is needed, appropriate action is taken to improve the organisation's reportable conduct identification and notification systems.

### 3) **Inform the employee (who is subject of an investigation)**

Before any adverse finding in relation to the employee is made as a result of the investigation, the head of the relevant entity must inform the employee of the investigation, and of the reportable allegation or reportable conviction being investigated.

The employee must have an opportunity to make setting out their response in relation to the reportable allegation or reportable conviction being investigated.

Then, in considering any submissions made by the employee, the head of the relevant entity must:

- (a) inform the employee of the proposed adverse finding; and
- (b) give the employee an opportunity to make submissions to the head of the relevant entity setting out the employee's responses in relation to the proposed adverse finding.

Before any disciplinary or action is taken in relation to the employee, the head of the relevant entity must:

- (a) inform the employee of the action that is proposed to be taken; and
- (b) give the employee an opportunity to make submissions to the head of the relevant entity setting out the employee's response in relation to the action that is proposed to be taken.

#### 4) **Report to the Ombudsman**

The head of a relevant entity must, as soon as practicable after the end of an investigation provide the Ombudsman, a written report outlining:

- (a) the findings of the investigation and the reasons for those findings
- (b) any submissions made by the employee
- (c) any disciplinary or other action taken, or proposed to be taken, in relation to the employee as a result of the findings of the investigation
- (d) if the entity does not propose to take any disciplinary or other action in relation to the employee — the reasons why no action is to be taken
- (e) any action taken, or proposed to be taken, as a result of the findings of the investigation, including any improvements to the organisation's systems to identify, report and prevent reportable conduct, and
- (f) any other information that the head of the relevant entity considers relevant to the report.

For further guidance regarding the WA Reportable Conduct Scheme, see [WA Reportable Conduct Scheme - Information Sheet](#).