

You must report unsafe conduct by disability workers

March 2025

Disability workers and their employers are required under law to report conduct by disability workers that may put the people they support at risk.

What is a mandatory notification?

Mandatory notifications help make the Victorian Disability Worker Commission aware of risks to people receiving disability services, so we can better prevent and protect people with disability from harm.

The *Disability Service Safeguards Act 2018* (the Act) requires all disability workers and their employers to notify the Victorian Disability Worker Commission (VDWC) if they reasonably believe that a disability worker has engaged in notifiable conduct that puts people at risk. This is a mandatory notification.

What conduct requires a mandatory notification?

Notifiable conduct that must be reported is when a disability worker has:

- Been intoxicated by alcohol or drugs while working
- Engaged in sexual misconduct
- Placed, or may place, the public at risk due to an impairment that has, or is likely to, affect their ability to practise
- Placed the public at risk of harm because of a significant departure from accepted professional standards.

Who has to notify?

Disability workers and their employers in Victoria are obliged to make mandatory notifications to the VDWC if they form a reasonable belief that another disability worker has engaged in notifiable conduct.

A disability worker is defined by the Act as a person who provides a disability service to a person with disability. People who supervise or manage disability workers are also disability workers.

An employer of a disability worker means a person that employs the disability worker under a contract of employment or a contract for services.

Are there exceptions?

A person with disability who directly employs a disability worker is not required to make a mandatory notification to the VDWC.

If you are a disability worker, you are **not** required to make a mandatory notification if you know, or reasonably believe the notification has been made to the VDWC. For example, by a colleague who is a disability worker, or by your employer.

How to make a mandatory notification?

The simplest way to make a notification is through the **VDWC website** – vdwc.vic.gov.au/notifications, by calling **1800 497 132** or in person.

You may have documents to support your notification such as an incident report or investigation report, which can be provided with your notification.

When must I notify?

As soon as you 'reasonably believe' the incident or conduct occurred or risk exists.

For example, you have direct knowledge or a report from a reliable source.

More information about reasonable belief is under 'key terms'.

Unsure if you need to make a mandatory notification?

If you're unsure whether you should make a notification, you can contact the VDWC on 1800 497 132 to discuss or get advice.

Key terms

What is reasonable belief?

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

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

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

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

What is sexual misconduct?

Sexual misconduct is a broad term encompassing any unwelcome acts or behaviours that are experienced by the person with disability as being sexual in nature. This includes physical and verbal actions committed without consent or by force, intimidation, coercion or manipulation. It includes sexual violence and exploitation but is not limited to actions which constitute a criminal offence. It includes when a disability worker has at any time, including outside of work hours:

- engaged in sexual activity with them, whether or not that person has given consent
- made sexual remarks about them
- touched them in a sexual way
- engaged in sexual behaviour in front of them.

There is frequently a power imbalance between a disability worker and the people they support. When delivering services, disability workers are expected to adhere to the highest standards of behaviour, be respectful and take every action to make sure people with disability are safe. This means having professional boundaries in place for relationships between staff and people with disability, and preventing and responding to any inappropriate behaviours by anyone towards a person with disability, including sexual misconduct.

If a disability worker engages in sexual activity with someone they previously provided support to, this may also be sexual misconduct. Whether this constitutes sexual misconduct will depend on the circumstances.

Help build a safer, stronger, disability sector

What is impairment?

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

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

You do not need to notify the Victorian Disability Worker Commission if the disability worker has effective controls to manage the impairment and reduce the risk and severity of harm to the public, such as:

- treatment
- taking a break from practice, such as sick leave
- modified scope of practice
- strategies used to manage impacts of impairment
- compliance with monitoring and supervision.

What is a significant departure from professional standards?

'Accepted professional standards' includes the **Disability Service Safeguards Code of Conduct**. It covers both practice and professional behaviour.

A significant departure from professional standards is serious (not slight or moderate) and would be obvious to any reasonable person who practises as a disability worker.

About the Victorian Disability Worker Commission

The Victorian Disability Worker Commission is an independent body established to better protect people with disability and build a stronger, safer disability sector. It is responsible for the Disability Service Safeguards Code of Conduct, setting the minimum expectations for all workers in Victoria supporting people with disability, and the complaints service. It can accept complaints and notifications, with powers to investigate and ban workers who put people's safety at risk.

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