



Notifiable and Reportable Conduct Policy

1. Purpose

The *MP 0125/19 Notifiable and Reportable Conduct Policy* (policy) sets the minimum requirements for recording and reporting notifiable and reportable conduct, and is intended for:

- the protection and safety of patients, staff members and others
- the protection of the broader WA Health system
- the identification of integrity related risks
- protecting reputational excellence
- maintaining the confidence of the community
- considering and supporting the broader public interest
- supporting the principles of procedural fairness.

The aim of this policy is to ensure a consistent approach across health service providers in relation to conduct that is notifiable or reportable. For the purpose of this policy, notifiable and reportable conduct includes conduct by a staff member that:

- is suspected on reasonable grounds to constitute or may constitute professional misconduct or unsatisfactory professional performance by registered health practitioners – as defined in Schedule Part 1, section 5 of the *Health Practitioner Regulation National Law (WA) Act 2010* (National Law)
- relates to mandatory notifications to the Australian Health Practitioner Regulation Agency (AHPRA) under the National Law
- involves all suspected criminal offences
- involves a charge for a serious offence
- involves a breach of discipline
- involves suspected minor or serious misconduct as defined in accordance with section 4 of the *Corruption, Crime and Misconduct Act 2003* (CCM Act)
- involves a matter reportable to the Ombudsman under Division 3B the *Parliamentary Commissioner Act 1971*.

This policy should be read in conjunction with:

- [MP 0126/19 Pre-Employment Integrity Check Policy](#)
- [MP 0083/18 Disputes about the Professional Conduct of a Contracted Medical Practitioner engaged under an MSA Policy](#)
- [MP 0103/19 Reporting of Schedule 4 Restricted and Schedule 8 Medicines Discrepancies Policy](#)
- [MP 0122/19 Clinical Incident Management Policy](#)

This policy is a mandatory requirement for Health Service Providers under the *Integrity Policy Framework* pursuant to section 26(2)(l) of *Health Services Act 2016* (HS Act) and in accordance with the Department CEO's functions under sections 20(1)(l) and (o) of the HS Act.

2. Applicability

This policy is applicable to all health service providers.

The requirements contained within this policy are applicable to the services purchased from contracted health entities where it is explicitly stated in the contract between the contracted health entity and the State of Western Australia or Health Service Provider. The State of Western Australia or Health Service Provider contract manager is responsible for ensuring that any obligation to comply with this policy by the contracted health entity is accurately reflected in the relevant contract and managed accordingly.

3. Policy Requirements

3.1 Health service providers must:

- record all matters that involve a breach of discipline in the System Manager Case Management System (CMS), and in accordance with the [MP 0127/20 Discipline Policy](#).
- on receipt of information that may concern a matter that is notifiable or reportable, assess that information to determine the most appropriate course of action
- report to the Department CEO as soon as reasonably practicable, notifiable and reportable conduct that:
 - is suspected to constitute or may constitute professional misconduct or unsatisfactory professional performance of a registered health practitioner, as defined in the National Law, in accordance with section 146(1) of the HS Act
 - involves a staff member being charged with having committed, or having been convicted or found guilty of a serious offence, in accordance with section 146(2) of the HS Act
- as soon as reasonably practicable, conclude the above notifiable and reportable conduct matters and report outcomes to the Department CEO.
- notify the Department CEO as soon as reasonably practicable, and within 30 days of a finding of a breach of discipline where:
 - the disciplinary action ordered was dismissal; or
 - a serious risk to the safety of patients could have resulted.
- use the Reporting Conduct Form for all reports and notifications made under sections 146 and 167 of the HS Act
- when a notification is received from the Department CEO about notifiable and reportable conduct or breach of discipline matters in accordance with sections 146(3) or 167(4) of the HS Act, as soon as reasonably practicable:
 - ascertain whether the staff member is employed or contracted within their health service provider
 - assess and respond to any risks arising from the received notification
 - advise the Department CEO of the management of this risk
- report suspected criminal offences to WA Police

- make notifications to the Corruption and Crime Commission or the Public Sector Commission in accordance with the CCM Act
- report any conduct that constitutes or may constitute professional misconduct or unsatisfactory professional performance of a registered health practitioner to AHPRA as soon as reasonably practicable
- meet the reporting requirements of the National Law in relation to mandatory notifications
- meet the reporting requirements of the *Parliamentary Commissioner Act 1971* in relation to matters reportable to the Ombudsman
- ensure appropriate support is available to staff involved in a (suspected) notifiable or reportable matter.

4. Compliance Monitoring

The System Manager, through System-Wide Integrity Services, will:

- monitor and review data in the CMS associated with the notifiable and reportable conduct process on an ongoing basis, for assurance purposes
- assess this documentation and data and prepare an annual compliance report for the Department CEO as at the end of each financial year.

5. Related Documents

The following documents are mandatory pursuant to this policy:

- [Reporting Conduct Form](#)

6. Supporting Information

The following information is not mandatory but informs and/or supports the implementation of this policy:

- [Notifiable and Reportable Conduct Guide](#)
- [Notifying Misconduct - A Guide for Principal Officers of Notifying Authorities](#), a joint CCC / PSC publication, August 2018.
- [AHPRA & National Boards, Regulatory Guide, June 2020](#)

7. Definitions

The following definition(s) are relevant to this policy.

Term	Definition
Administrator	An administrator is a person who can: <ul style="list-style-type: none"> • grant Case Management System access to users • grant administrator access to other users.

Breach of discipline	Pursuant to section 161 of the <i>Health Services Act 2016</i> , an employee commits a breach of discipline if the employee: <ul style="list-style-type: none"> (a) 'disobeys or disregards a lawful order; (b) contravenes — <ul style="list-style-type: none"> (i) any provision of this Act [the HS Act] or the <i>Public Sector Management Act 1994</i> applicable to that employee; or (ii) any public sector standard or code of ethics; or (iii) a policy framework; or (c) commits an act of misconduct; (d) is negligent or careless in the performance of the employee's functions; or (e) commits an act of victimisation within the meaning of the <i>Public Interest Disclosure Act 2003</i> section 15'.
Chief executive	The person appointed by the Department CEO as chief executive of the health service provider pursuant to section 108 of the <i>Health Services Act 2016</i> .
Department CEO	The chief executive officer (Director General) of the Department of Health.
Employee	Pursuant to section 6 of the <i>Health Services Act 2016</i> , an employee means a person employed in a health service provider and includes: <ul style="list-style-type: none"> (a) 'the chief executive of the health service provider; (b) a health executive employed in the health service provider; (c) a person employed in the health service provider under section 140; (d) a person seconded to the health service provider under section 136 or 142'.
Mandatory notification	Pursuant to section 5 of the <i>Health Practitioner Regulation National Law (WA) Act 2010</i> , means: <p>'a notification an entity is required to make to the National Agency under Part 8 Division 2'.</p> <p>Note: Mandatory notifications are made in relation to the notifiable conduct of a registered health practitioner. Notifiable Conduct is defined in section 140 of the National Law as meaning the practitioner has –</p> <ul style="list-style-type: none"> (a) 'practised the practitioner's profession while intoxicated by alcohol or drugs; or (b) engaged in sexual misconduct in connection with the practice of the practitioner's profession; or (c) placed the public at risk of substantial harm in the practitioner's practice of the profession because the practitioner has an impairment; or (d) placed the public at risk of harm because the practitioner has practised the profession in a way that constitutes a significant departure from accepted professional standards'.

<p>Matter reportable to the Ombudsman (reportable allegation, reportable conviction)</p>	<p>A matter reportable to the Ombudsman is a reportable allegation or a reportable conviction as defined in sections 19F and 19H of the <i>Parliamentary Commissioner Act 1971</i>.</p> <p>Under section 19F(1), ‘a reportable allegation is any information that leads a person to form the belief on reasonable grounds that an employee of a relevant entity has engaged in reportable conduct or conduct that may involve reportable conduct, whether or not the conduct is alleged to have occurred in the course of the employee’s employment’.</p> <p>In line with section 19F(2), this does not include information about a reportable conviction.</p> <p>Under section 19G(1):</p> <p>‘reportable conduct is the following conduct, whether or not a criminal proceeding in relation to the conduct has been commenced or concluded and whether the conduct occurred before, on or after commencement day —</p> <ul style="list-style-type: none"> (a) a sexual offence; (b) sexual misconduct; (c) a physical assault committed against, with or in the presence of, a child; <ul style="list-style-type: none"> (ca) significant neglect of a child; (cb) any behaviour that causes significant emotional or psychological harm to a child; (d) an offence prescribed by the regulations for the purposes of this paragraph’. <p>Note also that under section 19G(3), conduct includes an act or omission.</p> <p>Under section 19(2), reportable conduct does not include conduct that is:</p> <ul style="list-style-type: none"> (a) ‘reasonable for the discipline, management or care of a child or of another person in the presence of a child, having regard to [... the characteristics of the child, and any relevant code of conduct or professional standard]; or (b) trivial or negligible and that has been or will be investigated and recorded as part of another workplace procedure; or (c) of a class or kind exempt from being reportable conduct under section 19N(1)’. <p>Under section 19H:</p> <p>‘a reportable conviction is a conviction, whether before, on or after commencement day, for an offence under a law of this State, another State, a Territory or the Commonwealth that is an offence referred to in section 19G(1)(a) or (d)’.</p>
<p>Outcome</p>	<p>The outcome of a notifiable or reportable conduct matter means a resolution of a matter and includes, but is not limited to, matters that are:</p> <ul style="list-style-type: none"> • substantiated • not substantiated • discontinued • require no further action • Australian Health Practitioner Regulation Agency findings

	<ul style="list-style-type: none"> • court outcomes • any other relevant action.
Professional misconduct	<p>Pursuant to section 5 of the <i>Health Practitioner Regulation National Law (WA) Act 2010</i>, means misconduct which includes:</p> <p>(a) ‘unprofessional conduct by the practitioner that amounts to conduct that is substantially below the standard reasonably expected of a registered health practitioner of an equivalent level of training or experience; and</p> <p>(b) more than one instance of unprofessional conduct that, when considered together, amounts to conduct that is substantially below the standard reasonably expected of a registered health practitioner of an equivalent level of training or experience; and</p> <p>(c) conduct of the practitioner, whether occurring in connection with the practice of the health practitioner’s profession or not, that is inconsistent with the practitioner being a fit and proper person to hold registration in the profession’.</p>
Registered health practitioner	<p>Pursuant to section 5 of the <i>Health Practitioner Regulation National Law (WA) Act 2010</i>, means an individual who:</p> <p>(a) ‘is registered under this Law [the National Law] to practise a health profession, other than as a student; or</p> <p>(b) holds non-practising registration under this Law [the National Law] in a health profession’.</p>
Serious misconduct	<p>Pursuant to sections 3 and 4(a) (b) and (c) of the <i>Corruption, Crime and Misconduct Act 2004</i>, is conduct by a public officer who –</p> <p>(a) acts corruptly or corruptly fails to act in the course of their duties; or</p> <p>(b) corruptly takes advantage of their office or employment to obtain a benefit or to cause a detriment to any person; or</p> <p>(c) acting in the course of their duties or while deliberately creating the appearance of acting in the course of their duties, commits an offence punishable by two or more years imprisonment.</p> <p>Corrupt conduct tends to show a deliberate intent for an improper purpose or an improper motivation.</p> <p>Corrupt conduct may involve an exercise of a public power or function, but for private benefit. It may involve conduct such as the deliberate failure to perform the functions of office properly, or the exercise of a power or duty for an improper purpose.</p>
Serious offence	<p>Has the same meaning as section 80A of the <i>Public Sector Management Act 1994</i>.</p> <p>Serious offence means:</p> <p>(a) ‘an indictable offence against a law of the State (whether or not the offence is or may be dealt with summarily), another State or a Territory of the Commonwealth or the Commonwealth; or</p> <p>(b) an offence against the law of another State or a Territory of the Commonwealth that would be an indictable offence</p>

	<p>against a law of this State if committed in this State (whether or not the offence could be dealt with summarily if committed in this jurisdiction); or</p> <p>(c) an offence against the law of a foreign country that would be an indictable offence against a law of the Commonwealth or this State if committed in this State (whether or not the offence could be dealt with summarily if committed in this jurisdiction); or</p> <p>(d) an offence, or an offence of a class, prescribed under section 108’.</p>
Staff member	<p>Pursuant to section 6 of the <i>Health Services Act 2016</i>, a staff member of a health service provider means:</p> <p>(a) ‘an employee in the health service provider;</p> <p>(b) a person engaged under a contract for services by the health service provider’.</p> <p>Note: Staff member includes a contracted medical practitioner engaged under a Medical Services Agreement.</p>
System Manager Case Management System	<p>The database administered by the System Manager provided to the health service providers to enter, track and report cases of conduct that may concern a breach of discipline.</p>
Unprofessional Conduct	<p>Pursuant to section 5 of the <i>Health Practitioner Regulation National Law (WA) Act 2010</i>, means:</p> <p>‘professional conduct that is of a lesser standard than that which might reasonably be expected of the health practitioner by the public or the practitioner’s professional peers, and includes —</p> <p>(a) a contravention by the practitioner of this Law, whether or not the practitioner has been prosecuted for, or convicted of, an offence in relation to the contravention; and</p> <p>(b) a contravention by the practitioner of</p> <p>(i) a condition to which the practitioner’s registration was subject; or</p> <p>(ii) an undertaking given by the practitioner to the National Board that registers the practitioner; and</p> <p>(c) the conviction of the practitioner for an offence under another Act, the nature of which may affect the practitioner’s suitability to continue to practise the profession; and</p> <p>(d) providing a person with health services of a kind that are excessive, unnecessary or otherwise not reasonably required for the person’s well-being; and</p> <p>(e) influencing, or attempting to influence, the conduct of another registered health practitioner in a way that may compromise patient care; and</p> <p>(f) accepting a benefit as inducement, consideration or reward for referring another person to a Health Service Provider or recommending another person use or consult with a Health Service Provider; and</p> <p>(g) offering or giving a person a benefit, consideration or reward in return for the person referring another person to the practitioner or recommending to another person that the</p>

	<p>person use a health service provided by the practitioner; and</p> <p>(h) referring a person to, or recommending that a person use or consult, another health service provider, health service or health product if the practitioner has a pecuniary interest in giving that referral or recommendation, unless the practitioner discloses the nature of that interest to the person before or at the time of giving the referral or recommendation’.</p>
Unsatisfactory professional performance	<p>Pursuant to section 5 of the <i>Health Practitioner Regulation National Law (WA) Act 2010</i>, means: ‘the knowledge, skill or judgment possessed, or care exercised by, the practitioner in the practice of the health profession in which the practitioner is registered, is below the standard reasonably expected of a health practitioner of an equivalent level of training or experience’.</p>

8. Policy Contact

Enquiries relating to this Policy may be directed to:

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9. Document Control

Version	Published date	Effective from	Review date	Amendment(s)
MP 0125/19	31 October 2019	31 October 2019	October 2022	Original version
MP 0125/19 v.1.1	4 December 2019	4 December 2019	October 2022	Amendment as listed below.
Supporting information document ' <i>Notifiable and Reportable Conduct Guide</i> updated to include MP 0126/19 following the text Pre-Employment Integrity Check Policy.				
MP 0125/19 v.1.2	12 December 2019	12 December 2019	October 2022	Minor amendments as per below.
Supporting Information amended: Case Management System (CMS)-Protocols-Administration of complaints. Document superseded by Supporting information: 'Case Management System (CMS) User Document. Access restricted to employees only.				
MP 0125/19 v.1.3	6 August 2021	6 August 2021	October 2022	Minor amendment to hyperlink – section 1.
MP 0125/19 v.2.0	19 July 2023	19 July 2023	July 2026	Policy review and amendments as listed below.
<ul style="list-style-type: none"> Restructured and refined the purpose and compliance monitoring sections to improve clarity and to enhance the quality of the policy overall. Clarified the meaning of terms to reinforce Health Service Provider responsibilities under the <i>Health Services Act 2016</i> and other relevant legislation. 				

<ul style="list-style-type: none"> • Updated information on other relevant policies and supporting information to improve clarity and ensure accuracy. • Minor amendments to wording to improve clarity and ensure consistency with legislation. • Amended the policy requirements section to include an additional requirement relating to support for staff. • Amended the compliance monitoring section to enhance clarity. • Updated the definitions section to reflect changes to the policy and to the <i>Health Services Act 2016</i>. 				
MP 0125/19 v.2.1	2 January 2024	2 January 2024	July 2026	Minor amendment as listed below.
<ul style="list-style-type: none"> • Definition of reportable conduct under the <i>Parliamentary Commissioner Act 1971</i> updated to include (ca) significant neglect of a child and (cb) any behaviour that causes significant emotional or psychological harm to a child. 				

10. Approval

Approval by	Dr David Russell-Weisz, Director General, Department of Health
Approval date	25 October 2019

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