

# Information Sheet 12

## Reportable Conduct Scheme – Historical allegations

The Reportable Conduct Scheme (scheme) requires certain allegations of past or historical reportable conduct to be reported to the Commission.

This information sheet will help organisations to consider whether the Commission needs to be notified about an allegation that concerns conduct which occurred before the scheme covered your organisation. This is a complex part of the scheme and organisations are encouraged to contact the Commission to discuss individual cases if advice is needed.

This information sheet provides information about how the timing of the:

- alleged conduct
- making (or remaking) of allegations, and
- periods of employment or engagement

may affect whether an allegation needs to be reported to the Commission.

### The scheme's phases

A reportable allegation can be made about certain workers or volunteers over 18 years of age who are or were:

- an employee of an organisation covered by the scheme
- a minister of religion, religious leader or officer of a religious body
- a foster or kinship carer
- a volunteer, contractor, office holder, officer or other position directly engaged by an organisation covered by the scheme to provide services.

The scheme increases its coverage of organisations over three phases:

- the scheme has covered Phase 1 organisations since 1 July 2017
- the scheme has covered Phase 2 organisations since 1 January 2018
- the scheme will cover Phase 3 organisations from 1 January 2019.

A summary of Phase 1, Phase 2 and Phase 3 organisations is shown in the diagram below. More detailed lists of the organisations covered by the scheme are set out in Schedules 3, 4 and 5 of the *Child Wellbeing and Safety Act 2005* (Vic).



An organisation may provide services or activities that put it in more than one phase of the scheme. If your organisation falls into more than one phase, your organisation as a whole is within the scheme from the earliest phase relevant to your organisation.



Once part of your services or functions are covered by the scheme, all of your organisation is covered by the scheme. This means that you may need to report to the Commission and investigate reportable allegations made against any of your workers or volunteers, regardless of whether they perform services for or in relation to children.

If you are unsure about whether your organisation is covered by the scheme, or which phase your organisation belongs to, you can call or email us for further advice.

## Timing of conduct

Under the scheme, an allegation made about the conduct of a worker or volunteer who has been employed or engaged by an organisation covered by the scheme may need to be reported and investigated regardless of when the alleged conduct occurred. This includes conduct that allegedly occurred before the scheme covered the organisation. The timelines below illustrate how this may be relevant for a Phase 1 organisation.

Type of allegation	Timeline	Could a report be required?
Allegation concerns conduct after the scheme covered Phase 1 organisations		✓
Allegation concerns conduct before the scheme covered Phase 1 organisations		✓

It is possible that a reportable allegation may be about alleged conduct from many decades before the scheme commenced. In these cases, it can be more difficult to conduct an investigation. The scope and nature of such an investigation should be carefully considered and the Commission can assist in advising on this.



The Commission does not require heads of organisations to report and investigate allegations concerning workers or volunteers who are deceased.

The head of an organisation could be required to report to the Commission an allegation that one of their workers or volunteers committed reportable conduct, regardless of whether that conduct is said to have occurred before or after the scheme covered that organisation. The next issue to consider is timing of allegations.

## Timing of allegations

### Allegations made before the scheme covered an organisation

Many organisations covered by the scheme will have been in operation long before the scheme. Some of those organisations may be aware of, or have records of, allegations about reportable conduct by their workers or volunteers that were made before the scheme's commencement.

The scheme does not require organisations to report to the Commission every allegation that has ever been known to an organisation prior to the scheme's commencement. Rather, the scheme only requires that allegations be reported to the Commission if that allegation was made once the scheme covered that organisation. An allegation will be made, for the purposes of the scheme, when either:

- the allegation is conveyed or communicated to another person or organisation, or
- the head of an organisation forms a reasonable belief that reportable conduct or misconduct that may involve reportable conduct has occurred, including by having personally witnessed relevant conduct.

In other words, if an allegation of reportable conduct has only ever been made before the scheme covered a worker's or volunteer's organisation, it does not need to be reported to the Commission. The timelines below illustrate how this may be relevant for a Phase 1 organisation.

Type of allegation	Timeline	Could a report be required?
Allegation made after scheme covered Phase 1 organisations	<p>The timeline shows three key dates: 1 April 2017, 1 July 2017, and 1 October 2017. A vertical line at 1 July 2017 is labeled '1 July 2017 Scheme applies to Phase 1 organisations'. A vertical line at 10 November 2017 is labeled '10 November 2017 Allegation of reportable conduct is made'. The allegation occurs after the scheme's commencement.</p>	✓
Allegation made before scheme covered Phase 1 organisations	<p>The timeline shows three key dates: 1 April 2017, 1 July 2017, and 1 October 2017. A vertical line at 10 March 2017 is labeled '10 March 2017 Allegation of reportable conduct is made'. A vertical line at 1 July 2017 is labeled '1 July 2017 Scheme applies to Phase 1 organisations'. The allegation occurs before the scheme's commencement.</p>	✗

### Remaking allegations

If, after the scheme covered an organisation, an allegation is 'remade' or repeated (for example, an allegation previously made before the scheme covered the organisation is again conveyed or communicated after the scheme covered the organisation) that allegation may need to be reported to the Commission. Remade allegations may need to be reported to the Commission even if the allegation concerns the same or substantially the same conduct that was alleged before the scheme covered the organisation. The timeline below illustrates how this may be relevant for a Phase 1 organisation.

Type of allegation	Timeline	Could a report be required?
Allegation was made before the scheme covered Phase 1 organisations, but is remade after the scheme covered that organisation	<p>The timeline shows three key dates: 1 April 2017, 1 July 2017, and 1 October 2017. A vertical line at 10 March 2017 is labeled '10 March 2017 Allegation of reportable conduct is made'. A vertical line at 1 July 2017 is labeled '1 July 2017 Scheme applies to Phase 1 organisations'. A vertical line at 10 November 2017 is labeled '10 November 2017 Previous allegation of reportable conduct is remade'. The allegation is remade after the scheme's commencement.</p>	✓

In cases where allegations are remade, an organisation will not always need to conduct a fresh investigation. For example, if an organisation is satisfied that it has already properly investigated and made findings about the alleged reportable conduct, it may submit the findings from its previous investigation to the Commission. In cases where allegations are remade and new relevant evidence comes to light, organisations are encouraged to contact the Commission for guidance on whether a fresh investigation should be conducted.

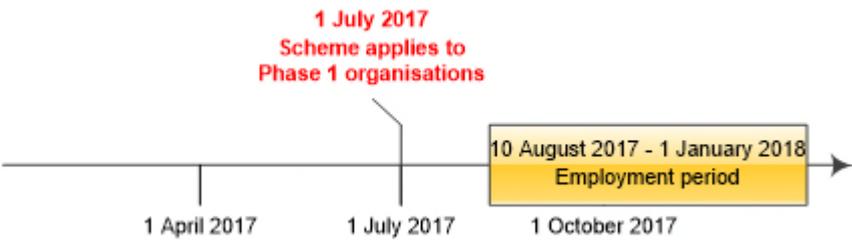
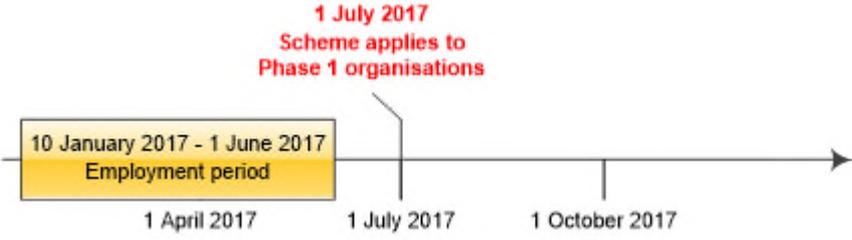


If an allegation has only ever been made before the scheme covered your organisation, a head of an organisation may choose to report the allegation to the Commission. Once that allegation has been reported to the Commission by the head of an organisation, that head must investigate the allegation and give the Commission the required updates.

Accordingly, the head of an organisation could be required to report to the Commission an allegation that one of their workers or volunteers committed reportable conduct that was ‘made’ or ‘remade’ while the scheme covered their organisation. If an allegation has only ever been made before the scheme covered an organisation, that allegation can be disclosed to the Commission, but a report will only be required if that allegation has been remade or repeated while the scheme covered an organisation.

### Timing of employment or engagement

The scheme only applies to those workers or volunteers who have been employed or engaged by an organisation covered by the scheme, while the scheme covered that organisation. The timelines below illustrate how this may be relevant for a Phase 1 organisation.

Type of allegation	Timeline	Could a report be required?
Allegation concerns worker who was employed by a Phase 1 organisation after the scheme covered that organisation		✓
Allegation concerns worker who was employed by a Phase 1 organisation before and after the scheme covered that organisation		✓
Allegation concerns worker who was employed by a Phase 1 organisation before the scheme covered that organisation		✗



Even if a worker or volunteer has quit, is dismissed, or otherwise stops providing services for an organisation at the time that an allegation is made, the head of that organisation may still need to report and investigate an allegation into reportable conduct allegedly committed by that worker or volunteer.

Accordingly, the head of an organisation could be required to report to the Commission an allegation that one of their workers or volunteers committed reportable conduct, if that worker or volunteer was employed or engaged by their organisation when the scheme covered that organisation.

## Where to get help

The Commission encourages organisations covered by the scheme to seek clarification, talk through issues of concern, or seek guidance by contacting the Commission:

- Telephone: (03) 8601 5281
- Email: [contact@ccyp.vic.gov.au](mailto:contact@ccyp.vic.gov.au)

You can also find more information on the Commission's website: [www.ccyp.vic.gov.au](http://www.ccyp.vic.gov.au)

If you need an interpreter, please call the Translating and Interpreting Service on 13 14 50 and ask them to contact the Commission for Children and Young People on 03 8601 5281.

You may still be required to:



- report to Child Protection if you form a reasonable belief that a child is in need of protection from physical injury or sexual abuse.
- report to Victoria Police if a criminal offence may have occurred
- take all reasonable steps to remove or reduce risks of sexual abuse, especially if you are in a position of authority.