

2017

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Chief Minister)

Reportable Conduct and Information Sharing Legislation Amendment Bill 2017

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THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Chief Minister)

Reportable Conduct and Information Sharing Legislation Amendment Bill 2017

A Bill for

An Act to amend legislation about reportable conduct and information sharing,
and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as
follows:

J2017-159

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Reportable Conduct and Information Sharing*
4 *Legislation Amendment Act 2017*.

5 **2 Commencement**

6 This Act commences on the day after its notification day.

7 *Note* The naming and commencement provisions automatically commence on
8 the notification day (see [Legislation Act](#), s 75 (1)).

9 **3 Legislation amended**

10 This Act amends the *Children and Young People Act 2008* and the
11 *Ombudsman Act 1989*.

1 **Part 2** **Children and Young People**
2 **Act 2008**

3 **4** **Division 25.3.3 heading**

4 *substitute*

5 **Division 25.3.3** **Sharing reportable conduct**
6 **information**

7 **5** **Definitions—div 25.3.3**
8 **Section 863A (1), definition of *designated entity*,**
9 **paragraph (a)**

10 *substitute*

11 (a) see the *Ombudsman Act 1989*, section 17EA; and

12 **6** **Section 863A (1), new definitions**

13 *insert*

14 *child safety information sharing entity* means an entity to which
15 the ombudsman may disclose information under the *Ombudsman*
16 *Act 1989*, section 34A.

17 *head*, of a designated entity—see the *Ombudsman Act 1989*,
18 section 17D (1).

19 **7** **Section 863B heading**

20 *substitute*

21 **863B** **Entity may request reportable conduct information**

- 1 **8 Section 863B (1)**
- 2 *omit*
- 3 A designated entity
- 4 *substitute*
- 5 A child safety information sharing entity or the head of a designated
- 6 entity
- 7 **9 Section 863B (1)**
- 8 *omit*
- 9 another designated entity
- 10 *substitute*
- 11 another child safety information sharing entity or designated entity
- 12 **10 Section 863B (2)**
- 13 *before 1st mention of*
- 14 designated entity
- 15 *insert*
- 16 child safety information sharing entity or
- 17 **11 Section 863B (2) (b)**
- 18 *before*
- 19 a designated entity
- 20 *insert*
- 21 a child safety information sharing entity or

1	12	Section 863C heading
2		<i>substitute</i>
3	863C	Entity may provide reportable conduct information
4	13	Section 863C (1)
5		<i>before</i>
6		a designated entity
7		<i>insert</i>
8		a child safety information sharing entity or
9	14	New section 863CA
10		<i>insert</i>
11	863CA	Unsolicited provision of information
12		A child safety information sharing entity or the head of a designated
13		entity (the <i>providing entity</i>) may, on the providing entity's own
14		initiative, give reportable conduct information to another child
15		safety information sharing entity or a designated entity (the
16		<i>receiving entity</i>) if the providing entity is satisfied on reasonable
17		grounds that giving the information is relevant for the receiving
18		entity to—
19		(a) do any of the following for the safety, welfare or wellbeing of
20		a child, young person or class of child or young person:
21		(i) make a decision or an assessment;
22		(ii) plan, begin, or conduct an investigation;
23		(iii) provide any other service in accordance with the
24		receiving entity's functions; or

1 (b) deal with a risk to a child, young person or class of child or
2 young person that might arise in the course of the receiving
3 entity's operation as a child safety information sharing entity
4 or designated entity, including as an employer.

5 **15 Sections 863D, 863E and 863F**

6 *before*
7 designated entity
8 *insert*
9 child safety information sharing entity or a

10 **16 Section 863G heading**

11 *substitute*

12 **863G Coordination etc between entities**

13 **17 Section 863G**

14 *before*
15 designated entities
16 *insert*
17 child safety information sharing entities and

18 **18 Dictionary, new definition of *child safety information***
19 ***sharing entity***

20 *insert*
21 *child safety information sharing entity*, for division 25.3.3 (Sharing
22 reportable conduct information)—see section 863A (1).

1 **19 Dictionary, definition of *designated entity***

2 *substitute*

3 *designated entity*, for division 25.3.3 (Sharing reportable conduct
4 information)—see section 863A (1).

5 **20 Dictionary, new definition of *head***

6 *insert*

7 *head*, of a designated entity, for division 25.3.3 (Sharing reportable
8 conduct information)—see the *Ombudsman Act 1989*,
9 section 17D (1).

10 **21 Dictionary, definition of *reportable conduct information***

11 *substitute*

12 *reportable conduct information*, for division 25.3.3 (Sharing
13 reportable conduct information)—see section 863A (1).

1 **Part 3 Ombudsman Act 1989**

2 **22 Functions—investigating complaints under Act**
3 **Section 5 (2) (l)**

4 *after last mention of*

5 those persons

6 *insert*

7 , other than action taken in relation to a reportable allegation or a
8 reportable conviction

9 **23 Section 5 (2) (l), new note**

10 *insert*

11 *Note* The ombudsman may, under s 17K, conduct an investigation into any
12 reportable allegation or reportable conviction involving an employee of
13 a designated entity.

14 **24 Section 5 (2) (o)**

15 *after 1st mention of*

16 agency

17 *insert*

18 , other than action taken in relation to a reportable allegation or a
19 reportable conviction

20 **25 Section 5 (8), new definitions**

21 *insert*

22 ***reportable allegation***—see section 17D.

23 ***reportable conviction***—see section 17D.

1 **26** **Definitions—div 2.2A**
2 **Section 17D (1), definition of *designated entity***

3 *substitute*

4 *designated entity*—see section 17EA.

5 **27** **Section 17D (1), definition of *employee***

6 *substitute*

7 *employee*, of a designated entity—

8 (a) means a person who is engaged—

9 (i) under a contract of employment with the designated
10 entity; or

11 (ii) by the designated entity to provide services to children
12 (other than under a contract of employment); or

13 **Examples**

- 14 • out-of-home carer
15 • volunteer

16 *Note* An example is part of the Act, is not exhaustive and may
17 extend, but does not limit, the meaning of the provision in
18 which it appears (see [Legislation Act](#), s 126 and s 132).

19 (iii) by another entity (whether or not under a contract of
20 employment) to provide services to children on behalf of
21 the designated entity; and

22 **Example**

23 subcontractor

- 1 (b) for a designated entity that, in accordance with the *Children*
2 *and Young People Act 2008*, authorises an out-of-home carer to
3 exercise daily care responsibility or long-term care
4 responsibility for a child—includes an adult who stays for at
5 least 21 days at premises provided by the authorised
6 out-of-home carer for the child to live.

7 **28 Section 17D (1), new definition of reportable conduct**

- 8 *insert*
9 *reportable conduct*—see section 17E.

10 **29 Section 17D (2)**

- 11 *omit*

12 **30 New sections 17EA and 17EB**

- 13 *insert*

14 **17EA Meaning of *designated entity*—div 2.2A**

- 15 (1) For this division, an entity is a *designated entity* if—
16 (a) it is 1 of the following:
17 (i) an administrative unit;
18 (ii) a health service;
19 (iii) a government school or a non-government school;
20 (iv) an education and care service;
21 (v) a childcare service;

- 1 (vi) an approved kinship and foster care organisation;
2 (vii) an approved residential care organisation;
3 (viii) any other entity prescribed by regulation; and
4 (b) it is not exempted by regulation.

5 (2) In this section:

6 ***approved kinship and foster care organisation***—see the *Children and Young People Act 2008*, section 502.
7

8 ***approved residential care organisation***—see the *Children and Young People Act 2008*, section 502.
9

10 ***childcare service***—see the *Children and Young People Act 2008*,
11 section 732.

12 ***education and care service***—see the *Education and Care Services National Law (ACT)*.
13

14 ***government school***—see the *Education Act 2004*, dictionary.

15 ***health service*** means the following services:

- 16 (a) ambulance services;
17 (b) services provided by a public health facility;
18 (c) hospital services;
19 (d) any other services prescribed by regulation.

20 ***non-government school***—see the *Education Act 2004*, dictionary.

- 1 **17EB Designated entity to have practices and procedures to**
2 **deal with reportable conduct**
- 3 (1) The head of a designated entity must ensure that the entity has in
4 place practices and procedures—
- 5 (a) for preventing reportable conduct by an employee of the
6 entity—
- 7 (i) in the course of the employee’s employment with the
8 entity; or
- 9 (ii) other than in the course of the employee’s employment
10 with the entity if the employment would facilitate the
11 employee’s reportable conduct; and
- 12 (b) to enable any person, including an employee of the entity, to
13 notify the head of the entity of a reportable allegation or
14 reportable conviction involving an employee of the entity; and
- 15 (c) for dealing with a reportable allegation or reportable conviction
16 involving an employee of the entity; and
- 17 (d) for the receipt, handling and disclosure of information relating
18 to reportable allegations, reportable convictions and
19 investigation information.
- 20 (2) In this section:
21 *procedures* includes policies.

22 **31 Section 17H heading**

23 *substitute*

24 **17H Information may be disclosed to ombudsman**

32 Section 17H (2) and (3)

omit

33 New section 34A

insert

34A Ombudsman may disclose child safety information

- (1) The ombudsman may, if the ombudsman is satisfied on reasonable grounds that information received by the ombudsman under this Act is relevant to the safety, health or wellbeing of a child or class of child, disclose the information to any of the following:
- (a) the chief police officer;
 - (b) a law enforcement agency;
 - (c) the human rights commission;
 - (d) the director-general responsible for the *Children and Young People Act 2008*, other than that Act, chapter 20;
 - (e) the director-general responsible for the *Education Act 2004*;
 - (f) the director-general responsible for the *Education and Care Services National Law (ACT)*;
 - (g) the chief executive officer of the ACT Teacher Quality Institute;
 - (h) the commissioner for fair trading;
 - (i) the director-general responsible for the *Health Act 1993*;
 - (j) any other entity prescribed by regulation.

1 (2) In this section:

2 *ACT Teacher Quality Institute* means the institute established
3 under the *ACT Teacher Quality Institute Act 2010*, section 10.

4 *law enforcement agency*—see the *Spent Convictions Act 2000*,
5 dictionary.

6 **34 Dictionary, definition of *designated entity***

7 *substitute*

8 *designated entity*, for division 2.2A (Reportable conduct)—see
9 section 17EA.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2 November 2017.

2 Notification

Notified under the [Legislation Act](#) on 2017.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
