



Compulsory reporting in aged care position statement

1. Purpose

This position statement details the principles the Australian Nursing and Midwifery Federation (ANMF) considers must underpin the residential aged care reporting regime and the responsibilities it considers the Australian Government and employers should meet to ensure the regime's effectiveness. It should be read with the ANMF position statement: *National criminal history checks in aged care*.

2. Definitions

Compulsory reporting: Under amendments to the *Aged Care Act 1997* (the Aged Care Act) made in 2007, staff members must report their suspicion that a *reportable incident* has occurred as soon as is reasonably practicable to at least one of the following:¹

- the approved provider; one of the approved provider's key personnel; or another person authorised by the provider to receive such reports
- a police officer
- the Secretary of the Department of Health (however named)
- the Aged Care Quality and Safety Commission
- the healthcare complaints commissioner or ombudsman in their state or territory.

Under the *Health Practitioner Regulation National Law Act 2009* in each state and territory, registered health practitioners must also report other health practitioners to the Nursing and Midwifery Board of Australia (NMBA) when they suspect abuse of a person in their care.^{2,3}

Under the Aged Care Act, a **staff member** is defined as an individual who is employed, hired, retained or contracted by the approved provider (whether directly or through an employment or recruiting agency) to provide care or other services. This definition includes registered nurses, enrolled nurses and assistants in nursing.⁴

Under the Aged Care Act, **reportable incidents** are defined as allegations or occurrences of:

- unreasonable use of force against an aged care resident (this is a reportable assault)
- unlawful or inappropriate sexual conduct (this is a reportable assault)
- psychological or emotional abuse
- unexpected death or unexplained absence of a resident from a facility
- stealing or financial coercion
- neglect
- use of physical or chemical restraints.

¹ The *Aged Care Amendment (Security and Protection) Act 2007* amended the *Aged Care Act 1997* to better protect aged care residents.

² For the *Health Practitioner Regulation National Law Act 2009* (National Law) as it applies in each state see: <https://www.ahpra.gov.au/about-ahpra/what-we-do/legislation.aspx>.

³ See the NMBA Guidelines for mandatory notifications for more information about these obligations. Available at: <http://www.nursingmidwiferyboard.gov.au/Codes-Guidelines-Statements/Codes-Guidelines/Guidelines-for-mandatory-notifications.aspx>.

⁴ Assistants in nursing includes all care workers however titled.



3. Context

The new protections to better protect aged care residents introduced into the Aged Care Act in 2007 included:

- the compulsory reporting of physical and sexual assaults of people in aged care
- protections for approved providers and staff who report assaults
- new complaint investigation arrangements.

The ANMF supports these amendments and requires all members to comply with their reporting obligations and the obligations they have under their professional codes of ethic and conduct.^{5,6} The ANMF also continues to advocate for safeguards to ensure the reporting regime's effectiveness and prevention strategies, particularly mandatory safe staffing levels, to reduce the number of reportable incidents.

4. Position

Protection

It is the position of the ANMF that:

1. People have the right to be treated with respect and dignity in residential aged care and wherever else they are receiving care.
2. Any abuse of a person in care is unacceptable. It may also be a criminal offence.
3. Compulsory reporting is an important element in a comprehensive suite of safeguards aimed at protecting people in aged care from abuse. On its own, it will not prevent abuse.
4. To be effective, compulsory reporting requires the Australian Government to adequately fund the authority to which reports are made so the authority can conduct full, fair and timely investigations.
5. To be effective, compulsory reporting requires employers to:
 - have clear policies and protocols in place that specify and support the process of compulsory reporting
 - ensure the person making a report is not subject to any victimisation or discrimination in the workplace because of making the report.
6. To be effective, compulsory reporting also requires:
 - the person to whom the report is made to have a legal obligation to investigate and act, and to advise the person making the report what action was taken and how
 - the person making the report to have a legal obligation to take the report to a higher authority if they are not satisfied with the action taken
 - the person about whom a report is made to be afforded natural justice and procedural fairness (including the right to representation); to be informed about the report and the nature of the reported incident; and to have the report investigated through a fair, transparent and unbiased process.

⁵ Nursing and Midwifery Board of Australia. 2018. *Code of conduct for nurses*. Available at <https://www.nursingmidwiferyboard.gov.au/Codes-Guidelines-Statements/Professional-standards.aspx>.

⁶ International Council of Nurses. 2012. *Code of ethics for nurses*. Available at [The ICN Code of Ethics for Nurses | ICN - International Council of Nurses](#).



Prevention

It is the position of the ANMF that:

7. The Australian Government must mandate safe minimum staffing levels and skills mix in residential aged care to ensure excessive workloads do not result in poor or missed care.⁷
8. Employers must provide:
 - an environment that promotes a culture of respect for all people
 - safe staffing levels and appropriate skills mix across all areas or units of care
 - education to all employees about:
 - preventing reportable incidents
 - their compulsory reporting obligations.

5. Position statement management

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⁷ Australian Nursing and Midwifery Federation. 2016. *National aged care staffing and skills mix project report 2016*. Available at https://www.anmf.org.au/media/slebc13l/national_aged_care_staffing_skills_mix_project_report_2016.pdf.