

# Compulsory reporting

## A guide for facility managers

Under the *Aged Care Act* Approved Providers must report “reportable assaults”. The purpose of this document is to help facility managers understand when an incident has to be reported and when an incident does not have to be reported.

A *reportable assault* is **unlawful sexual contact, unreasonable use of force**, or any **assault** on a resident.

**An Approved Provider must report every allegation that a reportable assault has occurred and on every occasion that they start to suspect on reasonable grounds that a reportable assault has occurred.**

Since these reporting requirements were introduced there has been a lot of confusion and hype about what has to be reported and when the 24 hour deadline for reporting begins. In order to clarify these issues Aged Care Association Australia (ACAA) has obtained legal advice. The contents of this document is based on that legal advice.

### Reporting

An Approved Provider must report to the CIS (1800 550 552) and to the police:

- **Every allegation that a reportable assault has occurred** – that is when a person claims to have witnessed a reportable assault, or asserts that one has occurred. The 24 hour reporting period commences immediately the allegation is made to Key Personnel or Key Personnel are advised of it.

#### AND

- **On each occasion that the Approved Provider starts to suspect on reasonable grounds that a reportable assault has occurred.**

If the Approved Provider suspects there has been an assault (in contrast to where an assault has been actually alleged), the Approved Provider, or more specifically the Key Personnel on behalf of the Approved Provider, must conduct some level of inquiry or investigation in order to form a view that there is a **reasonable** basis for the suspicion. Immediately Key Personnel have conducted sufficient inquiries to satisfy themselves that there are reasonable grounds for the suspicion, the obligation to report arises and the 24 hour reporting period commences.

- *A resident, with dementia or some other cognitive impairment, tells the facility manager (assuming she or he is Key Personnel) that they have been physically or sexually assaulted by a staff member.*
- *Sexual assault includes inappropriate touching or sexual contact.*

**This is a reportable assault and must be reported within 24 hours of the allegation being made to the facility manager.**

- *A staff member reports to the facility manager that they have seen a family member physically assault a resident by slapping the resident on the face.*
- *Physical assault includes any physical contact without consent.*

**This is a reportable assault and must be reported within 24 hours of the allegation being made to the facility manager.**

- *A family member tells the facility manager a resident has been sexually assaulted by a staff member.*
- *If the allegation was made to a staff member, the staff member must tell the facility manager. The 24 hour reporting period starts from when the facility manager (or other key personnel) has been informed.*

**This is a reportable assault and must be reported within 24 hours of the allegation being made to the facility manager.**

- *The facility manager sees a staff member restrain a resident and the facility manager thinks that the level of force used is more than what is necessary.*

**This is a reportable assault and must be reported within 24 hours.**

- *A nurse notices some bruising on a resident and tells the facility manager that he/she is unsure how this happened and is concerned the resident might have been assaulted.*
- *The facility manager immediately commences inquiries to determine whether there are reasonable grounds to suspect that the resident has been physically or sexually assaulted. Within a matter of hours she has conducted sufficient inquiries to be able to say she believes there are reasonable grounds for her suspicion.*

**This is a reportable assault and must be reported within 24 hours of the facility manager having sufficient information to suspect (on reasonable grounds) that a reportable assault has occurred.**

### Examples of incidents that do not need to be reported

- *A family member complains that a staff member made crude or vulgar comments of a sexual nature to a resident. This is inappropriate behaviour and should be dealt with as a disciplinary matter.*

**This is not a reportable assault and does not need to be reported.**

- *A family member tells the facility manager that they overheard a staff member threaten to withhold care from a resident unless the resident co-operates with the staff member. This is inappropriate behaviour and should be dealt with as a disciplinary matter.*

**This is not a reportable assault and does not need to be reported.**

- *A staff member tells the facility manager that he/she is concerned that a resident is withdrawn, refusing to eat and is acting differently to how the resident usually acts. The staff member reports to the facility manager that they are concerned about the resident and suspect the resident may have been abused.*
- *The facility manager immediately commences inquiries to determine whether there are reasonable grounds to suspect the resident has been physically or sexually assaulted. Within a very short time of commencing those inquiries, the facility manager forms the view that there are actually no grounds at all to indicate that the resident has been assaulted.*

**This is not a reportable assault and does not need to be reported.**

- *A resident is injured while she is being transferred to bed by a carer. The facility manager speaks to the carer and is satisfied that the carer did not intentionally harm the resident and that the level of force used to reposition the resident was reasonable.*

**This is not a reportable assault and does not need to be reported.**

- *A staff member reports a medication incident. The resident had a serious reaction and was transferred to hospital.*
- *A staff member reports a medication incident. The resident suffered no injury and there was no need to seek medical attention.*

**These are not reportable assaults and do not need to be reported.**

### Exceptions to obligations to report

If a resident physically or sexually assaults another resident an Approved Provider does not need to report the incident provided:

- the resident who committed the assault has a previously diagnosed cognitive or mental impairment;
- a behaviour management strategy is implemented within 24 hours of the assault; and
- the diagnosis and plan are noted in the resident's care plan.

**Note:** Approved providers do not need to report an incident if a similar incident involving the same resident has already been reported.

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