

2016

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Chief Minister)

# Reportable Conduct and Information Sharing Legislation Amendment Bill 2016

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# **Reportable Conduct and Information Sharing Legislation Amendment Bill 2016**

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## **A Bill for**

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

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Reportable Conduct and Information Sharing*  
4 *Legislation Amendment Act 2016*.

5 **2 Commencement**

6 (1) The following provisions commence on the day after this Act's  
7 notification day:

- 8 • sections 3 and 4;
- 9 • sections 12 to 14;
- 10 • section 16.

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

13 (2) The remaining provisions commence on a day fixed by the Minister  
14 by written notice.

15 *Note* A single day or time may be fixed, or different days or times may be  
16 fixed, for the commencement of different provisions (see [Legislation](#)  
17 [Act](#), s 77 (1)).

18 (3) If the remaining provisions have not commenced within 12 months  
19 beginning on this Act's notification day, they automatically  
20 commence on the first day after that period.

21 (4) The [Legislation Act](#), section 79 (Automatic commencement of  
22 postponed law) does not apply to this Act.

23 **3 Legislation amended**

24 This Act amends the following legislation:

- 25 • [Children and Young People Act 2008](#)
- 26 • [Ombudsman Act 1989](#)
- 27 • [Working with Vulnerable People \(Background Checking\)](#)  
28 [Act 2011](#).

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

3 **4 New sections 856A and 856B**

4 *insert*

5 **856A Director-general—giving information to commissioner for**  
6 **fair trading**

7 (1) The director-general may give the commissioner for fair trading  
8 protected information if satisfied on reasonable grounds that the  
9 information is relevant to the exercise of the commissioner's  
10 functions under the *Working with Vulnerable People (Background*  
11 *Checking) Act 2011*.

12 (2) This section does not limit the information that the director-general  
13 may otherwise give to the commissioner under this Act or any other  
14 territory law.

15 **856B Responsible person—giving information to**  
16 **commissioner for fair trading**

17 (1) A responsible person for an approved care and protection  
18 organisation may give the commissioner for fair trading protected  
19 information if satisfied on reasonable grounds that the information is  
20 relevant to the exercise of the commissioner's functions under the  
21 *Working with Vulnerable People (Background Checking) Act 2011*.

22 (2) This section does not limit the information that the person may  
23 otherwise give to the commissioner under this Act or any other  
24 territory law.

1 **5 New division 25.3.3**

2 *insert*

3 **Division 25.3.3 Designated entities sharing reportable**  
4 **conduct information**

5 **863A Definitions—div 25.3.3**

6 (1) In this division:

7 *designated entity*—

8 (a) see the *Ombudsman Act 1989*, dictionary; and

9 (b) includes the ombudsman.

10 *reportable conduct information* means any information, including  
11 protected information, that is relevant to the protection of a child or  
12 young person or a class of child or young person against reportable  
13 conduct.

14 (2) In this section:

15 *reportable conduct*—see the *Ombudsman Act 1989*, dictionary.

16 **863B Designated entity may request reportable conduct**  
17 **information**

18 (1) A designated entity (the *requesting entity*) may ask another  
19 designated entity, in writing, to give the requesting entity reportable  
20 conduct information in relation to a child, young person or class of  
21 child or young person.

- 1 (2) However, a requesting entity must not ask another designated entity  
2 for information under this section unless satisfied on reasonable  
3 grounds that the information is relevant for the requesting entity  
4 to—
- 5 (a) do any of the following for the safety, welfare or wellbeing of  
6 a child, young person or class of child or young person:
- 7 (i) make a decision or an assessment;
- 8 (ii) plan, begin, or conduct an investigation;
- 9 (iii) provide any other service in accordance with the entity's  
10 functions; or
- 11 (b) deal with a risk to a child, young person or class of child or  
12 young person that might arise in the course of the requesting  
13 entity's operation as a designated entity, including as an  
14 employer.

15 **863C Designated entity may provide reportable conduct**  
16 **information**

- 17 (1) If a designated entity (a *requested entity*) is asked under  
18 section 863B (1) to provide reportable conduct information, and is  
19 satisfied on reasonable grounds that the information is relevant for  
20 the entity making the request (the *requesting entity*) to do or deal  
21 with something mentioned in section 863B (2), the requested entity  
22 must provide the information.
- 23 (2) However, a requested entity may refuse to provide reportable  
24 conduct information if satisfied on reasonable grounds that  
25 providing the information would—
- 26 (a) prejudice an investigation of a contravention or possible  
27 contravention of a law in force in the territory; or
- 28 (b) prejudice a coronial inquest or inquiry; or
- 29 (c) contravene legal professional or client legal privilege; or

- 1 (d) enable the existence or identity of a confidential source of  
2 information for the enforcement or administration of a territory  
3 law to be revealed; or
- 4 (e) endanger a person's life or physical safety; or
- 5 (f) prejudice the effectiveness of a lawful method or procedure for  
6 preventing, detecting, investigating or dealing with a  
7 contravention or possible contravention of a territory law; or
- 8 (g) prejudice a proceeding in relation to a care and protection  
9 order; or
- 10 (h) not be in the public interest.
- 11 (3) If a requested entity refuses to provide reportable conduct  
12 information to a requesting entity, the requested entity must tell the  
13 requesting entity, in writing, that the entity refuses to provide the  
14 information and the reason for the refusal.

15 **863D Restriction on use of information given under this**  
16 **division**

17 Reportable conduct information given under this division to a  
18 designated entity must not be used or given for a purpose that is not  
19 associated with the safety, welfare or wellbeing of a child, young  
20 person or class of child or young person to whom the information  
21 relates, except in accordance with a territory law.

22 **863E Protection from liability for providing reportable conduct**  
23 **information**

24 A person who honestly and without recklessness provides reportable  
25 conduct information under this division to a designated entity—

- 26 (a) does not commit a breach of—
- 27 (i) confidence; or
- 28 (ii) professional etiquette or ethics; or
- 29 (iii) a rule of professional conduct; and



1 (b) is not liable for any civil, criminal or other disciplinary action  
2 only because of providing the information.

3 **863F Reportable conduct information may be given despite**  
4 **territory law to the contrary**

5 Reportable conduct information may be given to a designated entity  
6 in accordance with this division despite any territory law to the  
7 contrary.

8 **863G Coordination etc between designated entities**

9 To ensure the safety, welfare or wellbeing of children and young  
10 people, designated entities must take reasonable steps to ensure  
11 cooperative, coordinated and efficient provision of reportable  
12 conduct information between designated entities.

13 **6 Dictionary, new definitions**

14 *insert*

15 *designated entity*, for division 25.3.3 (Designated entities sharing  
16 reportable conduct information)—see section 863A.

17 *reportable conduct information*, for division 25.3.3 (Designated  
18 entities sharing reportable conduct information)—see section 863A.

1 **Part 3 Ombudsman Act 1989**

2 **7 New section 2B**

3 *insert*

4 **2B Offence against Act—application of Criminal Code etc**

5 Other legislation applies in relation to an offence against this Act.

6 *Note 1 Criminal Code*

7 The [Criminal Code](#), ch 2 applies to an offence against s 17P (Offence—  
8 false allegation) (see Code, pt 2.1).

9 The chapter sets out the general principles of criminal responsibility  
10 (including burdens of proof and general defences), and defines terms  
11 used for offences to which the Code applies (eg *conduct*, *intention*,  
12 *recklessness* and *strict liability*).

13 *Note 2 Penalty units*

14 The [Legislation Act](#), s 133 deals with the meaning of offence penalties  
15 that are expressed in penalty units.

16 **8 Functions—investigating complaints under Act**  
17 **New section 5 (5A)**

18 *insert*

19 (5A) Subsection (2) (n) has effect subject to division 2.2A (Reportable  
20 conduct).

21 **9 New division 2.2A**

22 *insert*

23 **Division 2.2A Reportable conduct**

24 **17D Definitions—div 2.2A**

25 (1) In this division:

26 *designated entity* means any of the following:

- 
- 1 (a) an administrative unit that deals with the safety, welfare or  
2 wellbeing of a particular child or class of children;
- 3 (b) a health service provider;
- 4 (c) a government school or a non-government school;
- 5 (d) a provider of an education and care service;
- 6 (e) a childcare service;
- 7 (f) an approved kinship and foster care organisation;
- 8 (g) an approved residential care organisation;
- 9 (h) any other entity prescribed by regulation.
- 10 **employee**, of a designated entity—
- 11 (a) means a person who is—
- 12 (i) engaged to provide services to the entity under a contract  
13 of employment to which the entity and the person are  
14 parties; or
- 15 (ii) engaged by the entity to provide services to children  
16 other than under a contract mentioned in  
17 subparagraph (i); and
- 18 **Examples—subpar (ii)**
- 19 • volunteer
- 20 • out-of-home carer
- 21 *Note* An example is part of the Act, is not exhaustive and may  
22 extend, but does not limit, the meaning of the provision in  
23 which it appears (see [Legislation Act](#), s 126 and s 132).
- 24 (b) for an entity that, in accordance with the *Children and Young*  
25 *People Act 2008*, authorises an out-of-home carer to exercise  
26 daily care responsibility or long-term care responsibility for a  
27 child—includes an adult who stays for at least 21 days at  
28 premises provided by the authorised out-of-home carer for the  
29 child to live.

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- 1           **head**, of a designated entity, means—
- 2           (a) for an administrative unit—the director-general of the
- 3           administrative unit; or
- 4           (b) for any other designated entity—
- 5                 (i) if a regulation prescribes the head of the entity—the
- 6                 prescribed head of the entity; or
- 7                 (ii) in any other case—the chief executive officer, however
- 8                 described, of the entity.
- 9           **investigation**, of a matter, means any inquiry or examination into
- 10           the matter.
- 11           **investigation information** means information—
- 12           (a) obtained as a result of an investigation into a reportable
- 13           allegation or reportable conviction conducted by the
- 14           ombudsman or a designated entity; and
- 15           (b) about any of the following:
- 16                 (i) the progress, conduct or findings of the investigation;
- 17                 (ii) action taken as a result of the findings.
- 18           **out-of-home carer**—see the *Children and Young People Act 2008*,
- 19           dictionary.
- 20           **reportable allegation** means an express assertion that reportable
- 21           conduct has happened.
- 22           **reportable conviction**, in relation to a person, means a conviction or
- 23           finding of guilt—
- 24           (a) for an offence, under a territory law or a State or
- 25           Commonwealth law, involving reportable conduct; and
- 26           (b) entered against the person before or after the commencement
- 27           of the *Reportable Conduct and Information Sharing*
- 28           *Legislation Amendment Act 2016*, section 3.

- 1 (2) In this section:
- 2 *approved kinship and foster care organisation*—see the *Children*  
3 *and Young People Act 2008*, dictionary.
- 4 *approved residential care organisation*—see the *Children and*  
5 *Young People Act 2008*, dictionary.
- 6 *childcare service*—see the *Children and Young People Act 2008*,  
7 dictionary.
- 8 *education and care service*—see the *Education and Care Service*  
9 *National Law (ACT)*.
- 10 *government school*—see the *Education Act 2004*, dictionary.
- 11 *health service provider*—see the *Health Practitioner Regulation*  
12 *National Law (ACT)*, section 5.
- 13 *non-government school*—see the *Education Act 2004*, dictionary.

14 **17E Meaning of reportable conduct—div 2.2A**

- 15 (1) In this division:
- 16 *reportable conduct* means conduct—
- 17 (a) engaged in by an employee of a designated entity, whether or  
18 not in the course of employment with the entity; and
- 19 (b) that results in any of the following, regardless of a child's  
20 consent:
- 21 (i) ill treatment or neglect of the child;
- 22 (ii) exposing or subjecting the child to—
- 23 (A) behaviour, or a circumstance, that psychologically  
24 harms the child; or

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- 1 (B) misconduct of a sexual nature that does not form  
2 part of an offence mentioned in subparagraph (iii);
- 3 **Example—subpar (ii) (B)**  
4 engaging in contact with a child as a preliminary step to obtaining  
5 the child’s compliance in sexual activities
- 6 *Note* An example is part of the Act, is not exhaustive and may  
7 extend, but does not limit, the meaning of the provision in  
8 which it appears (see [Legislation Act](#), s 126 and s 132).
- 9 (iii) an offence against any of the following provisions of the  
10 [Crimes Act 1900](#) for which the child is either present or a  
11 victim at the time of the conduct:
- 12 (A) part 2 (Offences against the person);  
13 (B) part 3 (Sexual offences);  
14 (C) part 4 (Female genital mutilation);  
15 (D) part 5 (Sexual servitude);
- 16 (iv) an offence against either of the following provisions of  
17 the [Education and Care Service National Law \(ACT\)](#):
- 18 (A) section 166 (Offence to use inappropriate  
19 discipline);  
20 (B) section 167 (Offence relating to protection of  
21 children from harm and hazards).
- 22 (2) However, **reportable conduct** does not include conduct—
- 23 (a) that is reasonable discipline, management or care of a child  
24 taking into account the characteristics of the child, and any  
25 relevant code of conduct or professional standard that at the  
26 time applied to the discipline, management or care of the child;  
27 or
- 28 (b) if the conduct is investigated and recorded as part of workplace  
29 procedure—that is trivial or negligible; or

1 (c) prescribed by regulation.

2 **Examples—s (2)**

3 1 touching a child to attract the child's attention, to guide a child, or to comfort  
4 a distressed child

5 2 a school teacher raising the teacher's voice to attract attention or restore  
6 order in a classroom

7 3 accidental conduct

8 (3) In this section:

9 *characteristics*, of a child, includes the age, health and  
10 developmental stage of the child.

11 *conduct* means an act or an omission to do an act.

12 **17F Ombudsman must monitor designated entity**

13 (1) The ombudsman must monitor the practices and procedures of a  
14 designated entity for—

15 (a) the prevention of reportable conduct involving an employee of  
16 the entity; and

17 (b) dealing with reportable allegations or reportable convictions  
18 involving an employee of the entity.

19 (2) The ombudsman may, by written notice, require the head of a  
20 designated entity to provide information about the entity's practices  
21 and procedures for the purpose of assisting the ombudsman to carry  
22 out a function under this section.

23 (3) In this section:

24 *procedures* includes policies.

25 **17G Designated entity must report to ombudsman**

26 (1) The head of a designated entity must provide a written report to the  
27 ombudsman about—

28 (a) any reportable allegation or any reportable conviction  
29 involving an employee of the entity; and

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- 1 (b) whether or not the entity proposes to take any action against  
2 the employee based on the allegation or conviction, and the  
3 entity's reasons for taking or not taking action; and
- 4 (c) any written submissions made by the employee to the head of  
5 the entity about the allegation or conviction that the employee  
6 asked the entity to take into account when deciding any action  
7 against the employee.
- 8 (2) A report under subsection (1) must be given to the ombudsman  
9 within 30 days after the day the head of the entity becomes aware of  
10 the allegation or conviction, or another period allowed by the  
11 ombudsman.
- 12 (3) The ombudsman may declare that subsection (1) does not apply in  
13 relation to any of the following (an *exempt matter*):
- 14 (a) a reportable allegation or reportable conviction of a particular  
15 kind;
- 16 (b) a particular entity;
- 17 (c) a particular employee.
- 18 (4) The head of an entity is not required to provide a written report to  
19 the ombudsman under subsection (1) if the report would deal only  
20 with an exempt matter.

21 **17H Disclosure of Information to and by ombudsman**

- 22 (1) The head, or an employee, of a designated entity may disclose any  
23 information to the ombudsman that the head or employee believes  
24 on reasonable grounds reveals—
- 25 (a) reportable conduct involving an employee of the entity; or
- 26 (b) a reportable conviction against an employee of the entity.



- 1 (2) If the ombudsman receives information disclosed under  
2 subsection (1), the ombudsman may, if the ombudsman is satisfied  
3 on reasonable grounds that the information is relevant to the safety,  
4 health or wellbeing of a child or class of child, disclose the  
5 information to any of the following:
- 6 (a) the chief police officer;
- 7 (b) a law enforcement agency;
- 8 (c) the human rights commission;
- 9 (d) the director-general responsible for the *Children and Young*  
10 *People Act 2008*, other than that Act, chapter 20;
- 11 (e) the director-general responsible for the *Education and Care*  
12 *Service National Law (ACT)*;
- 13 (f) the chief executive officer of the ACT Teacher Quality  
14 Institute.
- 15 (3) In this section:
- 16 *ACT Teacher Quality Institute* means the institute established  
17 under the *ACT Teacher Quality Institute Act 2010*, section 10.
- 18 *law enforcement agency*—
- 19 (a) see the *Spent Convictions Act 2000*, dictionary; and  
20 (b) includes an entity prescribed by regulation.

21 **171 Ombudsman may monitor investigation**

- 22 (1) The ombudsman may monitor an investigation carried out by a  
23 designated entity into a reportable allegation or reportable  
24 conviction involving an employee of the entity if satisfied on  
25 reasonable grounds that monitoring the investigation is in the public  
26 interest.

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- 1           (2) For the purpose of monitoring an entity's investigation under this  
2           section, the ombudsman or an officer of the ombudsman may—
- 3           (a) attend any interview conducted by or on behalf of a designated  
4           entity in its investigation; and
- 5           (b) confer with any person carrying out the investigation about the  
6           nature, conduct or progress of the investigation; and
- 7           (c) request information relating to the investigation by written  
8           notice given to the head of the entity.

9           *Note*     It is an offence to obstruct a territory public official (see [Criminal Code](#),  
10           s 361).

11   **17J       Designated entity must report outcome of investigation**

- 12           (1) The head of a designated entity must, as soon as practicable after the  
13           end of an investigation by the entity into a reportable allegation or  
14           reportable conviction, provide the ombudsman with—
- 15           (a) a written report about—
- 16                 (i) the results of the investigation; and
- 17                 (ii) any action taken, or proposed to be taken, in relation to  
18                 the reportable allegation or reportable conviction; and
- 19           (b) copies of all—
- 20                 (i) statements taken in the course of the investigation; and
- 21                 (ii) documents mentioned in the report; and
- 22           (c) any other information that the head of the entity considers  
23           relevant to the report.
- 24           (2) After receiving the report and other information, the ombudsman  
25           may by written notice given to the head of the entity request any  
26           additional information specified in the notice that the ombudsman  
27           considers relevant to determine whether—
- 28           (a) the reportable allegation or reportable conviction was properly  
29           investigated; and

1 (b) appropriate action was taken as a result of the investigation.

2 **17K Ombudsman may conduct own investigation**

3 (1) The ombudsman may, on the ombudsman's own initiative or in  
4 response to a complaint, conduct an investigation into—

5 (a) any reportable allegation or reportable conviction involving an  
6 employee of a designated entity; or

7 (b) the response of the designated entity to the reportable  
8 allegation or reportable conviction.

9 (2) If the ombudsman decides to conduct an investigation under this  
10 section, the ombudsman must give the head of the designated entity  
11 written notice stating—

12 (a) that the ombudsman intends carrying out an investigation  
13 under this section; and

14 (b) particulars of the investigation; and

15 (c) whether the ombudsman requires the entity not to commence,  
16 or to suspend, an investigation by the entity into a matter the  
17 ombudsman has decided to investigate.

18 (3) As soon as practicable after the ombudsman's investigation has  
19 ended, the ombudsman—

20 (a) must—

21 (i) give the head of the entity written notice that the  
22 investigation has ended; and

23 (ii) prepare a report setting out the ombudsman's findings;  
24 and

25 (b) may make recommendations to any person or body; and

26 (c) if an investigation by the entity was suspended by the  
27 ombudsman— may require the head of the entity to continue  
28 the investigation.

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- 1 (4) An entity must, as far as practicable, comply with a requirement of  
2 the ombudsman under this section.

3 **17L Investigation information may be disclosed to child,  
4 parent and carer**

- 5 (1) The ombudsman or the head of a designated entity may disclose  
6 investigation information to any of the following:
- 7 (a) a child who is the subject of conduct that forms the basis of a  
8 reportable allegation or a reportable conviction into which an  
9 investigation was conducted by the ombudsman or the  
10 designated entity;
- 11 (b) a parent of the child;
- 12 (c) if the child has been placed with an out-of-home carer—the  
13 child's out-of-home carer.
- 14 (2) In this section:

15 *parent*, of a child, means a person who has parental responsibility  
16 for the child.

17 *parental responsibility*—see the *Children and Young People*  
18 *Act 2008*, dictionary.

19 **17M Ombudsman may give information to commissioner for  
20 fair trading**

21 The ombudsman may disclose the following information to the  
22 commissioner for fair trading if satisfied on reasonable grounds that  
23 the information is relevant to the exercise of the commissioner's  
24 functions under the *Working with Vulnerable People (Background*  
25 *Checking) Act 2011*:

- 26 (a) information about an employee of a designated entity;  
27 (b) information about an exemption under section 17G;

- 1 (c) information about reports of investigations into reportable  
2 allegations or reportable convictions carried out by the  
3 ombudsman or a designated entity.

4 **17N Human rights commission may give information to**  
5 **ombudsman**

- 6 (1) A member of the human rights commission may disclose  
7 information to the ombudsman if satisfied on reasonable grounds  
8 that the information is relevant to the exercise of the ombudsman's  
9 functions under this division.
- 10 (2) This section does not limit the information that the member may  
11 otherwise disclose to the ombudsman under this Act or any other  
12 territory law.

- 13 (3) In this section:

14 *member*, of the human rights commission, means a member of the  
15 commission under the *Human Rights Commission Act 2005*,  
16 section 12.

17 **17O Protection of disclosures made under this division**

- 18 (1) An authorisation to disclose information under this division—  
19 (a) applies despite any territory law to the contrary; and  
20 (b) does not limit the disclosure of investigation information that  
21 may be made under any other territory law.
- 22 (2) A person disclosing information under this division is not civilly  
23 liable for anything done or omitted to be done honestly and without  
24 recklessness—  
25 (a) in complying with this division; or  
26 (b) in the reasonable belief that the disclosure complied with this  
27 division.

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1 **17P Offence—false allegation**

2 A person commits an offence if—

- 3 (a) the person makes an allegation against another person; and
- 4 (b) the person intends to cause the other person to be investigated
- 5 under this division for—
- 6 (i) having engaged in reportable conduct; or
- 7 (ii) being the subject of a reportable conviction; and
- 8 (c) the person knows the allegation is false or misleading in a
- 9 material particular.

10 Maximum penalty: 100 penalty units, imprisonment for 12 months

11 or both.

12 **10 Dictionary, note 2**13 *insert*

- 14 • administrative unit
- 15 • adult
- 16 • child
- 17 • human rights commission
- 18 • commissioner for fair trading

19 **11 Dictionary, new definitions**20 *insert*

21 ***designated entity*** for division 2.2A (Reportable conduct)—see

22 section 17D.

23 ***employee***, of a designated entity, for division 2.2A (Reportable

24 conduct)—see section 17D.

25 ***head***, of a designated entity, for division 2.2A (Reportable

26 conduct)—see section 17D.

27 ***investigation***, of a matter, for division 2.2A (Reportable conduct)—

28 see section 17D.

- 1            ***investigation information*** for division 2.2A (Reportable conduct)—  
2            see section 17D.
- 3            ***out-of-home carer***, for division 2.2A (Reportable conduct)—see  
4            section 17D.
- 5            ***reportable allegation***, for division 2.2A (Reportable conduct)—see  
6            section 17D.
- 7            ***reportable conduct***, for division 2.2A (Reportable conduct)—see  
8            section 17E.
- 9            ***reportable conviction***, in relation to a person, for division 2.2A  
10           (Reportable conduct)—see section 17D.

1 **Part 4** **Working with Vulnerable People**  
2 **(Background Checking) Act 2011**

3 **12 Section 33**

4 *substitute*

5 **33 Commissioner may request information from an entity to**  
6 **conduct risk assessments**

- 7 (1) The commissioner may request information or advice from any  
8 entity the commissioner considers may be able to give information  
9 or advice that will assist the commissioner in conducting a risk  
10 assessment for a person.

11 **Examples—entity**

- 12 1 the chief police officer  
13 2 an administrative unit  
14 3 an employer for a regulated activity

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

- 18 (2) An entity that receives a request from the commissioner must, as far  
19 as practicable, comply with the request.
- 20 (3) An entity that gives the commissioner information or advice in  
21 response to a request under this section does not contravene any  
22 duty of confidentiality the entity has under a territory law or  
23 agreement, despite anything to the contrary in the law or agreement.
- 24 (4) In this section:  
25 *information* does not include information that, under the [Children](#)  
26 [and Young People Act 2008](#), section 857, must not be given to a  
27 person.



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**13 Section 53**

*substitute*

**53 Commissioner may request information from entities about registered people**

- (1) The commissioner may request information or advice from any entity the commissioner considers may be able to give information or advice that is relevant to whether a registered person continues to pose no risk or an acceptable risk of harm to a vulnerable person.

**Example**

an updated criminal history report from the chief police officer

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

- (2) An entity that receives a request from the commissioner must, as far as practicable, comply with the request.
- (3) An entity that gives the commissioner information or advice in response to a request under this section does not contravene any duty of confidentiality the entity has under a territory law or agreement, despite anything to the contrary in the law or agreement.
- (4) In this section:
- information* does not include information that, under the [Children and Young People Act 2008](#), section 857, must not be given to a person.

**14** **New part 7A***insert***Part 7A** **Information sharing****63A** **Commissioner may give information to particular entities**

- (1) The commissioner may give protected information to—
- (a) any of the following if the commissioner is satisfied on reasonable grounds that the information is relevant to preventing harm, or a risk of harm, to a child or class of child:
    - (i) the director-general responsible for the *Education Act 2004*;
    - (ii) the director-general responsible for the *Education and Care Service National Law (ACT)*;
    - (iii) the director-general responsible for the *Health Act 1993*;
    - (iv) the director-general responsible for the *Children and Young People Act 2008*, other than chapter 20 of that Act;
    - (v) the chief executive officer of the ACT Teacher Quality Institute;
    - (vi) any other prescribed entity; or
  - (b) the chief police officer if the commissioner is satisfied on reasonable grounds that the information is relevant to an investigation into the commission of—
    - (i) an offence against any of the following provisions of the *Crimes Act 1900* for which a child is either present or a victim:
      - (A) part 2 (Offences against the person);
      - (B) part 3 (Sexual offences);
      - (C) part 4 (Female genital mutilation);

- 1 (D) part 5 (Sexual servitude); or
- 2 (ii) an offence against either of the following provisions of
- 3 the *Education and Care Services National Law (ACT)*:
- 4 (A) section 166 (Offence to use inappropriate
- 5 discipline);
- 6 (B) section 167 (Offence relating to protection of
- 7 children from harm and hazards).

8 (2) In this section:

9 *protected information* means information about a person that is

10 given to, or obtained by, the commissioner or any other person who

11 has exercised a function under this Act, because of the exercise of a

12 function under this Act by the commissioner or other person.

13 **Examples**

- 14 1 information obtained by the commissioner in conducting a risk assessment
- 15 2 information given to the commissioner in conducting a risk assessment

16 *Note* An example is part of the Act, is not exhaustive and may extend, but

17 does not limit, the meaning of the provision in which it appears (see

18 [Legislation Act](#), s 126 and s 132).

19 **63B Particular entities may give information to commissioner**

20 (1) An entity may give the commissioner any information (including

21 personal health information, personal information or protected

22 information) if satisfied on reasonable grounds that the information

23 is relevant to preventing harm, or a risk of harm, to a child or class

24 of child.

25 (2) This section does not limit the information that the entity may give

26 to the commissioner under any other territory law.

27 (3) In this section:

28 *entity* means—

- 29 (a) a director general; or
- 30 (b) a member of the human rights commission; or

Section 15

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1 (c) the chief executive officer of the ACT Teacher Quality  
2 Institute.

3 *member*, of the human rights commission, means a member of the  
4 commission under the *Human Rights Commission Act 2005*,  
5 section 12.

6 *personal health information*—see the *Health Records (Privacy and*  
7 *Access) Act 1997*, dictionary.

8 *personal information*—see the *Information Privacy Act 2014*,  
9 dictionary.

10 *protected information*—see the *Children and Young People*  
11 *Act 2008*, dictionary.

12 **15 Commissioner may give information to particular entities**  
13 **New section 63A (1) (a) (iva)**

14 *insert*

15 (iva) the ombudsman; or

16 **16 Dictionary, new definition of ACT Teacher Quality**  
17 **Institute**

18 *insert*

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

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 9 June 2016.

**2 Notification**

Notified under the [Legislation Act](#) on 2016.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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