



## Mandatory Reporting Guide

The Ontario College of Social Workers and Social Service Workers is responsible for regulating the practice of social workers and social service workers, under provincial legislation called the *Social Work and Social Service Work Act*. As part of its duty to serve and protect the public interest, the College is required to have a process for mandatory reports.

This guide provides a brief overview of the College's mandatory reporting process. Although every effort has been made to ensure that the information is accurate and current, this guide is not intended to be an exhaustive summary of the mandatory reporting process.

### What is the purpose for mandatory reporting?

Mandatory reporting alerts the College if there is a concern that a social worker or social service worker is not practicing safely. The report allows the College to take action to protect the public.

A report does not constitute a finding of professional misconduct or incapacity against the member who is the subject of the report. Only the College's Discipline Committee or Fitness to Practise Committee can make these determinations.

All members of the College have mandatory reporting obligations. This is legislated in the [Social Work and Social Service Work Act](#).

### Who is required to report?

#### 1. Employers

Employers are required to report the termination of a social worker or social service worker's employment for reasons of professional misconduct, incompetence, or incapacity. An employer must also file a report if it intended to terminate the member's employment, but the member resigned before it could do so. Even in situations where the employer agrees to accept the member's resignation in lieu of termination, the legal obligation to report to the College remains the same.

By notifying the College of concerns about a member's practice, employers assist the College in protecting the public. When a member's employment is terminated or they resign before any outstanding issues can be addressed, the member's practice and/or conduct is unmonitored and may pose a risk to the public. Once aware of the concerns, the College will assess the report for risk and determine the most appropriate regulatory response.

Reports must be made within 30 days of the termination or resignation of the member, and should be submitted on the College's [Reporting Form](#). Please fill in all relevant sections of the Reporting Form and then mail, email or fax the Reporting Form along with relevant supporting documentation to the College.

## **2. Social Workers and Social Service Workers**

Social workers and social service workers are members of the College. College members are required to file a report with the College if they have reasonable grounds to believe that another social worker or social service worker has sexually abused a client. Members are also required to file a self-report if they have been convicted of a criminal offence involving sexual conduct. Member reports must be made promptly, and should be submitted on the College's [Reporting Form](#). Please fill in all relevant sections of the Reporting Form and then mail, email or fax the Reporting Form along with relevant supporting documentation to the College.

Please note College members are required to disclose other information to the College as part of the annual renewal of their certificate of registration. These are different from the mandatory reporting obligations discussed in this guide. For more information about these requirements, please review section 6 the [Registration Regulation](#) to the *Social Work and Social Service Work Act* or contact the College's Membership department at [info@ocswssw.org](mailto:info@ocswssw.org).

## **3. Health information custodians**

The [Personal Health Information Protection Act](#) sets out the mandatory reporting obligations of health information custodians. A "health information custodian" (or "HIC") is defined as anyone who is authorized to collect, use, retain and disclose personal health information.

HICs must file a report with the College when a social worker or social service worker who is employed by them is terminated, resigns, is suspended or subject to disciplinary action as a result of the unauthorized collection, use, disclosure, retention, or disposal of a client's personal health information.

Reports must be made within 30 days of the termination, resignation, or disciplinary action, and should be submitted on the College's [Reporting Form](#). Please fill in all relevant sections of the Reporting Form and then mail, email or fax the Reporting Form along with relevant supporting documentation to the College.

### **Can I get in trouble for filing a report?**

If your report is made in good faith, the *Social Work and Social Service Work Act* provides that there can be no proceedings brought against you for making a report.

### **What does the College do when it receives a report?**

The College's Registrar will review the report and its attachments, as well as any information about the member that the College may have previously received. The Registrar will assess the level of risk to the public and determine the appropriate regulatory response.

Not every report the College receives results in a formal investigation or hearing. For instance, an investigation may not be necessary where the employer has engaged the member in remedial education, practice restrictions, or ongoing supervision sufficient to protect the public.

If the College does open an investigation into a report, the member will be given an opportunity to provide a written response to the College's Executive Committee. If, after a review of the

entire investigation, the Committee is sufficiently concerned about risk to the public, it may refer the member to a hearing before the Discipline Committee or Fitness to Practise Committee. After a hearing in which the member is given a full and fair opportunity to participate, the relevant committee will make a formal determination of professional misconduct, incompetence or incapacity.

A member who is found by the Discipline Committee to have committed professional misconduct may be required to attend for a reprimand, undertake practise monitoring, or engage in remedial education. They may also face a suspension of their certificate of registration for a period of time. In the most serious cases, the committee may revoke a member's certificate of registration.

A member who is found by the Fitness to Practise Committee to be incapacitated may be required to undergo appropriate medical treatment prior to returning to practice. It is possible that the member may have restrictions placed on their practice and will require ongoing monitoring upon their return to practice.

### **Will I hear the results of my report?**

The *Social Work and Social Service Work Act* requires that details of the report and information gathered by the College during an investigation remain confidential, including the decision and reasons of the Executive Committee. If a member of the College is referred to the Discipline Committee, or has restrictions placed on their practice, this information will appear on the [Public Register](#).

## **Common mandatory reporting terms**

### **1. Professional Misconduct**

The term "professional misconduct" is conduct that:

- contravenes the Social Work and Social Service Work Act, the regulations made under the Act or the College's bylaws;
- contravenes an order of the College's Discipline Committee, Complaints Committee, Council or Registrar;
- is defined as being professional misconduct in the [regulations](#).

### **2. Incompetence**

The term "incompetence" refers to a member of the College who has displayed, in his or her professional responsibilities, a lack of knowledge, skill or judgment or disregard for the welfare of a person or persons of a nature or extent that demonstrates that the member is unfit to continue to carry out his or her professional responsibilities or that a certificate of registration held by the member should be made subject to terms, conditions or limitations.

### **3. Incapacity**

The term "[incapacity](#)" refers to a member who is suffering from a physical or mental condition or disorder, such that the member is unfit to carry out his or her professional responsibilities or, the member's certificate of registration should be made subject to terms, conditions or limitations.

#### 4. Sexual Abuse

Sexual abuse with respect to a client by a member of the College means:

- Sexual intercourse or another form of physical sexual relations between the member and the client,
- Touching, of a sexual nature, of the client by the member, or
- Behaviour or remarks of a sexual nature by the member towards the client, other than behaviour or remarks of a clinical nature appropriate to the service provided.

Employers Must Report	College Members Must Report	Health Information Custodians Must Report
Where a College member's employment is terminated for reasons of professional misconduct, incompetence, or incapacity	The sexual abuse of a client by another social worker or social service worker	The termination, resignation, suspension or other discipline in response to a College member's unauthorized collection, use, disclosure, retention or disposal of personal health information.
Where a College member's employment was intended to be terminated for reasons of professional misconduct, incompetence, or incapacity	Self-report: <ul style="list-style-type: none"> <li>• A criminal conviction for an offence involving sexual conduct.</li> </ul>	

The College is available to address specific questions and assist with information that employers, members and health information custodians may need to meet mandatory reporting requirements. For information about the reporting and investigation processes, email College staff at [investigations@ocswssw.org](mailto:investigations@ocswssw.org), or phone 416-972-9882 ext. 210 or ext. 223, Toll-Free: 1-877-828-9380 ext. 210 or ext. 223. Employers may also wish to visit the [Employers section](#) of the College's website.