

Australian Food and Grocery Council

THE APPLICATION OF PROCESSES FOR MANDATORY REPORTING TO THE ACCC

**A GUIDE TO THE APPLICATION OF PROCESSES IN DETERMINING WHETHER
MANDATORY REPORTING OBLIGATIONS MAY APPLY TO SUPPLIERS OF
CONSUMER GOODS AND PRODUCT RELATED SERVICES IN THE FOOD AND
BEVERAGE SECTOR**

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1. EXECUTIVE SUMMARY

If you are, or the company you work for is, a manufacturer, importer, distributor, retailer or contractor of consumer goods or product related services in Australia, then the Mandatory Reporting requirements of the Australian Competition and Consumer Act 2010¹ will apply to you and your company.

All notifications or complaints that allege death, serious injury or illness associated with the use of consumer goods or product related services could potentially be reportable to the Australian Competition and Consumer Commission (ACCC).

This document is a guide only and does not purport to cover all reportable situations. All cases should be internally assessed based on the particular circumstances. If there is doubt as to whether an incident is considered reportable, consideration should be given to reporting the incident.

Failure to notify the ACCC when required to do so carries significant penalties for both individuals and corporations.

Inclusion of Mandatory Reporting in Company Processes

The Mandatory Reporting process should be incorporated into a company's Complaint Handling process.

A company should have a process in place where it ensures that employees understand who in the company needs to be contacted if they become aware of an incident that may require reporting.

Regardless of how a company becomes aware of an incident, the details of the contact typically should be directed to the Consumer Contact Centre (Complaint Handling System) and additional information obtained and recorded.

It is important that a company has in place internal processes to track, record, evaluate and manage notifications that may trigger mandatory reporting.

The company must have a process which evaluates the information and then determines whether to make a report to the ACCC. If an incident requires reporting a company must do so within two days of becoming aware of the incident.

The company may be contacted by the ACCC or another regulator for further information.

Reporting an incident does not admit fault, merely that the company has become aware of an incident. If after reporting the incident further investigation or advice indicates the consumer good or product related service was found not to be the cause, then follow-up advice should be provided to the ACCC.

¹ Competition and Consumer Act 2010; Schedule 2—The Australian Consumer Law; Chapter 3, Part 3-3, Division 5. Clause 131 to 132A

2. INTRODUCTION

About this Guide

The following is a set of supplementary guidelines, developed to be read in conjunction with the ACCC “A Guide to the mandatory reporting law in relation to consumer goods”.

This guide was developed by the Australian Food and Grocery Council to assist the food and beverage industry to determine when to report consumer goods that may be associated with death, serious injury or illness. This guide in no way replaces the obligation on the supplier of consumer goods or product related services to make their own internal assessment of the need to report an issue under the *Australian Competition and Consumer Act 2010* or via other legislative mechanisms.

The Mandatory Reporting requirements are detailed in Schedule 2 of the Australian Consumer Law: available via http://www.comlaw.gov.au/Details/C2011C00003/Html/Volume_3#param46

131 Suppliers to report consumer goods associated with the death or serious injury or illness of any person

(1) If:

- (a) a person (the supplier), in trade or commerce, supplies consumer goods; and
- (b) the supplier becomes aware of the death or serious injury or illness of any person and:
 - (i) considers that the death or serious injury or illness was caused, or may have been caused, by the use or foreseeable misuse of the consumer goods; or
 - (ii) becomes aware that a person other than the supplier considers that the death or serious injury or illness was caused, or may have been caused, by the use or foreseeable misuse of the consumer goods;

the supplier must, within 2 days of becoming so aware, give the Commonwealth Minister a written notice that complies with subsection (5).

Note: A pecuniary penalty may be imposed for a contravention of this subsection.

The Australian Consumer Law: Schedule 2, Chapter 3, Part 3-3, Division 5, Section 131

Policy

The *Australian Consumer and Competition Act 2010* requires a supplier to notify the ACCC of consumer goods associated with deaths, serious injuries or illnesses as the result of the use, or foreseeable misuse of the consumer goods, including consumer goods associated with a product related service.

For simplicity, the application of this guide is to both consumer goods and consumer goods to which a product related service relates. All notifications or complaints that allege injury, illness or death associated with the use of consumer goods or product related services could potentially be reportable to the ACCC and this guide will help companies decide if a report to the ACCC is required. Certain exemptions to mandatory notification apply which are explained further in this guide.

Suppliers should ensure they have adequate internal policies and procedures to comply with this law.

Application

Any Australian supplier (manufacturer, importer, distributor, retailer or contractor of consumer goods or product related services), including overseas companies that operate within Australia, that are involved in the supply of consumer goods within Australia will have a reporting obligation on becoming aware of a qualifying incident involving consumer goods of the type it supplies, and may be required to report to the ACCC. The law applies to suppliers of:

- consumer goods - made in Australia and supplied in Australia, or supplied in Australia and exported.
- consumer goods - made overseas that are imported and supplied by a company in Australia.
- product related services of consumer goods in Australia.

If the Australian supplier of a product supplied in Australia becomes aware of a qualifying incident outside of Australia involving that type of product, then the incident is reportable to the ACCC.

Any qualifying incident of which the supplier becomes aware from 1st January 2011 must be reported within the two days of the supplier first becoming aware, as defined by the ACCC, even if the product was supplied a long time ago or if the injury occurred a long time before the supplier became aware. There are no time limits on when incidents occur.

Two days to report

A company has two days as determined by the ACCC to report notifiable incidents. The two days do not include the day a Company first becomes aware of the incident. If a matter would be reportable on a weekend or public holiday it is reportable on the next working day. The ACCC “A guide to the mandatory reporting law in relation to consumer goods” provides the following table:

<i>Supplier becomes aware of reportable incident on:</i>	<i>Mandatory report to ACCC due by midnight of the next*:</i>
Monday	Wednesday
Tuesday	Thursday
Wednesday	Friday
Thursday	Monday
Friday	Monday
Saturday	Monday
Sunday	Tuesday

** if due day is public holiday, then rollover to next working day*

The report to the ACCC is deemed to be overdue if it has not been lodged by midnight of the due day at the supplier’s location.

There is no requirement for a supplier to verify information relevant to a mandatory report prior to notification to the ACCC. However, it would normally be in the interest of all parties if some level of ‘reality test’ is applied prior to reporting to the ACCC, particularly if the company can determine that it is very unlikely that the consumer good was the cause of the incident.

Nonetheless, it is clear that there is limited time to verify and investigate complaints and reports of injury prior to notification to the ACCC. The supplier must notify within the two day period after

becoming aware of the incident and must not delay notification in order to verify information. Neither should notification be delayed beyond the two days in order to obtain consent to provide personal details of injured people to the ACCC. Consumer details can be provided to the ACCC as a follow up to the initial report, after consent has been provided.

The ACCC cannot delete mandatory reports, or modify the official record at the request of the reporter or other parties. However, the ACCC encourages suppliers to provide updated or additional information about previously submitted reports.

Internal notification process

The Company is deemed to become aware of an incident once any person within the Company is notified and becomes aware, no matter the source of the information. Common notification sources may include notifications or complaints by consumers, notification by retailers, contact from regulators such as local councils, and media reports. (See also Section 9 – Notice to employees)

Follow-up consumer advice

The two days to report comes into effect when the company becomes aware of the information that determines the incident is reportable.

For example, if a consumer makes a complaint about a product causing them to become ill, but states that they have not seen a doctor for treatment, then the incident may be assessed as not reportable. Then if the consumer contacts the company at a later date about the same incident and states that they had been to see their doctor who treated them, then the incident may be re-assessed against the decision tree in Section 5 as being reportable. The two days within which to report the incident, starts from the day the additional information was provided, not the day of the initial consumer contact.

3. REPORTING OBLIGATIONS

Serious injury or illness

Any interpretation of 'serious injury or illness' must be consistent with the definition in the *Competition and Consumer Act 2010*:

Serious injury or illness means an acute physical injury or illness that requires medical or surgical treatment by, or under the supervision of, a medical practitioner or a nurse (whether or not in a hospital, clinic, or similar place) but does not include:

- An ailment, disorder, defect or morbid condition (whether of sudden onset or gradual development); or
- The recurrence, or aggravation, of such an ailment, disorder, defect or morbid condition.

The Australian Consumer Law: Chapter 1, Clause 2. Definitions

This definition covers illness or injury that requires treatment by a doctor or nurse, or under their supervision. An injury or illness that would normally require such treatment, but where treatment was not sought due to extenuating circumstance is also included. For example, a person may be unable to see a doctor or a nurse to provide treatment because they are in a remote location and too ill to travel.

A 'doctor' or 'nurse' would normally be interpreted as defined for the purposes of Australian health practitioner registration for practice in a hospital or health service and would include all generalists and recognised sub-specialties of those professions. The definition does not extend to treatments by other health practitioners such as dentists.

For the purposes of the definition, the terms, 'medical treatment' and 'surgical treatment' take on their normal meanings: treatment by or under the supervision of a registered doctor or nurse. A cut or laceration caused by a consumer good that requires bandaging by a registered nurse would be a 'serious injury', as distinct from a minor cut that was treated at home with an adhesive bandage strip.

A person with an ongoing ailment or medical condition may be considered to have an "ailment, disorder, defect or morbid condition" which although may result in an incident associated with a food, is not required to be reported. In contrast, in the absence of an ongoing disease or medical condition, otherwise healthy people who have food allergies are not considered to have an "ailment, disorder, defect or morbid condition" since they are healthy unless they are exposed to the relevant substance.

Foreseeable misuse

The mandatory reporting requirements apply to death or injury caused by the use or 'foreseeable misuse' of consumer goods. The implication of the inclusion of 'foreseeable misuse' in the mandatory reporting regime is that it is not limited to deaths and serious injuries and illnesses caused by 'on-label' use of products. If a healthy person with a peanut allergy suffers an anaphylactic reaction after ingestion of food containing peanut flour that leads to suffocation and loss of consciousness and requires intensive medical treatment including administration of an Epi-Pen, then this would be reportable to the ACCC. If the food is labelled as containing the allergen, the circumstances may be considered as foreseeable misuse of the product.

In this context, all kinds of use of the product are included except for 'unforeseeable' misuse, which is not defined in the legislation and likely to be very difficult for a supplier to determine in most contexts, particularly since once the supplier becomes aware of a particular use of their product, that use is probably no longer 'unforeseeable'. Suppliers are advised to be cautious about deciding not to report in such cases.

Exclusion from serious injury or illness

- A serious injury or illness must be acute and arise through sudden onset rather than after gradual development. Therefore ailments, disorders, defects or morbid conditions do not qualify for the purpose of mandatory reporting.
- An injury or illness that is the result of an ailment, disorder, defect or morbid condition, or their re-occurrence is exempt from mandatory reporting. For example, a person with diabetes who has an adverse incident associated with their diabetes after ingesting certain foods.
- Consumer complaints specifically related to long-term consumption and life style choices, such as liver failure from long term alcohol abuse or, obesity from long-term dieting choices do not qualify for the purpose of mandatory reporting.
- Alcoholic beverages and liquor are not exempted, but only incidents where the liquor is believed to have directly caused death or serious injury or illness, such as severe alcohol poisoning, will be reportable. Incidents where alcohol is believed to have contributed by influencing a person's behaviour do not need to be reported.

Reporting obligations and patient confidentiality.

In short, following the ACL and ACCC guidelines, any serious injury or illness that requires “medical or surgical treatment under the supervision of, a medical practitioner or a nurse ...” must be considered as reportable.

Death associated with consumer goods or product related services is a reportable event and, depending on the situation, may be of interest to the Coroner and medical authorities. However, deaths confirmed as under coronial investigation do not have to be reported to the ACCC.

The ACCC also encourages suppliers to respect the confidentiality between patients and health practitioners. There is no support under the *Competition and Consumer Act 2010* for a supplier to demand information from a consumer or their health practitioner.

There is also no support under the *Competition and Consumer Act 2010* for a company to demand verification from a consumer, health practitioner, or other person from whom the information is sourced.

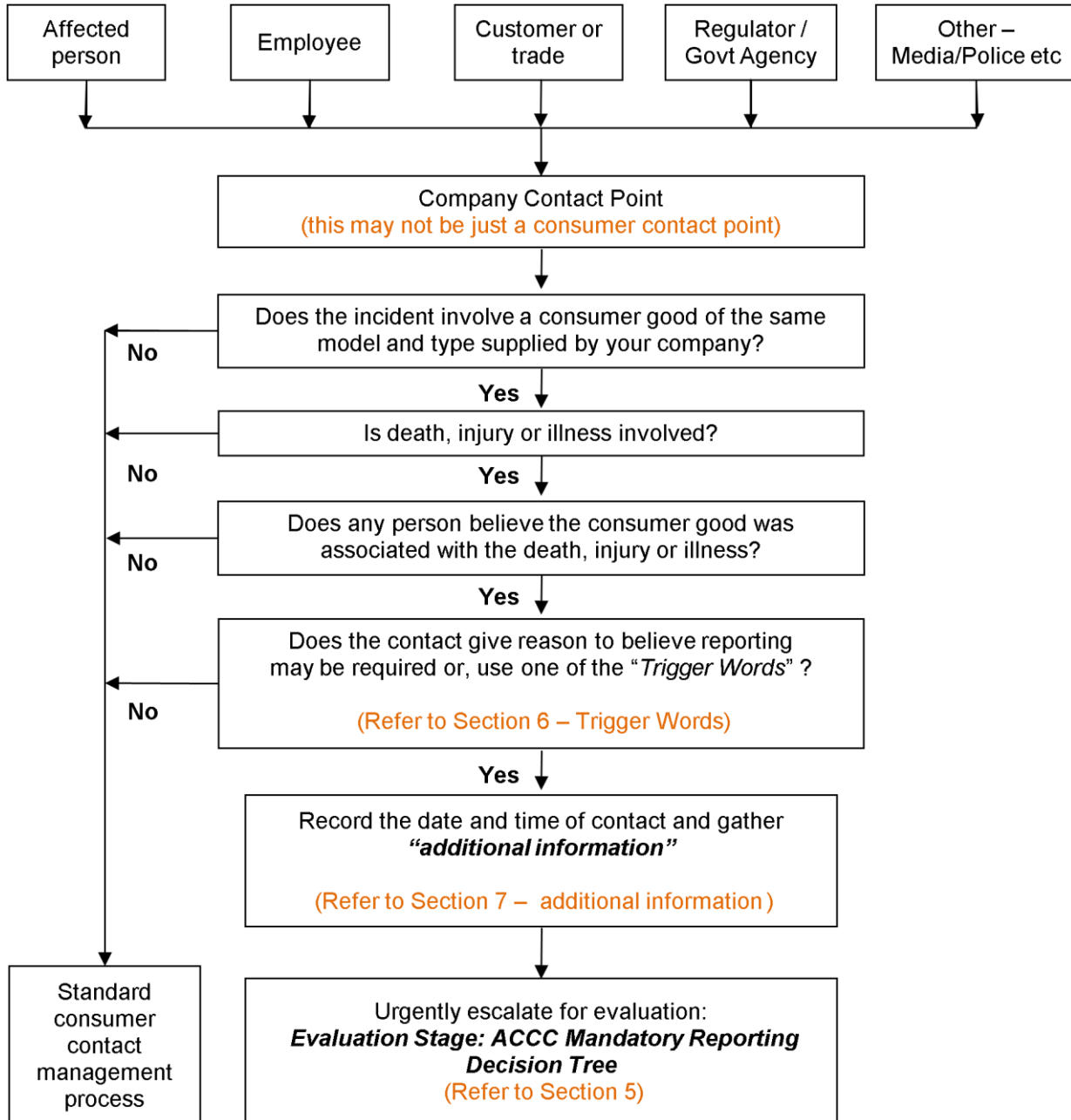
The ACCC also encourages suppliers to consider their obligations under privacy legislation. Suppliers should obtain consent from consumers before providing the ACCC with the consumers personal details as part of a mandatory report, otherwise the report should be lodged without including those details.

Reference Materials

- ACCC “A Guide to Mandatory reporting law in relation to consumer goods”
<http://www.productsafety.gov.au/content/item.phtml?itemId=984082&nodeId=2ac90e6ab5f98b822a59ba2fdf3ed9de&fn=Mandatory%20Reporting%20Guidelines.pdf>
- Schedule 2 Australian Consumer Law
http://www.comlaw.gov.au/Details/C2011C00003/Html/Volume_3#param46
- Trade Practices (Australian Consumer Law) Amendment Regulations 2010 (No1)
<http://www.comlaw.gov.au/Details/F2010L03014>
- Product Safety Australia Website
<http://www.productsafety.gov.au/content/index.phtml/tag/MandatoryReporting>
- Mandatory Reporting Form
[https://www.productsafety.gov.au/content/maintain/create/index.phtml?contentTypeName=ossMandatoryReport&informationSpaceItemId=982659&inPop=1&returnUrl=.](https://www.productsafety.gov.au/content/maintain/create/index.phtml?contentTypeName=ossMandatoryReport&informationSpaceItemId=982659&inPop=1&returnUrl=)

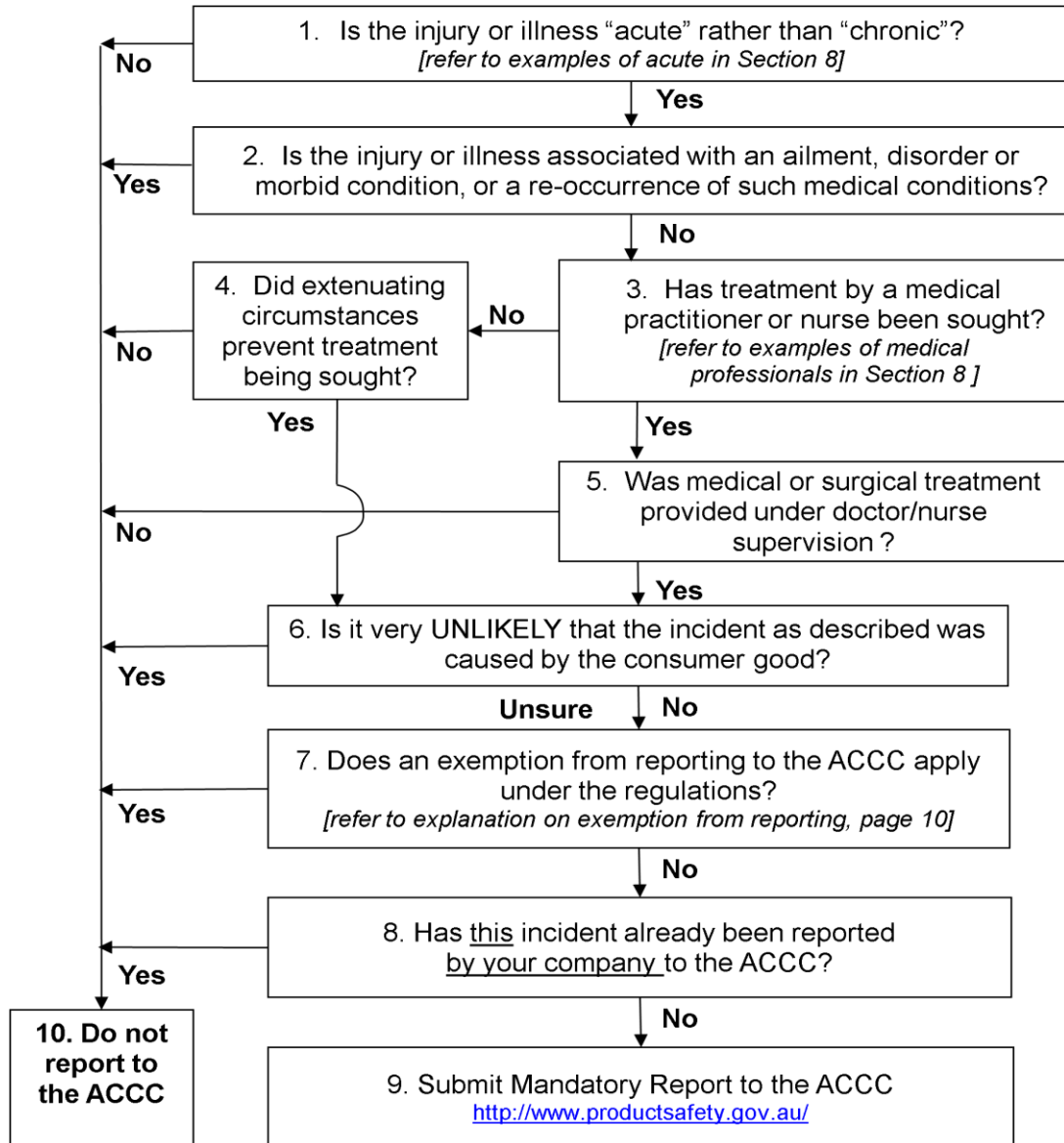
4. COMPANY CONTACT CENTRE PROCESS

The following diagram is a representation of how a company may become aware of incidents that could potentially trigger mandatory reporting. It is designed to guide a company through a process of identifying those notifications / incidents that may be reportable and require further evaluation.



5. EVALUATION STAGE: ACCC MANDATORY REPORTING DECISION TREE

The following decision tree requires consideration of the answers to questions suggested in Section 7 – additional information. The following decision tree is applied if, in the preceding process it was established that there is a reason to believe that mandatory reporting may be required.



Treatment not sought due to extenuating circumstances

If the nature of the injury or illness is acute and treatment would normally be required by a medical practitioner or nurse, but this was unable to be sought due to extenuating circumstances, then this should still be considered regardless of whether treatment was actually administered.

Extenuating circumstance may include being in a remote location and unable to access a nursing post, hospital or medical facility such as in the outback or travelling on a sailing boat at sea.

Incident VERY unlikely to be caused by alleged goods or service

Reports must be lodged with the ACCC within two days when someone believes the consumer good was the cause of the incident, even when the supplier is uncertain that it was the probable cause. There is an exemption from reporting when a supplier determines that:

- the death, serious injury or illness was clearly not caused by the use or foreseeable misuse of the consumer good, or
- it is very unlikely that the death or serious injury or illness was caused by the use or foreseeable misuse of the consumer goods.

There is no requirement to verify the accuracy of information provided from the consumer contact or to definitively determine that a consumer good was the cause of an incident before reporting to the ACCC. There is an expectation that companies will undertake further incident verification and investigations after the report is made to the ACCC which may result in further action.

The intent of the questions suggested in Section 7 is to establish if the alleged consumer good is very unlikely to be the cause of the incident by identifying potential hazards and undertaking a preliminary risk assessment. The information provided and decision making process should be documented in the event that the ACCC request advice from your company concerning the incident.

The two days allowed from becoming aware of the incident generally will not be sufficient time to determine if the alleged consumer good is very unlikely to be the cause of the incident. Under such circumstances there is no permission to delay reporting or to seek an extension of time to complete the investigation, but a company may wish to qualify their report as to why they consider it is unlikely that the alleged consumer good was attributable as the cause of the incident.

The supplier unaware that anyone believes consumer goods caused the incident

The incident only needs to be reported to the ACCC if somebody believes that the death, serious injury or illness was, or may have been, caused by the alleged consumer goods. If the supplier does not believe that the incident was, or may have been, caused by the consumer goods AND nobody else believes that to be the case, then the incident is not reportable to the ACCC. However, if the supplier later becomes aware that someone believes the incident was caused by the good, then the supplier then has two days to assess if the goods are very unlikely to be the cause, or report the incident.

Follow-up advice to ACCC and FSANZ after initial notification

If the company subsequently establishes that the consumer good was NOT the cause of the incident after lodging the report of the incident with the ACCC, it is important that the company provide follow-up advice to the ACCC and request that their finding be noted against the original notification. Although the original notification cannot be changed, the record can be updated to include the results of the supplier's investigations.

Where the outcome of investigations identify a risk to public health and safety, the company should consult with FSANZ and the relevant State/Territory jurisdiction concerning follow-up action, including the decision to undertake a full consumer level recall of the consumer product.

Where a product recall or withdrawal is initiated, the ACCC will also be notified via the standard protocols and will be able to correlate instances of mandatory notification against recall/withdrawal action.

Exemption from reporting

The ACL provides that the supplier is exempted from mandatory reporting to the ACCC if the incident is required to be reported through other statutory requirements, as specified in Clause 92 of the Trade Practices (Australian Consumer Law) Amendment Regulations 2010 (No.1).

Under Clause 92, where notifications are already required under certain State or Territory Acts (including Health Acts, Public Health Acts, Notifiable Diseases Acts or Food Regulations) the supplier is exempt from mandatory reporting to the ACCC.

In the Australian Capital Territory, South Australia and Tasmania, it is a mandatory requirement that a doctor notify any case of food poisoning or food borne illness. In these circumstances the supplier is exempt from making an additional report to the ACCC, and it is therefore useful to determine in which jurisdiction the person sought medical treatment.

Deaths confirmed as under coronial investigation also do not have to be reported to the ACCC.

6. TRIGGER WORDS TO GATHER ADDITIONAL INFORMATION

The following list of trigger words, when used in relation to describing an incident, may signal the need to collect additional information. This additional information may help to determine instances when an ACCC mandatory report may be necessary.

This is not intended to be an exhaustive list but may assist in determining if action should be taken in relation to seeking additional information that may be required should the contact lead to an ACCC reportable event.

accident	diarrhoea	nurse
ambulance	doctor	rash
allergic reaction	emergency	plaster (cast)
anaphylaxis	fever	serious injury
antibiotics	food poisoning	serious illness
bleeding	fracture	severe
broken bones	gastric	sickness
burn	general practitioner (GP)	skin irritation
clinic	hospital	stitches
choking	illness	surgeon
coma	infection	surgery
cut	injection	therapy
dead, death, died	injury	vomiting
dermatitis	medicine	

7. ADDITIONAL INFORMATION

To be asked to gather sufficient evaluation information.

- If a “Trigger word” has been used by the person reporting the incident, seek to obtain the answers to the following questions to assist in determining if the incident is reportable to the ACCC.
- In the absence of trigger words, the nature of the incident itself may signal the need to obtain additional information.
- The suggested questions may assist companies in determining the circumstances and the likelihood that the incident requires notification of the consumer goods to the ACCC, as well as what intervention/action may be needed to prevent further risk to consumers.
- Also ensure the “Trigger Word” is recorded.

Questions to seek additional information in relation to this incident:

- Describe what happened?
- Describe the illness or injury?
- Is the injury or illness associated with an existing ailment or medical condition, or the re-occurrence of an ailment or medical condition?
- What are / were the symptoms and how long did they last?
- Is this associated with any existing medical conditions?
- Did you see a medical practitioner or nurse? If so, then when?
- In which State or Territory is the medical practitioner/nurse located?
- Did you receive any form of medical or surgical treatment?
- Where were you treated? (e.g. a hospital, clinic, nursing post, etc)
- What type of treatment did you receive?
- How soon after using the product did this incident occur?
- Describe how you used this product which lead to this incident
- Do you believe that the product caused the injury?

Request permission for disclosure of consumer details:

Privacy legislation prevents the disclosure consumer details unless consent is obtained to do so. The following is an example of how this might be requested:

“Please note that, based on what you have told me, we may be obliged under the law to report this incident to the ACCC. If we are required to do this, do we have your permission to release your personal details to the ACCC to assist regulatory authorities with further investigations?”

8. EXAMPLES AND SCENARIOS

Reportable incidents

- Packaging injury – e.g. a glass bottle breaks when the user opens it. They experience a deep cut which would need stitches, normally provided by either a doctor or a nurse.
- Foreign matter – e.g. a consumer swallows a foreign object while consuming a product and then either gets acutely sick or injured and requires medical treatment from either a doctor or nurse.
- Illness – e.g. a consumer eats a product, falls acutely ill, goes to a doctor and receives medication to overcome the symptoms (epicac, anti-nausea tablets or other medication).
- Food induced allergic reaction to food provided at a catered function – an otherwise healthy person has a severe allergic reaction resulting in anaphylaxis and requiring use of an epi-pen.
- Immediately after undergoing repair or maintenance, a consumer good malfunctions resulting in a serious injury that requires medical treatment.

Incidents considered not reportable

- A consumer reports that while trying to open your product's package with a kitchen knife she cuts her hand on the knife and had to get stitches from her doctor. This is not reportable by the food manufacturer as it was not the use (or foreseeable misuse) of the food / package that caused the injury. If the knife manufacturer became aware of this it is may be reportable by them.
- A consumer reports that they swallowed a foreign object that was allegedly present in your consumer good. They advise that their doctor had recommended an X-ray and determined that they had not been injured. This is not reportable as no serious injury has occurred.
- A consumer reports that they experienced vomiting immediately after eating a company's product and that they "may need medical attention". When queried if there is any reason why they have not already sought medical attention the consumer advises they did not feel they needed to see a doctor. While the company may determine that their product may possibly be associated with the illness, as the consumer has not sought medical treatment from a doctor or a nurse, it is not reportable.
- A consumer reports to a winery that they suffered nausea and vomiting soon after drinking one glass of their wine with a meal. It is VERY unlikely that the consumption of a single glass of wine would be the cause, although the meal accompanying the glass of wine may be suspect.
- A large stack of consumer products displayed for promotional purposes collapses injuring a person who then requires medical treatment, such as stitches to a wound. This is not reportable as the injury did not result from either the use or foreseeable misuse of the goods.

The circumstances associated with each potential mandatory reporting event may vary significantly and therefore each incident should be thoroughly evaluated taking into account all available information.

The following three tables may assist during the evaluation stage to determine events that may be reportable.

These examples are provided as a guide only and are not exhaustive.

Serious acute physical injury or illness

The Act requires a person to have had a “serious injury or illness”. The following is a list of examples of symptoms or indications of injuries or illness that would be included as being considered as “serious acute physical injury or illness” that require treatment by a medical practitioner or a nurse; or excluded from being considered as severe and acute due to the mild nature of the injury or illness.

severe and acute physical injury or illness	NOT severe and acute physical injury or illness
<ul style="list-style-type: none"> ● Severe allergic reactions, airway restriction, breathing difficulties, or anaphylaxis. ● Intense gastro intestinal symptoms, frequent and violent vomiting, diarrhoea and debilitating cramping. ● Intense nasal or airway disturbances, breathing difficulties, choking, airway obstructions, including acute asthma attack. ● Intense skin irritations with burning and redness and swelling. ● Burns that require dressings or treatment. ● Deep cuts which require stitches or surgical dressings. ● Severe acute chest pain. ● Loss of consciousness, for example as a result of an airway obstruction. ● Internal injuries, bleeding or obstructions. ● Broken bones, fractures, severed limbs. ● Eye damage impacting on vision. 	<ul style="list-style-type: none"> ● General references to mild illness, unwellness, pain, or cramping. ● Mild gastrointestinal symptoms, including bloating, cramping, indigestion, nausea ● Mild or isolated vomiting. ● Mild or isolated diarrhoea. ● Mild nasal and sinus symptoms including sneezing, hay fever, itchiness, redness. ● Mild skin irritations that do not require medical treatment. ● Minor superficial cuts that do not require dressing or stitches. ● Mild soft tissue damage such as swelling, bruising. ● Tiredness, lethargy. ● Mild burns that don't require dressings.

This list is not exhaustive and is provided for the purpose of illustration. The Table is to be read in conjunction with Step 1 of the Decision Tree in Section 5 on page 8.

Medical practitioner and nurse

The following lists some examples as to which professions are included / excluded as providers of treatment of a serious acute illness or injury:

Included	Excluded
<ul style="list-style-type: none"> • Hospital resident or Hospital registrar • Medical doctor, GP, • Medical specialist, such as anaesthetist • Surgeon • Nurse (RN, EN) and relevant specialisations such as midwife or theatre nurse. 	<ul style="list-style-type: none"> • Ambulance officer or paramedic • Chiropractor • Dentist • Fireman or first aid officer • Herbalists, homeopath, naturopath • Life guard • Nutritionist or dietician • Occupational therapist • Pharmacist • Physiotherapist

This list is not exhaustive and is provided for the purpose of illustration. The Table is to be read in conjunction with Step 2 of the Decision Tree in Section 5 on page 8.

Medical and surgical treatment

The ACCC advise that the kinds of activities considered by a medical practitioner or a nurse as appropriate in the treatment of a serious acute physical injury or illness should be considered in very broad terms. The following is a list of some types of treatments that may be provided by a medical practitioner or nurse:

- Prescribing the use of medication or lotions and creams including via oral, injection, IV, or provision of an “epi-pen” used for treatment of anaphylaxis.
- Sutures, bandaging requiring special application and dressing of a wound.
- Setting broken bones using plaster, fibreglass or other bone setting devices.
- Providing or referring for surgery.
- Use of a local or general anaesthetic
- Applying medical or surgical dressings.
- Applying an IV drip.
- Conducting CPR.

9. NOTICE TO EMPLOYEES - MANDATORY REPORTING OBLIGATIONS

It is essential that the employees of companies supplying consumer goods or product related services are made aware of their obligations under the new reporting requirements that came into effect from 1 January 2011.

Below is an example of the sort of advice that should be provided to all employees about the need to ensure they advise the company if they become aware of an incident related to the consumer goods or product related services provided by the company.

Taking into account there are frequent changes in staff and their roles in a business, it may be appropriate to remind staff these requirements annually such as during performance reviews.

- *From 1 January 2011 the Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010 (the "Australian Consumer Law") came into effect.*
- *Under the Australian Consumer Law all consumer goods companies, including [the company], are required to report any death or serious injury or illness which was caused or may have been caused by the use or foreseeable misuse of any of their products.*
- *An acute physical injury or illness is considered to be serious if it requires treatment by a medical practitioner or nurse.*
- *The company must notify the Australian Competition and Consumer Commission (ACCC) of such an incident within two days of becoming aware of it.*
- *In order that [the company] meets our obligations under the Australian Consumer Law, our consumer complaint handling procedures have been amended to require that all incidents which may need to be reported to the ACCC are notified to [our Consumer Contact Centre / the appropriate personnel] immediately.*
- *If you become aware of any incident where our product may have caused death, injury or illness, please report the incident through the consumer complaints process immediately.*
- *The normal investigation procedure should be followed in relation to all incidents, including those which may trigger mandatory reporting under the new procedure.*
- *Please ensure that you are familiar with the amendments to the Procedure.*

10. DEFINITIONS

The following are extracts from dictionary definitions which may assist in understanding common terms:

Term	Oxford	Macquarie ²
Acute	<i>(of a disease) coming sharply to a crisis, severe, not chronic...</i>	<i>brief and severe as disease, (as opposed to chronic)...</i>
Chronic	<i>persisting for a long time ...</i>	<i>continuing a long time, having long had a disease,...</i>
Illness	<i>disease, ailment or malady...</i>	<i>a state of bad health, sickness, an attack of sickness...</i>
Injury	<i>a physical harm or damage, an instance of this ...</i>	<i>harm of any type done or sustained, a particular form or instance of harm,...</i>
Medical	<i>of, or relating to the science of medicine in general, of or relating to conditions requiring medical and not surgical treatment...</i>	<i>of, or relating to the science or practice of medicine, curative, medicinal, therapeutic...</i>
Physical	<i>of or concerning the body...</i>	<i>relating to the body, bodily,...</i>
Severe	<i>Rigorous, strict, and harsh in attitude or treatment, Serious, critical, vehement or forceful, extreme (in an unpleasant quality)</i>	<i>harsh, harshly, extreme, grave, a severe illness...</i>
Surgical	<i>of or relating to or done by surgeons or surgery, resulting from surgery...</i>	<i>relating to or involving surgery, used in surgery_...</i>
Treatment	<i>the application of medical care or attention to a patient...</i>	<i>the act or manner of treating, management in the application of medicines, surgery, etc ...</i>

A list of additional definitions of terms is provided in Schedule 2 of the ACL.

² Macquarie Dictionary, third edition, reprinted 2005

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