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CHILD PROTECTION AND REPORTING POLICY AND PROCEDURES (INCLUDING MANDATORY REPORTING)

RATIONALE

School staff have a duty of care to protect and preserve the safety, health and wellbeing of the children in their care and must always act in the best interests of those children. If a staff member has any concerns regarding the health, safety or wellbeing of a child or young person it is important to take immediate action. Further detailed information that all staff in Victorian government schools must follow is found in DET's Child Protection – Reporting Obligations. Mandated staff members must make a report to Child Protection as soon as practicable after forming a belief on reasonable grounds that a child or young person is in need of protection from significant harm as a result of physical injury or sexual abuse, and the child's parents are unable or unwilling to protect the child.

In the case of a child who may be in need of protection or therapeutic treatment, or where there are significant concerns about the wellbeing of a child, school staff can discharge this duty of care by taking action which includes the following:

- Reporting their concerns to Child Protection, Victoria Police or another appropriate agency
- Notifying the principal or a member of the school leadership team of their concerns and the reasons for those concerns.

Duty of care obligations are separate and additional to mandatory reporting and 'failure to disclose' reporting obligations.

MANDATORY REPORTERS

All staff who are Victorian Institute of Teaching (**VIT**) registered teachers (including principals) or who have been granted permission to teach by the VIT are 'mandatory reporters'. This means that in the course of undertaking their professional duties, they must report to the Department of Health and Human Services (**DHHS**) Child Protection a belief on reasonable grounds that a child is in need of protection from significant harm as a result of sexual abuse or physical injury and the child's parents are unable or unwilling to protect the child. They must report as soon as practicable after forming the belief.

In addition, the following professionals are prescribed as **mandatory reporters** under section 182 of the *Children Youth and Families Act 2005* (CYFA):

- registered medical practitioners (including psychiatrists)
- nurses (including school nurses)
- police



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Education Support Staff (ESS) are non-mandated but Section 183 of the CYFA states that **any person**, who believes on reasonable grounds that a child is in need of protection, may report their concerns to Child Protection. This means that any person, including non-mandated school staff (such as ESS), is able to make a report to Child Protection or Victoria Police when they believe that a child or young person is at risk of harm and in need of protection, and the child's parents are unable or unwilling to protect the child.

In order to discharge duty of care, staff members, **whether or not mandated**, need to report a belief formed in the course of undertaking their professional duties. A report must be made as soon as practicable after forming the belief, and on each occasion on which they become aware of any further reasonable grounds for the belief.

GUIDELINES

1. Forming a belief on reasonable grounds

A 'reasonable belief' or a 'belief on reasonable grounds' is not the same as having proof but is more than mere rumour or speculation. A person may form a belief on reasonable grounds that a child is in need of protection after becoming aware that a child or young person's health, safety or wellbeing is at risk and the child's parents are unwilling or unable to protect the child.

There may be reasonable grounds for forming such a belief if:

- a child or young person states that they have been physically or sexually abused
- a child or young person states that they know someone who has been physically or sexually abused (sometimes the child may be talking about themselves)
- someone who knows the child or young person states that the child or young person has been physically or sexually abused
- a child shows signs of being physically or sexually abused
- the staff member is aware of persistent family violence or parental substance misuse, psychiatric illness or intellectual disability that is impacting on the child or young person's safety, stability or development
- the staff member observes signs or indicators of abuse, including non-accidental or unexplained injury, persistent neglect, poor care or lack of appropriate supervision
- a child's actions or behaviour may place them at risk of significant harm and the child's parents are unwilling or unable to protect the child

2. Reporting a belief

Staff members, whether or not mandated, need to report their belief when the belief is formed in the course of undertaking their professional duties. A report must be made as soon as practicable after forming the belief and on each occasion on which they become aware of any further reasonable grounds for the belief.

There may be times when two or more mandated staff members, for example a teacher and a principal, have formed a belief about the same child or young person on the same occasion. In this situation it is sufficient for only one of the mandated staff members to report to Child Protection. The other staff member is obliged to ensure that the report has been made and that all of the grounds for their own belief were included in the report made by the other staff member.



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If one staff member has a different view from another staff member about making a report and the staff member continues to hold the belief that a child is in need of protection, that person is obliged to make a report to Child Protection.

3. Reporting criminal child sexual abuse - failure to disclose offence In addition to mandatory reporting and duty of care obligations, **any adult** who forms a reasonable belief that a sexual offence has been committed by an adult against a child under 16 must report that information to police. Failure to disclose the information to police is a criminal offence except in limited circumstances, such as where the information has already been reported to Child Protection or the child is older than 16 when the belief is formed. More information about the offence can be found at: Department of Justice and Regulations – Failure to Disclose Offence.

4. Protecting children from the risk of sexual abuse - failure to protect offence

Any staff member in a position of authority, who becomes aware that an adult associated with their organisation (such as an employee, contractor, volunteer or visitor) poses a risk of sexual abuse to a child under the care, authority or supervision of the organisation, must take all reasonable steps to remove or reduce that risk. This may include, for example, removing the adult from child-related work pending investigation. If a staff member in a position of authority fails to take reasonable steps in these circumstances, this may amount to a criminal offence. The offence applies only to adults in a position of authority within an organisation, including Principals, senior school staff, regional directors and other senior managers.

To read more information about the 'failure to protect offence', see: Department of Justice and Regulations – Failure to protect offence

5. Making a report to Child Protection

Where during the course of carrying out their normal duties, a school staff member forms the belief on reasonable grounds that a child is in need of protection, the staff member must make a report to Child Protection regarding this belief and the reasonable grounds for it as soon as practicable.

A report to Child Protection should be considered if, after taking into account all of the available information, the staff member forms a view that the child or young person is in need of protection because:

- the harm or risk of harm has a serious impact on the child's immediate safety, stability or development
- the harm or risk of harm is persistent and entrenched and is likely to have a serious impact on the child's safety, stability or development
- the child's parents cannot or will not protect the child or young person from harm.

Staff members may form a professional judgment or belief, in the course of undertaking their professional duties based on:

- warning signs or indicators of harm that have been observed or inferred from information about the child
- legal requirements, such as mandatory reporting
- consultation with colleagues and other professionals
- professional obligations and duty-of-care responsibilities.



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Any person who is registered as a teacher under the *Education and Training Reform Act 2006*, or any person who has been granted permission to teach under that Act, including principals, is mandated to make a report to Child Protection. In the course of undertaking their professional duties, mandated staff members are required to report their belief, when the belief is formed on reasonable grounds that a child is in need of protection from significant harm as a result of sexual abuse or physical injury.

Teachers are encouraged to discuss any concerns about the safety and wellbeing of students with the principal, assistant principal or welfare coordinator. If a principal or member of the leadership team does not wish to make a mandatory report, this does not discharge the teacher's obligation to do so if they have formed a reasonable belief that abuse may have occurred. If the teacher's concerns continue, even after consultation with the principal or member of the leadership team, that teacher is still legally obliged to make a mandatory report of their concerns. Staff **do not require** the permission of parents, carers or guardians to make a report to Child Protection, nor are they required to tell parents, carers or guardians that they have done so. Reports to Child Protection and Victoria Police are confidential unless you consent or a court or tribunal decides that it is necessary in the interests of justice for your identity to be disclosed.

PROCEDURES

Staff Training

Staff are informed of Mandatory Reporting requirements as part of their initial, and annual, induction to the school and are provided with supporting documentation in their staff handbook. Updates take place annually as part of Staff Performance and Development. Copies of staff Mandatory Reporting certificates are collected and held by the school.

LINKS (including processes related to this policy)

- DET's - School Policy and Advisory Guide
- Department of Justice and Regulation Department - Failure to Disclose Offence
- Department of Justice and Regulation Department - Failure to Protect Offence