

# Mandatory Reporting Policy and Procedure

## PURPOSE:

- to define the roles and responsibilities of school staff in protecting the safety and wellbeing of children and young people:
- to enable staff to identify the indicators of a child or young person who may be in need of protection.
- enable staff to make a report of a child or young person who may be in need of protection
- comply with reporting obligations under child protection law and criminal law.

## GOALS:

This Guide is intended to assist mandatory reporters who have become concerned about possible abuse or neglect of a child/young person and must make a decision whether or not to report their concerns to a relevant agency.

## GUIDELINES:

### Related policies

- [Duty of care](#)
- [Police and DHS Interviews](#)
- [Responding to Student Sexual Assault](#)
- [Requests for Information about Students](#)
- [Subpoenas and Witness Summonses](#)

### Related legislation

- Children, Youth and Families Act 2005
- Crimes Act 1958
- Education and Training Reform Act 2006
- Victorian Institute of Teaching Act 2001

### Department resources

- Flowchart: [A step-by-step guide to making a report to Child Protection or Child FIRST \(PDF - 270Kb\)](#)
- [Protecting the safety and wellbeing of children and young people](#)
- [Mandatory Reporting eLearning Module](#)

### Other resources

Daniel Morcombe Child Safety Curriculum:

Government schools, see: FUSE (Edumail password is required before searching [Daniel Morcombe Child Safety Curriculum](#))

- Non-government schools, see: [Scootle](#)
- Disclosure Flowchart
- BPC DHS Notification Checklist

- Parents, see: [Daniel Morcombe Child Safety Curriculum Parent Guides - Queensland Department of Education, Training and Employment.](#)

#### **Department of Human Services:**

- [Child Protection](#)
- [Child FIRST](#)
- [Victoria Police Sexual Offences and Child Abuse Investigation Teams \(SOCIT\)](#)

#### **Department of Justice:**

- [Failure to disclose offence](#)

#### **Mandated staff members**

A broad range of professional groups are identified in the *Children Youth and Families Act 2005* (CYFA) as mandatory reporters. 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.

#### **Non-mandated staff members**

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, is able to make a report to Child Protection 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.

- ESO's are NOT REQUIRED by law to report to the DHS regarding disclosures of abuse.
- ESO's are ETHICALLY REQUIRED to report if they have a concern regarding a student.
- ESO's are REQUIRED to report to the class teacher of the student who disclosed.
- ESO's are REQUIRED to report to a member of leadership or wellbeing of their concerns.
- ESO's are REQUIRED to speak to a member of staff rather than email. Staff are not to leave the campus until the concern has been followed up.

#### **Forming a belief on reasonable grounds**

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.

### **Protecting the identity of the reporter**

Confidentiality is provided for reporters under the CYFA. The CYFA prevents disclosure of the name or any information likely to lead to the identification of a person who has made a report in accordance with legislation, except in specific circumstances.

The identity of a reporter must remain confidential unless:

- the reporter chooses to inform the child, young person or family of the report
- the reporter consents in writing to their identity being disclosed
- a court or tribunal decides that it is necessary for the identity of the reporter to be disclosed to ensure the safety and wellbeing of the child
- a court or tribunal decides that, in the interests of justice, the reporter is required to attend court to provide evidence.

### **IMPLEMENTATION:**

Mandatory reporters, who believe on reasonable grounds that a child or young person is in need of protection from physical injury or sexual abuse, must report their concerns to Department of Human Services (DHS) Child Protection.

All other school staff who believe on reasonable grounds that a child or young person is in need of:

- protection, are encouraged to report their concerns to DHS Child Protection or Victoria Police.
- therapeutic treatment are encouraged to report their concerns to DHS Child Protection.
- If staff have significant concerns for the wellbeing of a child or young person they are encouraged to report their concerns to DHS Child Protection or Child FIRST.

In cases where staff have concerns about a child or young person, they should discuss their concerns with the principal or a member of the school leadership team.

### **Reporting criminal child abuse**

Any staff member who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child under 16 must disclose 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 DHS Child Protection.

The offence applies to **all adults** in Victoria, not just professionals who work with children. To read more information about the 'failure to disclose' offence, see: [Department of Justice – Failure to disclose offence](#)

### **Duty of care**

College staff have a duty of care to protect the safety, health and wellbeing of children in their care. If a staff member has concerns about the safety, health and wellbeing of children in their care it is important to take immediate action.

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 the DHS Child Protection or another appropriate agency (as identified above)
- notifying the principal or a member of the school leadership team of their concerns and the reasons for those concerns.

### **Forming a 'reasonable belief'**

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 'reasonable belief' is formed if a reasonable person in the same position would have formed the belief on the same grounds. For example, a 'reasonable belief' might be formed if:

- a child states that they have been physically or sexually abused
- a child states that they know someone who has been physically or sexually abused (sometimes the child may be talking about themselves)
- someone who knows a child states that the child has been physically or sexually abused
- professional observations of the child's behaviour or development leads a professional to form a belief that the child has been physically or sexually abused or is likely to be abused
- signs of abuse lead to a belief that the child has been physically or sexually abused.

## When to Report

The following table sets out when to report a concern that a child or a young person has been abused, or is in need of protection.

Type of Reporting	By Whom	To Whom
<p><i>Mandatory Reporting - DHS Child Protection</i></p> <p>Mandatory reporters must make a report as soon as practicable if, in the course of practising their profession or carrying out their duties, they form a belief on reasonable grounds that a child or young person is in need of protection, as a result of physical injury or sexual abuse, and the child's parents are unable or unwilling to protect the child.</p>	<p><i>Mandatory reporters</i></p> <p>Teachers registered to teach or who have permission to teach pursuant to the <i>Education and Training Reform Act 2006</i> (Vic)</p> <p>Principals of government and non-government schools</p> <p>Registered medical practitioners</p> <p>Nurses</p> <p>All members of the police force</p>	<p>DHS Child Protection</p>
<p><i>Child in need of protection</i></p> <p>Any person may make a report if they believe on reasonable grounds that a child is in need of protection for any of the following reasons:</p> <p>The child has been abandoned and there is no other suitable person who is willing and able to care for the child.</p> <p>The child's parents are dead or incapacitated and there is no other suitable person who is willing and able to care for the child.</p> <p>The child has suffered or is likely to suffer significant harm as a result of physical injury and the parents are unable or unwilling to protect the child.</p> <p>The child has suffered or is likely to suffer significant harm as a result of sexual abuse and their parents are</p>	<p>Any person</p>	<p>DHS Child Protection</p> <p>Victoria Police</p>

<p>unable or unwilling to protect the child.</p> <p>The child has suffered or is likely to suffer emotional or psychological harm and the parents are unable or unwilling to protect the child.</p> <p>The child's physical development or health has been, or is likely to be significantly harmed and the parents are unable or unwilling to provide basic care, or effective medical or other remedial care.</p>		
<p><i>Child in need of therapeutic treatment</i></p> <p>Any person may make a report if they believe on reasonable grounds that a child who is 10 years of age or over, but under 15 years of age, is in need of therapeutic treatment because he or she has exhibited sexually-abusive behaviours.</p>	<p>Any person</p>	<p>HS Child Protection</p> <p>BPC Wellbeing Leader</p>
<p><i>Significant concerns about wellbeing of a child</i></p> <p>Any person may make a report if they have significant concerns for the wellbeing of a child.</p>	<p>Any person</p>	<p>DHS Child Protection</p> <p>Child FIRST</p> <p>BPC Wellbeing Leader</p>
<p><i>Reasonable belief that a sexual offence has been committed by an adult against a child under 16.</i></p> <p>Any adult who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child under 16 must report that information to police. You will not be guilty of an offence if you do not report in the following circumstances:</p> <p>The victim is 16 years of age or older</p>	<p>Any person aged 18 or over</p>	<p>Victoria Police</p>

<p>and does not have an intellectual disability that limits his/her capacity to make an informed decision; and he/she does not want the information reported to the police</p> <p>The victim has disclosed the information in confidence in the course of a therapeutic relationship with you as a registered medical practitioner or counsellor.</p> <p>The victim turned 16 years of age before 27 October 2014.</p> <p>Reasonable excuses for failing to comply with the requirement include:</p> <p>a reasonable belief that the information has already been reported to police or DHS Child Protection disclosing all of the information</p> <p>a reasonable fear that the disclosure will place someone (other than the alleged perpetrator) at risk of harm</p>		
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### Making a report

This table describes how to make a mandatory report, to report child abuse or child protection concerns.

Step	Description
1	<p><b>In case of emergency or if a child is in immediate danger contact Triple Zero (000) or the local police station.</b></p> <p>Alternatively, to report concerns about the immediate safety of a child within their family unit to DHS Child Protection, call the Child Protection Crisis Line on 13 12 78 (24 hours 7 days, toll free)</p>
2	<p>Keep comprehensive notes that are dated and include the following information:</p> <ul style="list-style-type: none"> <li>• a description of the concerns (e.g. physical injuries, student behaviour)</li> <li>• the source of those concerns (e.g. observation, report from child or</li> </ul>

	<p>another person)</p> <ul style="list-style-type: none"> <li>the actions taken as a result of the concerns (e.g. consultation with principal, report to DHS Child Protection etc.).</li> </ul>
<b>3</b>	<p>Discuss any concerns about the safety and wellbeing of students with the wellbeing team/principal or a member of the school leadership team. The individual staff member should then make their own assessment about whether they should make a report about the child or young person and to whom the report should be made.</p>
<b>4</b>	<p>Gather the relevant information necessary to make the report. This should include the following information:</p> <ul style="list-style-type: none"> <li>full name, date of birth, and residential address of the child or young person</li> <li>the details of the concerns and the reasons for those concerns</li> <li>the individual staff member's involvement with the child and young person</li> <li>details of any other agencies who may be involved with the child or young person.</li> </ul>
<b>5</b>	<p><b>Make a report to the relevant agency</b></p> <p>To report concerns that are life threatening phone 000 or the local police station. To find the nearest Victoria Police Sexual Offences and Child Abuse Investigation Team contact your local police station or <a href="#">click here</a>)</p> <p>To report concerns about the immediate safety of a child within their family unit to DHS Child Protection, call the Child Protection Crisis Line on 13 12 78 (24 hrs 7 days, toll free)</p> <p>To report concerns to DHS Child Protection, contact your local child protection office.</p>
<b>6</b>	<p>Make a written record of the report which includes the following information:</p> <ul style="list-style-type: none"> <li>the date and time of the report and a summary of what was reported</li> <li>the name and position of the person who made the report and the person who received the report.</li> </ul>
<b>7</b>	<p>Notify relevant college staff and/or Department staff of a report to DHS Child Protection or Child FIRST.</p> <p>College staff should advise the principal or a member of the leadership team if they have made a report.</p> <p>In the case of international students, the principal must notify the Department's International Education Division on (03) 9637 2990 to ensure</p>

	<p>that appropriate support is arranged for the student.</p>
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In the case of Koorie students, the principal must notify the Regional Office to ensure that the regional Koorie support officer can arrange appropriate support for the student.

## Potential consequences of making a report

This table describes the potential consequences of making a report.

Potential consequence	Description
Confidentiality	<p>The identity of a reporter must remain confidential unless:</p> <ul style="list-style-type: none"> <li>• the reporter chooses to inform the child, young person or parent of the report.</li> <li>• the reporter consents in writing to their identity being disclosed.</li> <li>• a Court or Tribunal decides that it necessary for the identity of the reporter to be disclosed to ensure the safety and wellbeing of the child.</li> <li>• a Court or Tribunal decides that, in the interests of justice, the reporter is required to provide evidence.</li> </ul>
Professional Protection	<p>If a report is made in good faith:</p> <ul style="list-style-type: none"> <li>• it does not constitute unprofessional conduct or a breach of professional ethics on the part of the reporter.</li> <li>• the reporter cannot be held legally liable in respect of the report.</li> </ul>
Interviews	<p>DHS Child Protection and/or Victoria Police may conduct interviews of children and young people at the school without the parent's knowledge or consent.</p> <p>Interviewing children and young people at school should only occur in exceptional circumstances and if it is in the best interests of the child to proceed in this manner.</p> <p>DHS Child Protection and/or Victoria Police will notify the principal or a member of the leadership team of their intention to interview the child or young person on the school premises.</p> <p>When DHS Child Protection practitioners/Victoria Police officers come to the school premises, the principal or a member of the leadership team should request to see identification before permitting them to have access to the child or young person.</p> <p>When a child or young person is being interviewed by DHS Child Protection and/or Victoria Police, school staff must arrange to have a supportive adult present with the child or</p>

	<p>young person.</p> <p>For more information on these requests and school responsibilities, see: <a href="#">Police and DHS Interviews</a></p>
Support for the child or young person	<p>The roles and responsibilities of staff members in supporting children who are involved with DHS Child Protection may include the following:</p> <ul style="list-style-type: none"> <li>• acting as a support person for the child or young person</li> <li>• attending DHS Child Protection case planning meetings</li> <li>• observing and monitoring the child's behaviour</li> <li>• liaising with professionals.</li> </ul>
Requests for Information	<p>DHS Child Protection and/or Child FIRST and/or Victoria Police may request information about the child or family for the purpose of investigating a report and assessing the risk to the child or young person.</p> <p>In certain circumstances, DHS Child Protection can also direct school staff and Department staff to provide information or documents about the protection or development of the child. Such directions should be in writing and only be made by authorised persons within DHS Child Protection, see: <a href="#">Requests for Information About Students</a></p>
Witness Summons	<p>If DHS Child Protection makes a Protection Application in the Children's Court of Victoria, any party to the application may issue a Witness Summons to produce documents and/or to give evidence in the proceedings, see: <a href="#">Subpoenas and Witness Summonses</a></p>

## EVALUATION:

- This policy to be reviewed as part of the school's two year review cycle, individually, in teams and with the community in 2017 or more often if necessary due to changes in regulations or circumstances