



Lowther Hall Anglican Grammar School

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Keeping Children Safe and Mandatory Reporting of Child Abuse Policy



KEEPING CHILDREN SAFE AND MANDATORY REPORTING OF CHILD ABUSE POLICY

1. DEFINITIONS

Child Abuse Child abuse is an act by parents or caregivers which endangers a child or young person's physical or emotional health or development. Child abuse is not usually a single incident, but takes place over time. In Victoria, a child or young person is a person under seventeen years of age.

Child abuse includes:

- physical injury which results from abuse or neglect
- physical abuse refers to a situation in which a child suffers or is likely to suffer significant harm from
 - o an injury inflicted by a child's parent or caregiver
 - o the injury may be inflicted intentionally or may be the inadvertent consequence of physical punishment, or physically aggressive treatment of a child

Physical injury and significant harm to child may also result from neglect by a parent or caregiver. The failure of a parent or caregiver adequately to ensure the safety of a child may expose the child to extremely dangerous or life threatening situations which result in physical injury and significant harm to the child.

Sexual Abuse Sexual abuse refers to a situation in which a person uses power or authority over a child to involve the child in sexual activity and the child's parent or caregiver has not protected the child. Physical force is sometimes involved. Child sexual abuse involves a wide range of sexual activity. It includes fondling of the child's genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger or other object, or exposure of the child to pornography.

Emotional Abuse Emotional abuse refers to a situation in which a child's parent or caregiver repeatedly rejects the child or uses threats to frighten the child. This may involve name calling, "put downs" or continual coldness from the parent or caregiver, to the extent that it significantly damages the child's physical, social, intellectual or emotional development.

Neglect Neglect refers to a situation in which a child's parent or caregiver fails to provide the child with the basic necessities of life, such as food, clothing, shelter, medical attention or supervision, to the extent that the child's health and development is, or is likely to be, significantly harmed.

2. RATIONALE

Lowther Hall Anglican Grammar School has in place many practices and procedures to promote the welfare of each girl. In addition to these internal processes we also have legal responsibilities in relation to the welfare and safety of the children with whom we work. This policy seeks to make clear the obligations of staff in relation to these responsibilities.

SECTION 1: MANDATORY REPORTING

3. OBLIGATIONS OF TEACHERS UNDER THE CHILDREN, YOUTH AND FAMILIES ACT 2005

3.1 OBLIGATIONS

Under The Children, Youth and Families Act 2005 the Principal and teachers, who in the course of their employment, form the belief on reasonable grounds that a child is in need of protection because the child has suffered or is likely to suffer significant harm as a result of physical injury or sexual abuse and that the child's parents have not protected, or are unlikely to protect, the child from such harm, must notify a Protective Services Unit of Child Protection Victoria of that belief, and of the reasonable grounds for it as soon as practicable. The legal test for deciding whether your belief that a child is in need of protection is based on reasonable grounds is whether a reasonable person practising your profession would have formed a belief on those grounds. This means that staff are expected to exercise professional judgment to guide their decisions.

Please see **Appendix 1** for guidelines regarding recognizing abuse and neglect.

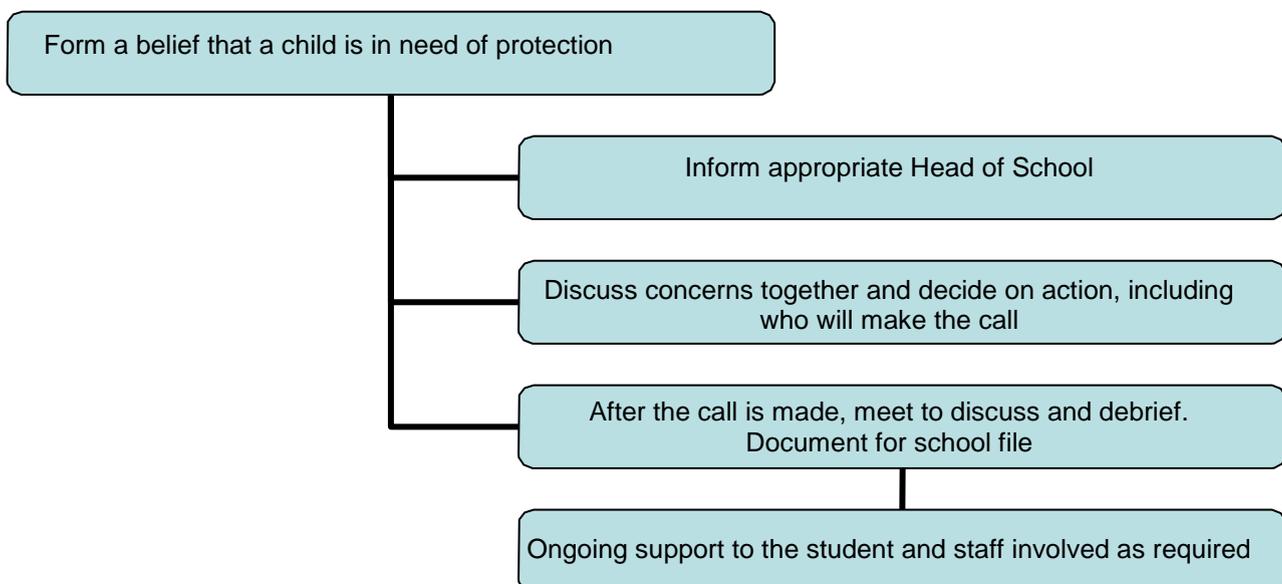
3.2 PROCESS

If a teacher has any concern (on reasonable grounds) about a student's welfare leading to the belief that the student is in need of protection, a report **MUST** be made to the Department of Human Services (DHS) as soon as practicable. However, the Act does not prohibit the teacher from reporting the belief to other appropriate persons or from making the report through an agent. It is recommended that teachers who intend to make a report, discuss this with the appropriate Head of School or the Principal, so that the full resources of the school can be utilised to support both staff and students.

If a teacher believes a child is in need of protection from sexual abuse, emotional abuse, neglect or physical injury and they do not make a report or determine that someone else has made a report to Child Protection, they may be prosecuted.

Non-teaching staff are not mandated to make a report under the Act, however, the school would expect that all staff hold the safety and welfare of each girl as paramount. Therefore, any member of the non-teaching staff who forms a belief that a child is in need of protection should alert the appropriate Head of School or the Principal.

3.3 FLOW CHART



3.4 CHILD FIRST

The Act also provides Child FIRST as another avenue to deal with particular issues causing concern over the welfare of children under the age of 17 years. Teachers and Principals can make a referral to Child FIRST if they have a significant concern for a child's wellbeing but do not believe that the child is in need of protection. If teachers or the Principal feel that they cannot talk with the parents about the issues, or when they do that the response is inadequate, a referral to Child FIRST is an option.

3.5 SHARING INFORMATION

Legislation allows teachers to share relevant information about a vulnerable child in specified circumstances without needing to be concerned about legal or professional consequences, provided it is done in good faith. When a report is made under Child FIRST or Mandatory Reporting guidelines the identity of the teacher or Principal is protected, unless the staff member consents to it being disclosed. Teachers and Principals, under the Act, are professionally protected and cannot be disciplined by their professional body or incur any formal adverse professional consequences at their work place should a report be made.

3.6 FURTHER INFORMATION

3.6.1 Further information regarding Mandatory Reporting obligations can be found in the online mandatory reporting e-learning module at:

<http://www.elearn.com.au/deecd/mandatoryreporting/external>
(user name: deecd, password: external)

3.6.2 A Frequently Asked Question Sheet is attached as Appendix 3.

3.7 OBLIGATIONS OF THE SCHOOL

Each year the School will ensure that all mandated staff are given an opportunity to familiarise themselves with this policy and the obligations therein.

All staff covered by this policy must ensure that they are familiar with their obligations.

SECTION 2: KEEPING CHILDREN SAFE

4. KEEPING CHILDREN SAFE – OBLIGATIONS UNDER THE CRIMES ACT 1958 (VIC)

Lowther Hall Anglican Grammar School is committed to fulfilling its duty of care to all students and specifically students under the age of 16 in relation to the Crimes Act 1958 (Vic), which was amended in 2014 to include offences of: (i) failing to disclose a sexual offence¹; (ii) grooming for sexual conduct²; and (iii) failing to protect a child from sexual offence.³

Through the application of this policy, we at Lowther Hall Anglican Grammar School aim to:

- Ensure all reasonable steps are taken so that students are safe from sexual abuse and that they feel safe at all times
- Enable the governing body members, all persons in positions of authority, care or supervision, all employees of the school and where applicable, students of 18 years or over to understand their role and responsibility in protecting the safety and wellbeing of children and young people under the age of 16 in accordance with the Crimes Act 1958 (Vic).

That is, to ensure individuals associated with the school who have the power or responsibility to reduce or remove a substantial risk, take steps to reduce or remove any substantial risk that a student under 16 years of age will become the victim of sexual assault, including the recognition of 'grooming'

- Ensure all members of the school community aged 18 and over understand their reporting obligations in accordance with the Crimes Amendment (Protection of Children) Act 2014 (Vic).

That is, to ensure all members of the school community aged 18 and over (who are not Mandatory Notifiers) who form a reasonable belief that a sexual offence has been committed by an adult against a child under 16, report that information to police

This section is underpinned by the Crimes Act 1958 (Vic).

4.2 FAILURE TO DISCLOSE

Reporting child sexual abuse is a community-wide responsibility. The failure to disclose an offence imposes a clear legal duty upon all adults aged 18 and over to report information about child sexual abuse to police.

Definition

Under section 327 of the Crimes Act, any person (including any staff member) of or over the age of 18 years who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child under 16 years of age must disclose that information to police, as soon as it is practicable to do so. 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.

¹ Crimes Act Vic 1958 s.327.

² Crimes Act Vic 1958, s.49B.

³ Note: section 49C of the Crimes Act relating to the 'failure to protect' came into effect in 2015.

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

Procedure

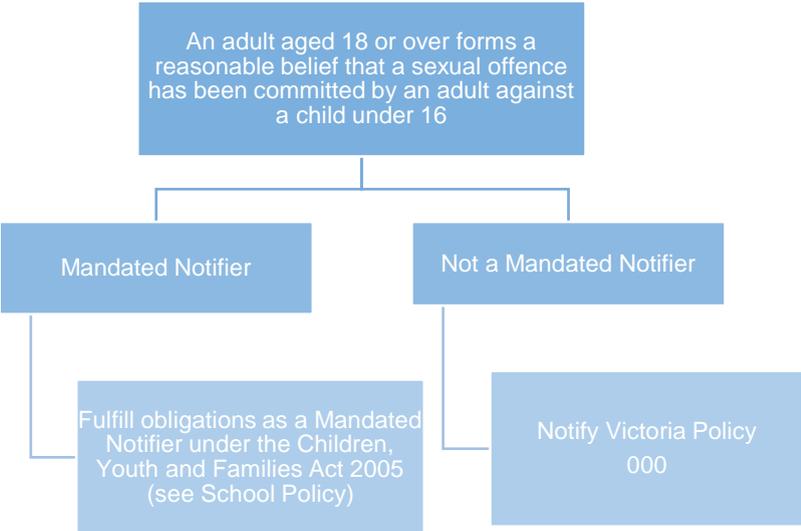
Any adult aged 18 or over who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child under 16 must report that information to Victoria Police by dialing 000 (or otherwise to a member of the Police Force of Victoria).

An adult will not be guilty of an offence if they do not report in the following circumstances:

- The victim is 16 years of age or older 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
- The victim has disclosed the information in confidence in the course of a therapeutic relationship with you as a registered medical practitioner or counsellor.
- The victim turned 16 years of age before 27 October 2014.

Reasonable excuses for failing to comply with the requirement include:

- A reasonable belief that the information has already been reported to police or DHS Child Protection disclosing all of the information
- a reasonable fear that the disclosure will place someone (other than the alleged perpetrator) at risk of harm



A person in the school may have a mandatory reporting obligation under the Children, Youth and Families Act 2005. In summary, this obligation requires teachers to report concerns about child welfare to child protection authorities within the Department of Human Services (DHS). DHS passes all allegations of child sexual abuse to police so it will be a reasonable excuse for not reporting to police if a person has made a report to DHS or reasonably believes a report has been made to DHS. (Please refer to the school’s Child Protection – Mandatory Notification Policy).

4.3 GROOMING

Section 49B of the Crimes Act relates to the offence of “Grooming for sexual conduct with a child under the age of 16 years.” The offence targets predatory conduct designed to facilitate later sexual activity. The offence can be committed by any person aged 18 years or over.

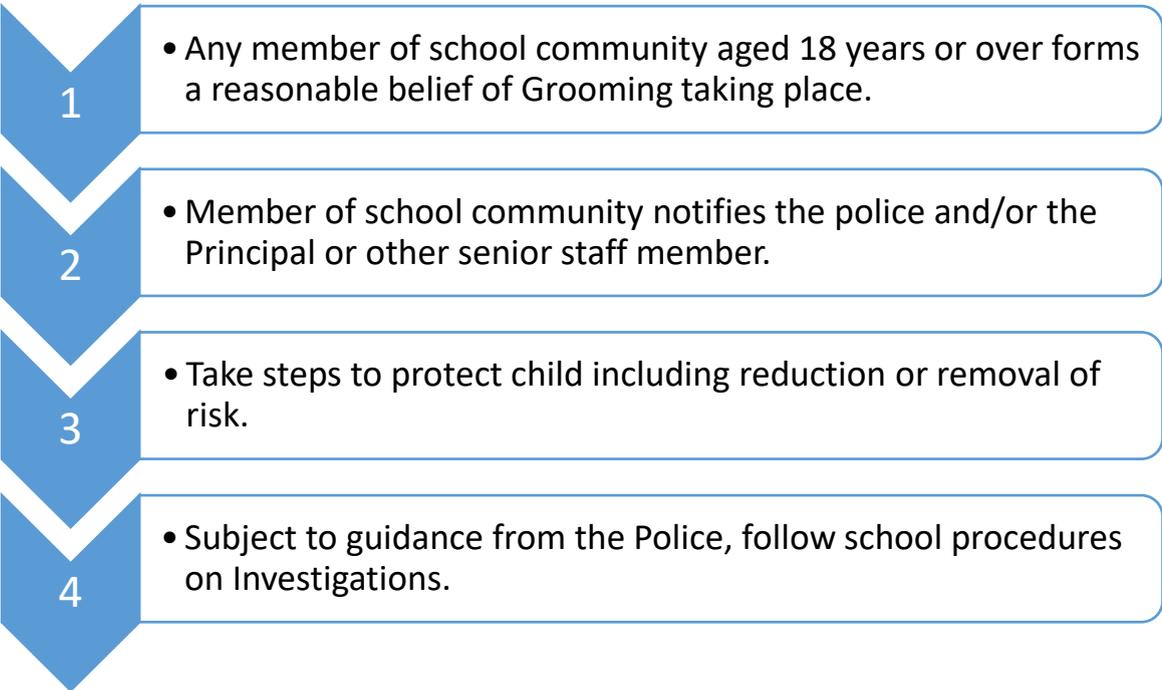
Definition

- The offence of grooming concerns predatory conduct undertaken to prepare a child for sexual activity at a later time.
- The offence applies where an adult communicates, by words or conduct, with a child under the age of 16 years or with a person who has care, supervision or authority for the child with the intention of facilitating the child’s engagement in or involvement in sexual conduct, whether with the groomer or another adult.
- Grooming does not necessarily involve any sexual activity or even discussion of sexual activity – for example, it may only involve establishing a relationship with the child, parent or carer for the purpose of facilitating sexual activity at a later time.
- The sexual conduct must constitute an indictable sexual offence. This includes offences such as sexual penetration of a child, indecent assault and indecent act in the presence of a child. It does not include summary offences, such as ‘upskirting’ and indecent behaviour in public.

Procedure

Should any member of the school community aged 18 and over become aware of grooming behaviour by a person aged 18 years or over, they should notify the police and/or the Principal immediately.

It is the responsibility of the Principal and/or others associated with the school with authority or responsibility, to take action upon becoming aware of grooming behaviour to protect (so as to reduce or remove a substantial risk) in accordance with the ‘failure to protect’ offence (see below).



4.4 FAILURE TO PROTECT OFFENCE

Section 49C of the *Crimes Act* will make it a criminal offence in Victoria for a person in authority to fail to protect a child under the age of 16 from criminal sexual abuse. This applies where there is substantial risk that a child under the care, supervision or authority of an organisation (including schools) will become a victim of a sexual offence by an adult associated with the school. The person in a position of authority may be guilty of an offence if they know of the risk of abuse and have the power or responsibility to reduce or remove the risk, but negligently fail to do so.

Definition

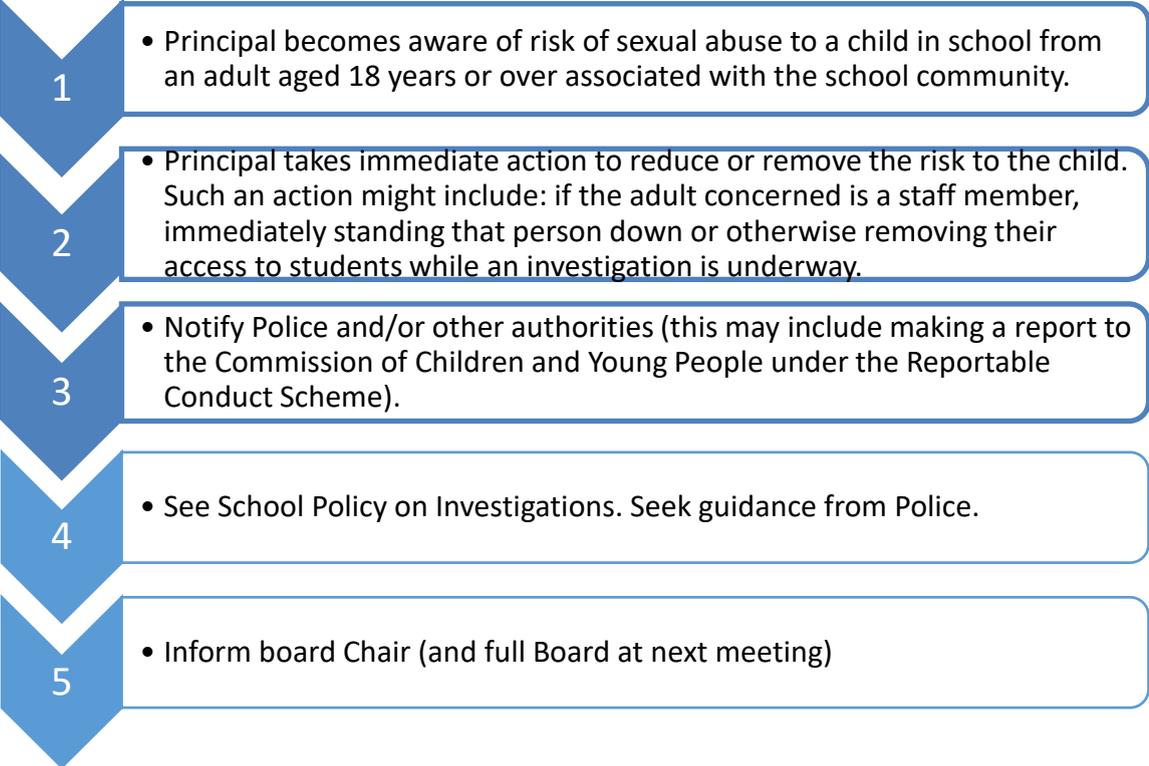
If a person associated with the School⁴ who by reason of their position has the power or responsibility to reduce or remove a substantial risk that a child will become a victim of a sexual offence committed by an adult associated with the school, they must not negligently fail to reduce or remove the risk

That is, as soon as a person in authority becomes aware of a risk of child sexual abuse, they will be under a duty to take steps to remove or reduce that risk.

A person who has the power or responsibility to reduce or remove a risk will include the Principal, Board members and senior staff, as well as teachers by virtue of their responsibilities. For the avoidance of doubt, any member of staff or person associated with the school who knows of a substantial risk that a child will become a victim of a sexual offence should notify the Principal as soon as is reasonably practicable.

Procedure

When aware of a substantial risk of criminal sexual abuse to a child in the school from an adult aged 18 or over associated with the school, the Principal will act to reduce or remove the risk. The person will be removed from any child-related role pending an investigation.



⁴ Under the proposed s.49C(1), a *person associated with an organisation* includes but is not limited to a person who is an officer, an office holder, employee, manager, owner, volunteer, contractor or agent of the organisation but does not include a person solely because the person received services from the organisation.

4.5 OBLIGATIONS OF THE SCHOOL

The Principal will:

- Ensure that all staff members, volunteers, students aged 18 and over, school board members and the school parent community are aware of the policy and have access to a copy of the policy
- Ensure that all adults within the school community are aware of their obligation to report suspected sexual abuse of a child under 16 years to the police
- Provide support for staff in undertaking their responsibility in this area

4.6 OBLIGATIONS OF STAFF

All staff members will:

- Be aware of the School’s Policy and related procedures.
- Report any reasonable belief of child sexual abuse to the police or fulfil their obligation as Mandatory Notifiers
- Provide an educational environment that is supportive of all children’s emotional and physical safety

Parents/Caregivers/Volunteers/Students 18 and over will:

- Have access to the School’s Policy.
- Understand their obligations to report reasonable belief of child sexual abuse to the police.

4.7 FURTHER INFORMATION:

- Department of Justice: Betrayal of Trust Factsheet: The new ‘failure to disclose’ offence.
- Department of Justice: Betrayal of Trust Factsheet: The new ‘grooming’ offence.
- Department of Justice: Betrayal of Trust Factsheet: The new ‘failure to protect’ offence.
- VRQA Newsletter ‘New obligations to help protect children: Betrayal of Trust implementation’ (Edition 41).

<p>Lowther Hall Anglican Grammar School Policies and Procedures</p> <p>Alteration Permissions: Principal, Heads of School, EOM</p>	<p>Ratification Date: Moved Amendment: February 2018 Moved Review: Pages: 13 Appendix: 3</p>
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HOW CAN ABUSE AND NEGLECT BE RECOGNISED?

Behavioural or physical signs which assist in the recognition of child abuse are known as indicators. A professional working with children may observe a whole range of indicators or a single indicator that leads them to believe that abuse is occurring. One single indicator can be as significant as the presence of a range of indicators.

A child's behaviour is likely to be affected if she is under stress. There can be many causes of stress, including child abuse, and it is important to find out specifically what is causing the stress you observe.

In any case, there is no clear formula regarding assessment of behavioural indicators, and therefore a professional needs to exercise his or her judgement in making a notification of child abuse.

Physical Abuse

Physical indicators include:

- bruises, burns, sprains, dislocation, bites, cuts
- fractured bones, especially in an infant where a fracture is unlikely to occur accidentally
- poisoning
- internal injuries
- female genital mutilation

Possible behavioural indicators include:

- showing wariness or distrust of adults
 - wearing long sleeved clothes on hot days [to hide bruising or other injuries]
 - demonstrating fear of parents and of going home
 - becoming fearful when other children cry or shout
 - being excessively friendly to strangers
 - being very passive and compliant
 - child telling someone that physical abuse has occurred
-

Sexual Abuse

Physical indicators:

- sexual abuse is not usually identified through physical indicators
- often the first sign is when a child tells a trusted person that they have been sexually abused
- however, the presence of sexually transmitted diseases, pregnancy, vaginal or anal bleeding or discharge may indicate sexual abuse

Possible behavioural indicators:

- child telling someone that sexual abuse has occurred
 - complaining of headaches or stomach pains
 - experiencing problems with school work
 - displaying sexual behaviour or knowledge which is unusual for the child's age
 - experiencing difficulties in sleeping
 - showing behaviour such as frequent rocking, sucking and biting
 - having difficulties in relating to adults and peers
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Emotional Abuse

Physical indicators:

- there are few physical indicators, although emotional abuse may cause delay in physical, emotional or mental development

Possible behavioural indicators:

- displaying low self esteem
- tending to be withdrawn, passive, tearful
- displaying aggressive or demanding behaviour
- being highly anxious
- showing delayed speech
- acting like a much younger child, for example, soiling or wetting pants
- displaying difficulties in relating to adults and peers

Neglect

Physical indicators:

- frequent hunger
- malnutrition
- poor hygiene
- inappropriate clothing, for example, summer clothes in winter
- left unsupervised for long periods
- medical needs not attended to
- abandoned by parents

Possible behavioural indicators:

- stealing food
- staying at school outside school hours
- often being tired, falling asleep in class
- abusing alcohol or drugs
- displaying aggressive behaviour
- not getting on well with peers

The presence of indicators such as those described above may alert us to the possibility that a child is experiencing abuse.

If you form this belief, please follow the steps set out in the Policy.

APPENDIX 2

CONTACT PHONE NUMBERS

Child Protection Victoria
Metropolitan Region - Northern and Western 1300 664 977

Department of Human Services (DHS)
After Hours Child Protection Emergency Service 131 278

Child First 1300 775 160



Mandatory Reporting

Frequently Asked Questions

October 2012

Mandatory Reporting

What is the basis for Mandatory Reporting and to whom does it apply?

The Children Youth and Families Act (2005) mandates that primary and secondary school principals and teachers, registered medical practitioners (including psychiatrists), nurses (including school nurses) and police, must report concerns about the safety and wellbeing of a child or young person to the Department of Human Services (DHS) Child Protection if they form a reasonable belief that a child or young person is in need of protection from significant harm as a result of sexual abuse or physical injury.

In addition, persons registered to teach by the Victorian Institute of Teaching (VIT) are mandated to report if they form a belief that a child or young person is in need of protection from significant harm as a result of sexual abuse or physical injury. This group of people includes visiting teachers or other staff who may have VIT registration.

I am not a mandated reporter. What should I do if I have concerns about the safety and wellbeing of a child or young person?

Protecting children is everyone's responsibility. Any person can make a notification to DHS Child Protection. Non-mandated school staff who form a belief that a child or young person may be at risk of harm from sexual abuse or physical injury should discuss their concerns with the school leadership team, regional welfare staff or contact DHS Child Protection for advice.

What is Child Protection and ChildFIRST?

Child Protection is a statutory service provided by DHS to intervene and protect children and young people at risk of significant harm.

Child FIRST (Family Information Referral and Support Team) is a family-focussed and community-based intake and referral service. Child FIRST may be the best way of connecting vulnerable children, young people and their families to services they need to protect and promote their healthy development.

For further information, visit: <http://www.dhs.vic.gov.au/for-individuals/children,-families-and-young-people/child-protection>.

What should I do if I suspect a student may be concealing the fact he/she is being abused?

If you form a reasonable belief that a child is at risk of significant harm as a result of sexual abuse or physical injury, you should act regardless of what the child or anyone else may say and report the matter to DHS Child Protection. It is not the role of mandated reporters to decide or obtain evidence whether abuse is occurring; rather it is their responsibility to report the matter to DHS Child Protection who will undertake whatever investigation or enquiry it considers appropriate. Refer to the 'Step-by-step' guide to making a report to DHS Child Protection or Child FIRST at: <http://www.education.vic.gov.au/healthwellbeing/safety/childprotection/childprotection.htm>.

What should I do if I suspect the student is not being honest about a situation?

As the child or young person could be at risk of potential harm, it is your responsibility as a mandated reporter to report the matter to DHS Child Protection, who will decide on the enquiry or investigation that should be undertaken.

Can a reporter's identity be disclosed?

Confidentiality is provided for reporters under the Children Youth and Families Act (2005). The Act 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 about the report
- the reporter consents in writing to his/her identity being disclosed
- a court or tribunal decides 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, in the interests of justice, the reporter is required to attend court to provide evidence.

Mandatory reporters are advised to inform DHS Child Protection if they wish to remain anonymous when making a report. For further information, visit: <http://www.education.vic.gov.au/healthwellbeing/safety/childprotection/childprotection.htm>.

Can I notify DHS Child Protection online?

No. The DHS Child Protection website provides regional telephone numbers (not a weblink) for reporting. For further information, visit: <http://www.dhs.vic.gov.au/for-individuals/children,-families-and-young-people/child-protection/child-protection-contacts>.

Note: You may contact DHS Child Protection if you wish to make an enquiry, not just to make a notification or report.

Can mandated reporters who fail to report be penalised?

There are provisions in the Children Youth and Families Act (2005) for persons who fail to report to be prosecuted. Mandated school staff must report any concerns to DHS Child Protection, or if unsure of what action to take, discuss their concerns with the school leadership team or DHS Child Protection.

What happens if I make a report that subsequently turns out to be unfounded?

There are no penalties for making reports that turn out to be unfounded. In 2010/11 over 40,000 reports were made to DHS Child Protection, of which approximately 6,000 were substantiated.

Will DHS Child Protection inform me about the result of my report?

DHS Child Protection informs mandated reporters of the outcome of a notification within the limits of Privacy Legislation. If this does not occur, reporters are encouraged to contact DHS Child Protection and request information.

Is there a guide to making a report?

A step-by-step guide to making a report to DHS Child Protection or Child First is available at: <http://www.education.vic.gov.au/healthwellbeing/safety/child-protection/childprotection.htm>.

Mandatory Reporting Training

How can staff (mandated or not) in schools access the new DEECD eLearning module?

Mandated staff can access the module by logging on to: <http://www.elearn.com.au/deecd/mandatoryreporting> using 'deecd' as username and 'employee' as password.

What does the eLearning training involve?

The eLearning module clarifies your responsibilities for protecting the safety and wellbeing of children. It comprises a series of questions and answers and case studies to help identify instances of child abuse and neglect.

The module takes approximately 30 minutes and should ideally be completed in one continuous sitting. However, if you are unable to complete the module in one sitting, you can log on and complete it at a later time.

How often should training be undertaken?

All mandated staff are required to undertake the online training annually.

Should non-teaching school staff also undertake the training?

Protecting children is everyone's responsibility. While it is not mandatory, all staff are encouraged to undertake the training. Schools have a duty of care to ensure students feel safe and protected at all times.

How can Principals encourage staff to undertake the training?

Principals should reinforce to staff that:

- everyone in a school has a responsibility and duty of care to support and protect children and young people with whom they are professionally involved
- when a member of staff or volunteer forms a reasonable belief that a child or young person has been harmed or is at risk of harm, he/she is ethically bound to take action to protect the safety and wellbeing of that child or young person.

Duty of care may be breached if a person:

- does something that a reasonable person in that person's position would not do in a particular situation
- fails to do something that a reasonable person in that person's position would do in the circumstances
- acts or fails to act in a way that causes harm to someone to whom the person owes a duty of care.

Where can I go for further advice if I've completed the module and still have questions?

You can refer to a copy of 'Protecting the safety and wellbeing of children and young people', and access professional learning resources at: <http://www.education.vic.gov.au/healthwellbeing/safety/child-protection/childprotection.htm>.

This document is being updated to incorporate new legislation on children's services.

Further information is also available on the DHS Child Protection website at: <http://www.dhs.vic.gov.au/for-individuals/children,-families-and-young-people/child-protection>.

For further assistance, please contact Christine Pinto, Senior Policy Officer, Student Wellbeing and Engagement Division on (03) 9637 2481 or by email: pinto.christine.t@edumail.vic.gov.au.