



# Warringa Park School Mandatory Reporting Policy and Procedures

## Rationale

- To protect children and young people from abuse and neglect by ensuring Warringa Park School staff:
- Understand their mandatory reporting responsibilities and duty of care obligations to protect children and young people from child abuse including physical, sexual, emotional abuse and neglect.
  - Know how to make a mandatory report to the Department of Human Services (DHS) Child Protection when they have formed a belief on reasonable grounds that a child or young person is at risk of significant harm.
  - Are able to identify and be aware of the indicators of abuse.

## Purpose

Legislation:

Teachers and principals are mandated by law under section 184 of the Children Youth and Families Act 2005 (CYFA) to make a report to child protection. *A mandatory reporter who, in the course of practicing his or her profession or carrying out the duties of his or her office, position or employment as set out in section 182, forms the belief on reasonable grounds that a child is in need of protection must report to Child Protection as soon as practicable after forming the belief and after each occasion on which they become aware of any further reasonable grounds for the belief.*

Separate from mandatory reporting requirements, a teacher has a concurrent duty of care to protect a student from harm that is reasonably foreseeable. A breach of this duty of care may lead to legal action being taken against the individual teacher or teachers concerned. A breach of this duty of care will be established if a teacher or principal failed to take timely and positive steps after having acquired actual knowledge or formed a belief that there are indicators of or a foreseeable risk that a child is being abused or neglected including sexual abuse.

The following professionals are prescribed as mandatory reporters under section 182 of the CYFA:

- Primary and secondary school teachers and principals (including students in training to become teachers).
- Registered medical practitioners (including psychiatrists).
- Nurses (including school nurses).
- Police

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 make a report. 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.

## Implementation

Child abuse can have a significant effect on a child's physical or emotional health, development and wellbeing. Students with disabilities can be at increased risk and the younger a child is, the more vulnerable they are likely to be and the more damaging the effects are likely to be.

○ Types of child abuse include:

- I. Physical
- II. Emotional
- III. Neglect
- IV. Medical neglect
- V. Sexual abuse
- VI. Family Violence
- VII. Female Genital Mutilation
- VIII. Risk-taking Behaviour that cannot be managed and compromises the child's safety

There are many indicators of child abuse and neglect. The presence of a single indicator, or even several indicators, does not prove that abuse or neglect has occurred. However, the repeated occurrence of an indicator, or the occurrence of several indicators together, should alert teachers to the possibility of child abuse and neglect. It is not the role of school staff to make a judgement as to whether abuse is happening. Staff are mandated to report to Child Protection if indicators are present.

Teachers may observe:

- One or several indicators are displayed
- Indicators occur repeatedly
- Changes in relation to the child's behaviour

### 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.

### 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's 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.

## Reporting a belief

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.

WPS 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.

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.

## 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.

Information provided during a protective investigation may be used in a court report if the risks to the child or young person require the case to proceed to court. In these circumstances, the source of the information may be required to provide evidence to the court.

If Child Protection decides that the report is about a significant concern for the wellbeing of a child, they may refer the report to a community-based child and family service and disclose the identity of the reporter to that service. However, the CYFA provides that neither Child Protection nor the community-based child and family service may disclose the reporter's identity to any other person without the reporter's consent.

## Professional protection for reporters

If a report is made in good faith:

- It does not constitute unprofessional conduct or a breach of professional ethics on the part of the reporter.
- The reporter cannot be held legally liable in respect of the report.

This means that a person who makes a report in accordance with the legislation will not be held liable for the eventual outcome of any investigation of the report.

## Failure to report

A failure by mandated professionals and staff members to report a reasonable belief that a child is in need of protection from significant harm as a result of physical or sexual abuse may result in the person being prosecuted and a court imposing a fine under the CYFA.

## Making a report to Child Protection

In case of emergency or if a child is in immediate danger contact Triple Zero (000) or the local police station.

Alternatively, to report concerns about the immediate safety of a child within their family unit to DHHS Child Protection, call the Child Protection Crisis Line on 13 12 78 (24 hours 7 days, toll free)

The CYFA allows for two types of reports to be made in relation to significant concerns for the safety or wellbeing of a child – a report to Child Protection or a referral to Child FIRST.

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 and 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.

When making a report staff should gather the relevant information necessary. This should include the following information:

- full name, date of birth, and residential address of the child or young person
- Your relationship with the child
- the details of the concerns and the reasons for those concerns
- the individual staff member's involvement with the child and young person
- details of any other agencies who may be involved with the child or young person, if known

**Where, during the course of carrying out their normal duties, a WPS 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.**

Staff members of WPS may form a professional judgement 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.
- Knowledge of child and adolescent development.
- Consultation with colleagues and other professionals.
- Professional obligations and duty-of-care responsibilities.
- Established protocols.
- Internal policies and procedures in an individual licensed children's service or school.

- There are indications that a child is being groomed. For information see: Department of Justice and Regulation – Grooming offence:

<http://www.justice.vic.gov.au/home/safer+communities/protecting+children+and+families/grooming+offence>

Upon receipt of a report, Child Protection may seek further information, usually from professionals who may also be involved with the child or family, to determine whether further action is required.

In most circumstances, Child Protection will inform the reporter of the outcome of the report. When the report is classified by Child Protection as a Wellbeing Report, Child Protection will, in turn, make a referral to Child FIRST.

WPS policy and procedures stipulate how teaching staff fulfil their duty of care towards children and young people in their school.

Teachers of WPS are encouraged to discuss any concerns about the safety and wellbeing of students with the principal or a member of the school leadership or wellbeing team. 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.

### **Child in need of protection**

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:

- The child has been abandoned and there is no other suitable person who is willing and able to care for the child.
- 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.
- 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.
- The child has suffered or is likely to suffer significant harm as a result of sexual abuse and their parents are unable or unwilling to protect the child.
- The child has suffered or is likely to suffer emotional or psychological harm and the parents are unable or unwilling to protect the child.
- 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.
- Child displaying sexually abusive behaviours and in need of therapeutic treatment.
- Reasonable belief that a sexual offence has been committed by an adult against a child under 16.

### **The role of WPS staff**

WPS staff has a duty of care to protect and preserve the safety, health and wellbeing of children and young people in their care and staff must always act in the best interests of those children and young people. 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.

**Note: The role of investigating an allegation of child abuse rests solely with Child Protection and/or Victoria Police.**

The roles and responsibilities of staff in supporting children and young people who are involved with Child Protection may include acting as a support person for students, attending Child Protection case plan meetings, observing and monitoring students' behaviour, and liaising with professionals.

### **Confidentiality**

Information about the identity of a person making a report to Child Protection must be kept confidential unless the reporter consents to the disclosure of their identity. If the staff member wishes to remain anonymous, this information should be conveyed at the time that the reporter makes the mandatory report.

WPS staff must respect confidentiality when dealing with a case of suspected child abuse and neglect, and may discuss case details and the identity of the child or the young person and their family only with those involved in managing the situation.

When a child or young person has moved to another school, professional judgement should be exercised as to what information needs to be passed on. This will be guided by usual procedures for passing on information about a child's general wellbeing or special needs, and the role of the school in any ongoing care plans.

### **Interviews at Victorian schools**

Child Protection may conduct interviews of children and young people at WPS without parental knowledge or consent. However, a child will be interviewed at a Victorian school only in exceptional circumstances and if it is in the child's best interests to proceed in this manner. Child Protection will notify the school of any intention to interview a child or young person. This may occur regardless of whether the school is the source of the report to Child Protection.

When Child Protection practitioners arrive at the school, the principal or their nominee should ask to see their identification before allowing Child Protection to have access to the child or young person.

### **Support persons**

Children and young people should be advised of their right to have a supportive adult present during interviews. If a child is too young to understand the significance of the interview, a staff member should make arrangements for a supportive adult to attend with the child.

A staff member may be identified as a support person for the child or young person during the interview. Prior to the commencement of the interview, the Child Protection practitioner should always authorise the WPS staff member to receive information regarding Child Protection's investigation. This may occur verbally or in writing using the relevant Child Protection pro-forma.

Independent persons must refrain from providing their opinions or accounts of events during interviews. A principal or their delegate may act as an independent person when the child or young person is to be interviewed, unless they believe that doing so will create a conflict of interest.

## Advising parents/carers

WPS 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. It is the responsibility of Child Protection to advise the parents, carers or guardians of the interview at the earliest possible opportunity. This should occur either before, or by the time the child arrives home.

## Ensuring that a Child Protection interview takes place

WPS does not have the power to prevent parents, carers or guardians from removing their children from the school and should not attempt to prevent the parents, carers or guardians from collecting the child. If a parent/carer or guardian removes a child before a planned interview has taken place, the principal and/or their nominee should contact Child Protection or Victoria Police immediately.

## WPS Staff Training

WPS staff will be informed of Mandatory Reporting requirements as part of their initial induction to the school and will be provided with supporting documentation in their staff handbook. The Mandatory Reporting online professional learning module must be completed by all staff

## School staff seeking consultation

Consult with:

- School leadership or wellbeing staff
- Network support staff (Student Support Services)
- Regional wellbeing staff
- DHS Child Protection
- Emergency Management on: (03) 9589 6266
- Student Critical Incident Advisory Unit on (sexual assault): (03) 9637-2934 (03) 9637-2487

## Professional learning

All mandated staff are asked to complete the DEECD online (30 minutes) mandatory reporting eLearning module at: [www.elearn.com.au/det/protectingchildren](http://www.elearn.com.au/det/protectingchildren)

Username: education

Password: employee

## References

DEECD, School Policy and Advisory Guidelines:

<http://www.education.vic.gov.au/school/principals/spag/safety/Pages/childprotection.aspx>

Children, youth and families Act 2005(CYFA):

[http://austlii.edu.au/au/legis/vic/consol\\_act/cyafa2005252/](http://austlii.edu.au/au/legis/vic/consol_act/cyafa2005252/)

Partnering Agreement:

<http://www.education.vic.gov.au/Documents/school/teachers/health/a4partnering.pdf>

A step by step guide to making a report to Child Protection or Child First

<http://www.education.vic.gov.au/Documents/school/principals/spag/safety/makingareportchild.pdf>

Department of Health Services:

**Child Protection:** <http://www.cyf.vic.gov.au/family-services/to-make-a-report-to-child-protection>

**Child First:** <http://www.cyf.vic.gov.au/family-services/how-to-make-a-referral-to-child-first>

Victoria Police Sexual Offences and Child Abuse Investigation Teams (SCOIT):

[http://www.police.vic.gov.au/content.asp?Document\\_ID=36222](http://www.police.vic.gov.au/content.asp?Document_ID=36222)

**Evaluation:**

This policy will be reviewed as part of the school's three-year review cycle but also occurs on a regular basis prompted by changing circumstances and raised concerns

This policy was last ratified by School Council in....

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