



MANDATORY REPORTING POLICY

STATEMENT

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.

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.

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 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

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. Wellington protocol is to consult with an SWC or Principal Class member for guidance regarding making a report.

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.

Further supporting information for Staff is found in Appendix 1 at the end of this document under 'Staff Procedures for responding to and reporting allegations of suspected child abuse'.

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

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 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.

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.

Staff members 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.

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.

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.

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

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

At Wellington, the SWC would always support a staff member who is of this opinion to make the report promptly.

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.

THE ROLE OF SCHOOL STAFF

School staff have 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

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 school 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.

When a child or young person is being interviewed by DHHS Child Protection and/or Victoria Police, school staff must arrange to have a supportive adult present with the child or young person. At Wellington, this would normally be a Student Welfare Coordinator.

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 arrange 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 staff member to receive information regarding Child Protection's investigation.

This may occur verbally or in writing using the relevant Child Protection proforma.

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 OR GUARDIANS

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

The school 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.

STAFF TRAINING

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.

Updates will take place annually as part of the Performance and Development/Staff meeting rotation.

This policy was reviewed in March 2020 and will be reviewed annually.

REFERENCES

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

<https://providers.dhhs.vic.gov.au/children-youth-and-families>

<https://services.dhhs.vic.gov.au/reporting-child-abuse>

<https://providers.dhhs.vic.gov.au/child-protection>

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PROCEDURES FOR RESPONDING TO AND REPORTING ALLEGATIONS OF SUSPECTED CHILD ABUSE

General principles and practices followed by Wellington Secondary College for responding to allegations of child abuse are found on the Department of Education website as follows:

Schools Policy and Advisory Guide: Responding to Student Sexual Assault

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

Schools Policy and Advisory Guide: Child Protection – Reporting Obligations

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

What follows here is an overall summary of the processes that will be followed by staff in receipt of information regarding alleged child abuse or have formed a belief that a child is at risk of abuse or harm.

[This is based on advice in Child Safety Standards toolkit resource 6: 'What to do when an allegation of child abuse is made.']

1. IF A CHILD DISCLOSES AN INCIDENT OF ABUSE TO YOU

- Try to separate them from the other children discreetly and listen to them carefully.
- Let the child use their own words to explain what has occurred.
- Assume that the allegation of child abuse is true.
- Reassure the child that you take what they are saying seriously, and it is not their fault and that they are doing the right thing.
- Explain to them that this information may need to be shared others, such as with their parent/carer, specific people in your organisation, or the police.
- Do not make promises to the child such as promising not to tell anyone about the incident, except that you will do your best to keep them safe.
- Do not leave the child in a distressed state. If they seem at ease in your company, stay with them.
- As soon as possible after the disclosure, record the information using the child's words and report the disclosure to a Student Welfare Coordinator, the Principal or any member of the Principal class. (Depending on circumstances, it may be appropriate to report directly to child protection or police.)

Ensure the disclosure is recorded accurately, and that the record is stored securely.

2. IF YOU FORM A REASONABLE BELIEF THAT A CHILD IS AT RISK OF HARM

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.

3. ACTIONS FOR WELLINGTON STAFF TO TAKE NEXT

As soon as possible after the disclosure:

- record the information accurately
- report the disclosure to a Student Welfare Coordinator, the Principal or any member of the Principal class. (Depending on circumstances, it may be appropriate to report directly to child protection or police, for example if contact with any of the above is impossible.)
- Do not investigate the allegation.
- Consultation with the Student Welfare Coordinator or Principal Class member will determine the appropriate process to follow in reporting to the appropriate authority (DHHS Child Protection or Child FIRST, or Police if there is immediate danger.) In the case of sexual assault or abuse, there are additional processes the Principal must follow. It is important that you consult before the report is made.

The Student Welfare Coordinator will assist you in making the report if that is deemed necessary.

PLEASE NOTE: If there is a decision taken for any reason not to report the allegations and you disagree, you are obliged to make the report to the appropriate authority yourself.

4. YOUR LEGAL RESPONSIBILITIES

While the child safe standards focus on organisations, every adult who reasonably believes that a child has been abused, whether in their organisation or not, has an obligation to report that belief to authorities.

The **failure to disclose** criminal offence requires all adults (aged 18 and over) who hold a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child under 16 to disclose that information to police (unless they have a reasonable excuse not to, for example because they fear for their safety or the safety of another).

More information about failure to disclose is available on the Department of Justice and Regulation website: <http://www.justice.vic.gov.au/home/safer+communities/protecting+children+and+families/failure+to+disclose+offence>

While failure to disclose only covers child sexual abuse, all adults should report other forms of child abuse to authorities. Failure to disclose does not change mandatory reporting responsibilities.

More information about mandatory reporting is available in the *Child protection manual* <http://www.cpmanual.vic.gov.au/advice-and-protocols/advice/intake/mandatory-reporting>

Mandatory reporters (doctors, nurses, midwives, teachers (including early childhood teachers), principals and police) must report to child protection if they believe on reasonable grounds that a child is in need of protection from physical injury or sexual abuse.

The **failure to protect** criminal offence (commenced on 1 July 2015) applies where there is a substantial risk that a child under the age of 16 under the care, supervision or authority of a relevant organisation will become a victim of a sexual offence committed by an adult associated with that organisation. A person in a position of authority in the organisation will commit the offence if they know of the risk of abuse and have the power or responsibility to reduce or remove the risk, but negligently failed to do so.

Further information about failure to protect can be found on the Department of Justice and Regulation website:

www.justice.vic.gov.au/home/safer+communities/protecting+children+and+families/failure+to+protect+of+fence , and the Department of Health and Human Services website.

5. IF A PARENT/CARER SAYS A CHILD HAS BEEN ABUSED AT WELLINGTON OR RAISES A CONCERN

- Explain that Wellington has processes to ensure all abuse allegations are taken very seriously.
- Ask about the wellbeing of the child.
- Allow the parent/carer to talk through the incident in their own words.
- Advise the parent/carer that you will take notes during the discussion to capture all details.
- Explain to them the information may need to be repeated to authorities or others, such as a Student Welfare Coordinator, Principal class member, the police or child protection.
- Do not make promises at this early stage, except that you will do your best to keep the child safe.
- Accurately record the details they relate to you and ensure records are stored securely.
- Ask them what action they would like to take and advise them of what the immediate next steps will be.

You need to be aware that some people from culturally and/or linguistically diverse backgrounds may face barriers in reporting allegations of abuse. For example, people from some cultures may experience anxiety when talking with police, and communicating in English may be a barrier for some. You need to be sensitive to these issues and meet people's needs where possible, such as having an interpreter present (who could be a friend or family member).

If an allegation of abuse involves an Aboriginal child, you will need to ensure a culturally appropriate response.

Some children with a disability may experience barriers disclosing an incident. For example, children with hearing or cognitive impairments may need support to help them explain the incident, including through sign language interpreters. Advice on communicating with people with a disability can be found on the Department of Health and Human Services website:

<https://providers.dhhs.vic.gov.au/specialist-disability-support>

IF YOU BELIEVE A CHILD IS AT IMMEDIATE RISK OF ABUSE - PHONE 000