

## **MANDATORY REPORTING POLICY AND PROCEDURES**

### **Aim**

To ensure the safety and wellbeing of children is maintained by putting the needs of children and young people first and to ensure they are protected against significant harm from abuse.

All children and young people have the right to feel safe and to be safe. All professionals working with children and young people and/or their families share the responsibility of protecting them. We have a legal and moral responsibility to respond to incidences involving abuse of the children and young people with whom we have contact, and to use our professional judgement of available information to ensure the reporting is appropriate to the situation (to report instances that we believe involve physical abuse, sexual abuse, emotional and psychological harm or neglect).

A broad range of professional groups are identified in the *Children Youth and Families Act 2005* (CYFA) as mandatory reporters. DECV 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 his/her parents are unable or unwilling to protect the child.

Teachers and principals (including student teachers) are prescribed as mandatory reporters. 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**

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 his/her 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 or young person 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 he/she 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**

DECV 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. Please note that children can only be reported if they are under the age of 17.

### **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 or young person, 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 or young person 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**

Two types of reports can 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.

If a DECV 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 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 or young person is in need of protection from significant harm as a result of sexual abuse or physical injury.

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

All concerns about the safety and wellbeing of a student must be reported immediately to the Leading Teacher: Student Wellbeing, or in his/her absence, an Assistant Principal or Principal. 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.

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**

DECV 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 DECV 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**

DECV 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.

Students have the right to privacy of their health information and to make their own decisions in regard to privacy where they are competent to do so. Competency generally refers to secondary school students who are not considered immature and don't have a disability.

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.

## **Advising parents, carers or guardians**

DECV 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 (DEECD Module Training) as part of the Performance and Development/Staff Development rotation.

## **References:**

[http://www.eduweb.vic.gov.au/edulibrary/public/stuman/wellbeing/Flowchart\\_Mandatory\\_Reporting\\_Sep\\_2010.pdf](http://www.eduweb.vic.gov.au/edulibrary/public/stuman/wellbeing/Flowchart_Mandatory_Reporting_Sep_2010.pdf)

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

<http://www.dhs.vic.gov.au/for-individuals/children,-families-and-young-people/child-protection/protecting-children-together>

<http://www.dhs.vic.gov.au/for-service-providers/children%2c-youth-and-families/child-protection/specialist-practice-resources-for-child-protection-workers/child-development-and-trauma-specialist-practice-resource>

[http://www.dhs.vic.gov.au/\\_data/assets/pdf\\_file/0007/586465/information-guide-registered-teachers-principals.pdf](http://www.dhs.vic.gov.au/_data/assets/pdf_file/0007/586465/information-guide-registered-teachers-principals.pdf)

<http://www.dhs.vic.gov.au/for-individuals/children,-families-and-young-people/child-protection/about-child-abuse>

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