



Mandatory Reporting (Child Protection – Reporting Obligations)

Background

- In response to the Betrayal of Trust report the Victorian Government is strengthening laws to protect our children from sexual abuse and exposure to sexual offenders. This in recognition of the shared community responsibility to protect children from abuse and to provide a safe environment for children to develop, learn and play
- A new criminal offence for failing to protect a child under the age of 16 from a risk of sexual abuse commenced on 1 July 2015
- The offence will apply where there is 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 fail to do so
- This offence will encourage organisations to actively manage the risks of sexual offences being committed against children in their care and further protect them from harm

Purpose

To define the roles and responsibilities of school staff in protecting the safety and wellbeing of children and young people and to enable staff to:

- identify indicators that a child or young person may be in need of protection
- make a report about a child or young person who may be in need of protection
- comply with reporting obligations under child protection law and criminal law and fulfil their duty of care

Implementation

Reporting Child Protection Concerns:

- 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 Health and Human Services (DHHS) Child Protection
- All other school staff members who form a belief on reasonable grounds that a child or young person:
 - is in need of protection, should report their concerns to DHHS Child Protection or Victoria Police
 - is displaying sexually abusive behaviours and is in need of therapeutic treatment should report their concerns to DHHS Child Protection
- If staff have significant concerns for the wellbeing of a child or young person they should report their concerns to DHHS Child Protection or Child FIRST
- In cases where staff have concerns about a child or young person, they should also discuss their concerns with the School's Child Safety Officer (see Roles and Responsibilities)

Reporting criminal child sexual abuse - failure to disclose offence:

- 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 DHHS 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 and Regulation – Failure to disclose offence

Duty of care:

- School 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 they should 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 DHHS 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

Protecting children from the risk of sexual abuse - failure to protect offence:

- Any staff member in a position of authority, who becomes aware that an adult associated with their organisation (such as an employee, contractor, volunteer or visitor) poses a risk of sexual abuse to a child under the care, authority or supervision of the organisation, must take all reasonable steps to remove or reduce that risk. This may include, for example, removing the adult from child-related work pending investigation. If a staff member in a position of authority fails to take reasonable steps in these circumstances, this may amount to a criminal offence
- The offence applies only to **adults in a position of authority** within an organisation, including Principals, senior school staff, regional directors and other senior managers.
- To read more information about the 'failure to protect offence', see: Department of Justice and Regulations – Failure to protect offence Note: Department policies already require school staff to uphold a high standard of care in relation to child safety and wellbeing.
- For more information about managing and responding to the risk of abuse see: *Duty of care, Responding to Student Sexual Assault* and *Risk Management* under Department resources below.

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 rumor 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 lead 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.

Types of child abuse and indicators of harm:

Child abuse can have a significant effect on a child's physical or emotional health, development and wellbeing.

Types of child abuse include:

- physical abuse
- sexual abuse
- emotional abuse
- neglect
- medical neglect
- family violence
- human trafficking (including forced marriage)
- sexual exploitation (including pornography and prostitution).

A report should be made to DHHS Child Protection in circumstances where, for example:

- the child is engaging in risk-taking behaviour
- female genital mutilation has occurred, or there is a risk of it occurring
- there is a risk to an unborn child



- a child or young person is exhibiting sexually-abusive behaviours
- there are indications that a child is being groomed. For information see: Department of Justice and Regulation – Grooming Offence.

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.

Counselling assistance for former students:

In certain circumstances, the Department offers Counselling Assistance Payments to former students who report having been sexually abused while attending, or in connection with, a Victorian government school.

Schools that receive a report of sexual abuse from a former student should contact the Department’s Student Critical Incident Advisory Unit on (03) 9637 2934.

Related DET policies:

- Duty of Care
- Police and DHS Interviews
- Responding to Student Sexual Assault
- Requests for Information about Students
- Risk Management
- 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:

- 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*
- Protecting Children - Mandatory Reporting and Other Obligations - eLearning module log-in

Other resources:

- Daniel Morcombe Child Safety Curriculum
- Government schools, see: FUSE (Edumail password is required before searching *Daniel Morcombe Child Safety Curriculum*)
- Parents, see: Daniel Morcombe Child Safety Curriculum Parent Guides - Queensland Department of Education, Training and Employment.
- Department of Health and Human Services:
- Child Protection
- Child FIRST
- Victoria Police Sexual Offences and Child Abuse Investigation Teams (SOCIT)
- Department of Justice and Regulation:
- Failure to disclose offence
- Failure to protect offence
- Grooming offence

Evaluation

This policy will be reviewed as part of the school’s three-year review cycle or if guidelines change (latest DET update early February 2015).

This update: November 2015

This policy was ratified by School Council on 18 October 2016

Next review Due: August 2019