

## Policy

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(formerly known as Mandatory Reporting Policy)

### Rationale

When teachers form a belief that a child may be at risk of harm due to sexual abuse or physical injury that results from abuse or neglect, they have a legal responsibility to notify the Department of Health and Human Services.

**Kororoit Creek Primary School** must meet the mandatory reporting requirements of the *Children, Youth and Families Act 2005* as well as meet the school's duty of care obligations to students. Mandatory reporters must make a report to the Department of Health and Human Services (DHHS) (Child Protection) as soon as practicable if, in the course of practising their profession or carrying out their duties, they form reasonable belief that a child or young person is in need of protection, as a result of physical injury, sexual abuse, or online abuse and the child's parents are unable or unwilling to protect the child from that abuse.

### Purpose

The purpose of this policy is to explain the roles and responsibilities of school staff to ensure that children's rights to be safe are maintained and each child is protected against physical and sexual abuse, and neglect.

### Definitions

Child abuse includes— any act committed against a child involving:

- a sexual offence or
- an offence under section 49B(2) of the Crimes Act 1958 (grooming)
- the infliction, on a child, of:
  - physical violence or
  - serious emotional or psychological harm
  - serious neglect of a child.

Child abuse and neglect occurs when a parent/guardian or any other person having the care of a child inflicts, or allows to be inflicted, physical injury or gross deprivation on the child that causes or creates a substantial risk of death, disfigurement, impairment of physical or emotional health or development, or creates or allows to be created a substantial risk of such injury. This definition includes sexual abuse and/or sexual exploitation of the child.

Children and young people have the right to be protected from abuse and neglect. When teachers form a belief that a child may be at risk of harm due to sexual abuse, physical injury or online abuse (grooming) that results from abuse or neglect, they have a legal responsibility to notify the Department of Health and Human Services.

### Mandatory Reporting

Since 1993 teachers have been mandated to report suspected child abuse or neglect to the Department of Health and Human Services Child Protection. As of July 2003, this was updated to include any person who is registered as a teacher or principal under the *Victorian Institute of Teaching Act 2001* or has been granted permission to teach under that Act. Any and all persons so described are mandated to report physical injury that results from abuse or neglect, and sexual abuse, to the Department of Human Services Child Protection.

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All adults are now required to disclose to the Victoria Police if they know or reasonably believe that a sexual offence has been committed by an adult against a child under the age of 16.

Non-mandated staff members who believe on reasonable grounds that a child is in need of protection are encouraged to speak to their Principal as well as being able to report their concerns to DHHS Child Protection.

This legal requirement to report child physical and sexual abuse arises from Section 184 of the *Children, Youth and Families Act 2005*. In summary:

If, in the course of his or her duties, a teacher or principal forms the belief on reasonable grounds that a child is in need of protection on the grounds that a child has suffered, or is likely to suffer, significant harm as a result of physical injury or sexual abuse, and the child's parents have not protected or are unlikely to protect the child from harm of that type; the person must notify the Department of Health and Human Services Child Protection of that belief and of the reasonable grounds for it, as soon as practicable –

- After forming the belief and
- After each occasion on which he or she becomes aware of any further reasonable grounds or the belief.

#### **Forming a Belief**

The *Children, Youth and Families Act 2005* states that teachers must notify the Department of Health and Human Services when they form a belief on reasonable grounds that a child has suffered, or is likely to suffer, significant harm as a result of physical injury or as a result of sexual abuse.

A belief is considered to be more than a suspicion. One may be considered to have formed a belief if one is more likely to accept rather than reject the suspicion that a child is at risk of harm from physical or sexual abuse.

**Proof is not required that abuse has occurred or is likely to occur.** A belief is sufficient. It is the role of the Department of Health and Human Services to determine whether that belief should be investigated.

#### **Reasonable Grounds**

Reasonable grounds can be thought of as the mechanism used for forming the belief. These include situations where:

- A child tells the teacher they have been abused
- Someone else tells the teacher (perhaps a relative, friend, neighbour or sibling of the child) that a child has been abused or is at risk of abuse.
- A child tells the teacher that they know someone who has been abused (often a child is referring to him or herself), and the teacher's own observation of a particular child's behaviour/injuries or their knowledge of children generally leads them to suspect that abuse is occurring.

Note: 'Grooming' is now a criminal offence under the [Crimes Act 1958](#). This new offence targets predatory conduct undertaken to prepare a child for sexual activity at a later time.

Grooming occurs when an adult communicates (by words or conduct) with a child under 16 years of age, with the intention of facilitating the child's engagement in sexual conduct.

It is also an offence for an adult to communicate with a person who has responsibility for care, supervision or authority over a child with the intention of grooming the child in their care. Such persons can include parents, stepparents, legal guardians, carers, teachers, employers and sports coaches.

Grooming includes actions deliberately undertaken with the intention of befriending and establishing an emotional connection with a child, to lower their inhibitions and facilitate sexual conduct with the child. Communication technologies such as online gaming, instant messaging, email, voice over internet protocol, social media and mobile

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phones can also be used in the grooming process. In these cases, the grooming process may continue for months before the offender arranges a physical meeting.

### **Implementation**

Any person who is registered as a teacher or principal under the *Victorian Institute of Teaching Act 2001* or has been granted permission to teach under that Act are mandated to report physical injury to **any person 16 years of age or younger** that results from abuse or neglect, and sexual abuse, to the Department of Health and Human Services Child Protection.

Teachers will be informed annually of their legal responsibilities to report child abuse and neglect to the Department of Health and Human Services and will be provided with information on how to recognise and respond to child abuse.

If a teacher suspects that a child is in need of protection from physical and/or sexual abuse it is essential that he/she document any concerns and observations in a confidential file. In all cases, teachers are advised to inform the principal of his or her concerns as early as possible. Over a period of time it may become apparent to the teacher that there are reasonable grounds on which to form a belief that the child needs protection.

Following a discussion with the Principal or Assistant Principal about his/her concerns and observations:

- The teacher may form the belief that it is necessary to make a report. In this case the teacher must make a report to the Department of Health and Human Services as soon as practicable. It is the responsibility of the individual teacher to ensure that this notification has occurred and that all reasonable grounds supporting the belief have been reported.
- The teacher may continue to suspect that a child is in need of protection. In this case the teacher should continue to monitor and support the child.

Those involved in any process of consultation around mandatory reporting must maintain confidentiality regarding the child, the family, the notifier and any alleged perpetrator.

A teacher does not need permission from parents or caregivers to notify, nor do you need to inform them that you are notifying.

A teacher may notify the Department of Health and Human Services Victoria of his/her belief without the prior knowledge of the Principal. It is strongly recommended that the teacher inform the Principal or Principal's nominee of his/her action as soon as practicable.

It may be necessary for the Department of Health and Human Services to interview a child at school when a notification of abuse has been made. Such requests may be directed to the Principal or the Principal's nominee.

It is important to advise children or young people of their right to have a supportive adult present at such an interview. This may be the Principal or a teacher.

When Officers of Child Protection Victoria or the Police seek an interview with a child, the Principal should cooperate with the authorised agency.

He or she should:

- Arrange for the child to choose a supportive adult to be present.
- Follow the recommended procedures from the Department of Health and Human Services and the DET.
- Ensure that arrangements are in order for any interview which is to take place at the school.
- Seek or offer appropriate pastoral support for the reporting staff member.

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- Observe confidentiality at all times in the management of a mandatory reporting case.
- If legal assistance is required, contact the DET.

Any person who has a significant concern for the wellbeing of a child should report these concerns to DHHS Child Protection or refer the child and their family to Child FIRST.

A significant concern for the wellbeing of a child may arise, for instance, where any of the following factors may have a significant adverse impact on a child's care, welfare or development:

- significant parenting problems
- family conflict or family breakdown
- pressure due to a family member's physical/mental illness, substance abuse, or disability
- vulnerability due to youth, isolation or lack of support
- significant social or economic disadvantage. In the case of school staff, they must also discuss their concerns with the Principal or an Assistant Principal.

### **Failure to disclose offence**

In addition to mandatory reporting and duty of care obligations, **any adult** who forms a reasonable belief that a sexual offence has been committed by an adult against a child under 16 must report 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 Child Protection or the child is over 16 when the belief is formed.

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.

Where any report to the DHHS Child Protection involves a Koorie student, the Principal or Assistant Principal must advise the regional office. The regional office, with the Koorie support officer, ensures support is arranged.

### **Further Information**

<http://www.education.vic.gov.au/management/governance/spag/safety/protection/childprotection.htm>

[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)

### **Evaluation**

This policy will be reviewed as part of the school's annual review cycle or as required.

This policy was last ratified by School Council on 12<sup>th</sup> June 2019

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