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PROCEDURES FOR RESPONDING TO AND REPORTING ALLEGATIONS OF CHILD ABUSE

Introduction

Child abuse can take many forms. The abuser may be a parent, carer, staff member, volunteer, another adult or even another child. Unfortunately, the nature of child abuse is complex. The abuse may occur over time and potential risk indicators are often difficult to detect. Even our legal obligations for reporting allegations of child abuse can vary depending on the circumstances of the incident.

The School will take appropriate, prompt action in response to all allegations or disclosures of abuse, neglect, inappropriate behaviour or concerns about child safety by reporting all matters to Victorian Child Protection Service or the Police, depending on the allegation or disclosure made.

Nhill Lutheran School has established simple and accessible procedures for anyone to report, if appropriate, a child safety and protection concern internally to one of the School's Child Safe Officers. Please be aware that consulting with a Child Safe Officer does not change any obligation you have under legislation to report to an external authority.

Nhill Lutheran School has developed and implemented procedures for Board members, staff and volunteers for responding to allegations and disclosures of child abuse, or suspected child abuse, including procedures for support following a disclosure by a student. Reporting procedures for Third Party Contractors, External Education Providers, parents/carers and other community members are also included in our Child Safe Policy which is available on our public website.

The School's work systems, practices, policies and procedures for responding to and reporting allegations of child abuse both internally and externally. This includes:

1. Managing Your Initial Response to a Child Protection Incident (Responding to an Emergency)
2. Reporting a Child Abuse Concern Internally
3. Preserving Evidence
4. General Legal Obligations to "Act to Protect" and to Report Child Sexual Abuse
5. Mandatory Reporting
6. Reportable Conduct of Staff, Volunteers and Others
7. Responding to Other Concerns About the Wellbeing of a Child
8. Conduct that is Reportable to the Victorian Institute of Teaching (VIT)
9. Communication with Parents/Carers
10. Support for Students Interviewed at the School

11. Making Additional Reports
12. Child Protection Complaints Management
13. Confidentiality and Privacy
14. Child Protection Record Keeping

All of the School's procedures for reporting and responding to allegation of child abuse are designed and implemented taking into account the diverse characteristics of the School community. The procedures apply to all allegations or disclosures of child abuse made by or in relation to a child, school staff, visitors, or other persons while connected to a school environment.

A summary of these procedures are made publicly available on the School's website through our Child Safe Policy and are accessible to all children, school staff and the wider community.

It is the responsibility of the principal to monitor overall school compliance.

Managing your initial response to a child protection incident

Responding to an Emergency

All teaching staff, non-teaching staff, Board members, volunteers, Third Party Contractors and External Education Providers must act as soon as they witness a child protection incident or form a reasonable belief that a child has been or is at risk of being abused.

If a child is at immediate risk of harm you must ensure their safety by:

- separating alleged victims and others involved;
- administering first aid;
- calling 000 for urgent medical assistance or Police assistance to address immediate health and safety concerns;
- briefing the Senior Child Safe Officer to be the future liaison with the Police on the matter.

The following sections outline the ways that you may become aware that a child may be experiencing abuse and strategies for managing each situation and supporting and assisting children involved in the disclosure or report.

- Observation of Risk Indicators
- Private Disclosure by a Child
- Public Disclosure by a Child
- Third Party Disclosure
- Disclosure by a Former Student
- Support Following Disclosure

Observation of Risk Indicators

The different types of child abuse and their key risk indicators are set out below.

Child Abuse

Child abuse is defined in section 3 of the Child Wellbeing and Safety Act 2005 (Vic) as including:

- any act committed against a child involving a sexual offence or a grooming offence under section 49M(1) of the Crimes Act 1958 (Vic);
- the infliction of physical violence or serious emotional or psychological harm; and
- the serious neglect of a child.

A child is defined by the Child Wellbeing and Safety Act 2005 (Vic) as a person who is under the age of 18 years.

Family Violence

Whilst the term “family violence” does not form part of the legislative definition of “child abuse”, the impact of family violence on a child is commonly referred to as a form of child abuse.

In Victoria section 5 of the Family Violence Protection Act 2008 (Vic) defines “family violence” as behaviour by a person towards a family member that is:

- physically or sexually abusive;
- emotionally or psychologically abusive;
- economically abusive;
- threatening;
- coercive; or
- in any other way controlling or dominating of the family member and causes them to feel fear for their own, or other family members' safety or wellbeing.

Behaviour that causes a child to hear, witness, or be exposed to the effects of such behaviour also falls within the definition of “family violence”.

Care, Supervision or Authority

It is important to understand the definition of the legal phrase “care, supervision or authority” and its applicability to staff. The phrase is central to several offences under the Crimes Act 1958 (Vic).

Under section 37 of the Crimes Act the circumstances in which a person will have a child (under 18) under their care, supervision or authority include if the person is:

- the child’s parent or step-parent;
- the child’s teacher;
- the child’s employer;
- the child’s youth worker;
- the child’s sports coach;
- the child’s counsellor;
- the child’s health professional;
- a person with parental responsibility for the child;
- a religious or spiritual guide, or a leader or official (including a lay member) of a church or religious body, however named, who provides care, advice or instruction to the child or has authority over the child; or
- a police officer acting in the course of their duty in respect of the child.

Sexual Offences

A sexual offence occurs when a person involves a child (under 18) in sexual activity, or deliberately puts the child in the presence of sexual behaviours that are exploitative or inappropriate to the child’s age and development. Children may be bribed or threatened physically or psychologically to make them participate in the activity. Sexual offences are outlined in section 35 of the Crimes Act 1958 (Vic).

Sexual abuse can involve a wide range of sexual activity and may include fondling, masturbation, oral sex, penetration, voyeurism and exhibitionism. It can also include exploitation through pornography or prostitution.

Certain sexual offences may involve behaviour that is intended to prepare or facilitate a child's involvement in sexual activity or conduct. These are: grooming behaviour and the encouragement of a child to engage in, or be involved in, sexual activity. This is because the breadth of these offences and the nature of professional boundaries between School staff and students means that staff must be aware that certain behaviours will not only breach Staff and Student Professional Boundaries, but may also amount to a criminal offence.

Possible Physical Indicators that a Sexual Offence Has Occurred

- injury to the genital or rectal areas, such as bruising or bleeding
- vaginal or anal bleeding or discharge
- discomfort in urinating or defecating
- presence of foreign bodies in the vagina and/or the rectum
- inflammation or infection of the genital area
- sexually transmitted diseases
- pregnancy, especially in very young adolescents
- bruising and other injury to breasts, buttocks or thighs
- anxiety related illnesses such as anorexia or bulimia
- frequent urinary tract infections

Possible Behavioural Indicators that a Sexual Offence Has Occurred

- the student discloses sexual abuse
- persistent and age-inappropriate sexual activity, including excessive masturbation, masturbation with objects, rubbing genitals against adults, playing games that act out a sexually abusive event
- drawings or descriptions in stories that are sexually explicit and not age appropriate
- a fear of home, a specific place, a particular adult, or excessive fear of men or of women
- poor or deteriorating relationships with adults and peers
- poor self-care/personal hygiene
- regularly arriving early at school and leaving late
- complaining of headaches, stomach pains or nausea without physiological basis
- frequent rocking, sucking or biting
- sleeping difficulties
- reluctance to participate in physical or recreational activities
- regressive behaviour, such as bedwetting or speech loss
- the sudden accumulation of money or gifts
- unplanned absences or running away from home
- delinquent or aggressive behaviour
- depression
- self-injurious behaviour, including drug/alcohol abuse, prostitution, self-mutilation, or attempted suicide
- the sudden decline in academic performance, poor memory and concentration
- wearing of provocative clothing, or layers of clothes to hide injuries
- promiscuity

Student Sexual Offending

Unwanted sexual behaviour towards a student by a child 10 years or over can constitute a sexual offence and is referred to as student sexual offending. All incidents, suspicions and disclosures of student sexual offending must be responded to in accordance with the Responding to Suspect Student Sexual Offending Template.

Encouragement to Engage in Sexual Activity

It is a criminal offence for an adult to encourage a child to engage in, or to be involved in, sexual activity where the adult seeks or gets sexual arousal or sexual gratification from the encouragement or the sexual activity.

There are two "encouragement" offences in the Crimes Act 1958 (Vic):

- section 49K: encouraging a child under the age of 16 to engage in, or be involved in, sexual activity
- section 49L: encouraging a child aged 16 or 17 under care, supervision or authority to engage in, or be involved in, sexual activity.

A section 49K offence carries a maximum 10 year term of imprisonment. A section 49L offence carries a maximum five year term of imprisonment.

The Crimes Act 1958 (Vic) defines "encourage" to include suggest, request, urge and demand. Examples of encouragement include offering money or gifts or threatening harm. It can be done in person or by electronic communication. An example of conduct prohibited by these offences is an adult asking a child to watch inappropriate material. Conduct which occurred outside Victoria or while the child was outside Victoria can still constitute an offence.

The encouragement offences cover conduct that is similar to grooming but are broader. Both the encouragement and grooming offences are 'preparatory' offences, but encouragement behaviour occurs at a later stage to grooming, or closer to the substantive sexual offence. The encouragement offence applies to sexual activity that would otherwise not be a criminal offence. For example, if a student was encouraged to watch inappropriate material in contravention of sections 49K or 49L, the act of watching is not a sexual offence, but the encouragement would amount to an offence.

Note: Both offences of grooming and encouragement to engage in sexual activity are sexual offences reportable under every adult's Obligation to Report a Sexual Offence.

Possible indicators of adult encouragement behaviour would include those that may indicate grooming however the pattern of behaviours would not be required. The encouragement would normally be more sexualised.

Grooming

Grooming is defined by the Royal Commission into Institutional Responses to Child Sexual Abuse as behaviours by a person that is 18 years of age or over, that manipulate and control a child, their family and other support networks, or institutions with the intent of gaining access to the child, obtaining the child's compliance, maintaining the child's silence and avoiding discovery of the sexual abuse.

Grooming by an adult (a person aged 18 years of age or over) for sexual conduct with a child under the age of 16, or with a person under the care, supervision or authority of that adult, is a crime under section 49M(1) of the Crimes Act 1958 (Vic).

Grooming does not necessarily involve any sexual activity or even discussion of sexual activity. For example, it may only involve establishing a relationship with a child or a person who has care, supervision or authority for a child for the purpose of facilitating sexual activity at a later time. Conduct which occurred outside Victoria or while the child was outside Victoria can still constitute an offence.

Certain behaviours or acts will not in isolation constitute grooming behaviour. However, where there is a repeating pattern of indicative behaviour, or several incidents of indicative behaviour, it may constitute grooming behaviour.

Online Grooming

The sexual offence of grooming under section 49M includes online grooming which occurs when an adult (18 years or over) uses electronic means to communicate with a child under the age of 16 in a predatory fashion to try and lower the child's inhibitions, or heighten their curiosity regarding sexual behaviour or activity, with the aim of eventually meeting them in person for the purposes of sexual activity. This can include communications through social media, online chat rooms, sexting or emails.

Encouraging a Child to Engage in Sexual Activity

Sections 49K and 49L of the Crimes Act 1958 (Vic) outline offences relating to the encouragement of a child (under 18) to engage in, or be involved in, sexual activity. "Encourage" is defined in the Act to include suggest, request, urge and demand. The type of sexual activity a child may be encouraged to engage in, or be involved in, does not necessarily have to be a sexual offence in its own right to be captured by these offences, for example encouraging a child to masturbate or watch pornography.

Section 49K does overlap with the grooming offence as both are preparatory offences against children, however not all grooming behaviour may be covered by the encouraging offence. Grooming goes further than the encouragement offence as it covers conduct that doesn't include active encouragement, but assists in the cultivation of a relationship where sexual offending is more likely. For example, building a relationship with a child's parent or carer to gain trust may be an act of grooming, but is not an act of encouragement for the child to engage in, or be involved in, a sexual activity under sections 49K and 49L.

Additionally, the encouragement offences differ from the grooming offences as they do not require proof that the perpetrator intended to encourage the child to engage in, or be involved in, a sexual activity (in that the perpetrator meant to encourage the child in that way), or that they intended the child to engage in, or be involved in, a sexual activity.

While the encouragement and grooming offences are distinct and separate, due to the possibility for overlap, the following possible risk indicators apply to both types of offending.

Possible Indicators of Grooming Behaviour in Adults

- persuading a child or group of children that they have a special relationship
- asking a child to keep the relationship to themselves
- inappropriately allowing a child to overstep the rules
- testing boundaries, for example by undressing in front of a child
- manoeuvring to get or insisting on uninterrupted time alone with a student
- buying a student gifts
- insisting on physical affection such as hugging, wrestling or tickling even when the student clearly does not want it
- being overly interested in the sexual development of a student
- taking a lot of photos of a student
- engaging in inappropriate or excessive physical contact with a student
- sharing alcohol or drugs with a student
- making inappropriate comments about a student's appearance or excessive flattery
- using inappropriate pet names
- making jokes or innuendo of a sexual nature
- making obscene gestures or using obscene language
- sending correspondence of a personal nature via any medium
- inviting, allowing, or encouraging students to attend a staff member's home without parental/carers permission

- entering change rooms or toilets occupied by students when supervision is not required or appropriate
- communicating with a child's parent/step parent, legal guardian, teacher, religious official or spiritual leader with the intention of facilitating the child's involvement in sexual conduct
- inappropriately extending a relationship outside of work
- photographing, audio recording, or filming students via any medium without authorisation or having parental consent to do so

Indicators That a Child May Be Subject to Grooming

- developing an unusually close relationship with an adult
- displaying significant mood changes, including hyperactive, sensitive, hostile, aggressive, impatient, resentful, anxious, withdrawn or depressed behaviour
- using 'street' or different language they learned from a new or older 'friend'
- having new jewellery, clothing, expensive items or large amounts of money that were gifts from a new or older 'friend'
- using a new mobile phone excessively to make calls, videos or send text messages to a new or older 'friend'
- being excessively secretive about their use of social media or online communications
- frequently staying out late or overnight with a new or older 'friend'
- being dishonest about where they have been or who they were with
- drug and alcohol use
- being picked up in a car by a new or older 'friend' from home or school or 'down the street'.

Indicators That a Child May Be Subject to Online Grooming

- discovery of pornography on their computer or device
- receiving or making calls to unrecognised numbers
- increasing or excessive amount of time spent online
- increased secrecy in what they are doing online and efforts to try and hide what they are doing online
- evidence of people on their 'friends' list that are unknown and they have never met them offline.

What is not grooming?

Not all physical contact between a student and a staff member or any person engaged by the School to provide services to children, including a volunteer, will be inappropriate and/or an indicator of possible grooming behaviour.

The following physical contact with students is not grooming behaviour:

- administration of first aid
- supporting students who have hurt themselves
- non-intrusive gestures to comfort a student who is experiencing grief, loss or distress, such as a hand on the upper arm or upper back
- non-intrusive touching i.e. shaking a student's hand or a pat on the back to congratulate a student

Physical Violence

Physical violence occurs when a child (under 18) suffers or is likely to suffer significant harm from a non-accidental injury or injuries inflicted by another person. Physical violence can be inflicted in many ways including beating, shaking, burning or using weapons (such as belts and paddles).

Physical abuse does not mean reasonable discipline, though it may result from excessive or inappropriate discipline.

Possible Physical Indicators of Physical Violence

- unexplained bruises

- bruises or welts on facial areas and other areas of the body, including back, bottom, legs, arms or inner thighs
- any bruises or welts in unusual configurations, or those that look like the object used to make the injury, for example fingerprints, handprints, buckles, iron or teeth
- burns that show the shape of the object used to make them, such as an iron, grill, cigarette, or burns from boiling water, oil or flames
- fractures of the skull, jaw, nose or limbs, especially those not consistent with the explanation offered or with the type of injury probable/possible at the child's age and development
- cuts and grazes to the mouth, lips, gums, eye area, ears or external genitalia
- human bite marks
- bald patches where hair has been pulled out
- multiple injuries, old and new

Possible Behavioural Indicators of Physical Violence

- inconsistent or unlikely explanation for an injury
- inability to remember the cause of an injury
- fear of specific people
- wearing clothes unsuitable for weather conditions (such as long-sleeved tops) to hide injuries
- wariness or fear of a parent/carer and reluctance to go home
- no reaction or little emotion displayed when hurt
- little or no fear when threatened
- habitual absences from school without explanations (the parent/carer may be keeping the child away until signs of injury have disappeared)
- overly compliant, shy, withdrawn, passive and uncommunicative
- fearfulness when other children cry or shout
- unusually nervous or hyperactive, aggressive, disruptive and destructive to self and/or others
- excessively friendly with strangers
- regressive behaviour, such as bed wetting or soiling
- poor sleeping patterns, fear of dark, nightmares
- sadness and frequent crying
- drug or alcohol misuse
- poor memory and concentration
- suicide attempts
- academic problems

Serious Emotional or Psychological Harm

Serious emotional or psychological abuse may occur when a child (under 18) is repeatedly rejected, isolated or frightened by threats or the witnessing of family violence. It also includes hostility, derogatory name-calling and put-downs, or persistent coldness from a person, to the extent where the behaviour of the child is disturbed or their emotional development is at serious risk of being impaired. Serious emotional or psychological harm could also result from conduct that exploits a child without necessarily being criminal, such as encouraging a child to engage in inappropriate or risky behaviours.

Psychological or emotional abuse may occur with or without other forms of abuse.

Possible Physical Indicators of Serious Emotional or Psychological Harm:

- speech disorders
- delays in emotional, mental or even physical development
- physical signs of self-harming

Possible Behavioural Indicators of Serious Emotional or Psychological Harm:

- exhibiting low self-esteem
- exhibiting high anxiety
- overly compliant, passive or undemanding behaviour
- extremely demanding, aggressive, or attention-seeking behaviour
- anti-social, destructive behaviour
- low tolerance or frustration
- unexplained mood swings
- self-harming
- behaviours that are not age appropriate, for example, overly adult (parenting of other children), or overly infantile (thumb sucking, rocking, wetting or soiling)
- fear of failure, overly high standards and excessive neatness
- depression, or suicidal thoughts
- running away
- violent drawings or writing
- contact with other students forbidden

Serious Neglect

Serious neglect is the continued failure to provide a child (under 18) with the basic necessities of life, such as food, clothing, shelter, hygiene, medical attention or adequate supervision, to the extent that the child's health, safety and/or development is, or is likely to be, jeopardised. Serious neglect can also occur if an adult fails to adequately ensure the safety of a child where the child is exposed to extremely dangerous or life-threatening situations.

Possible Physical Indicators of Serious Neglect:

- consistently dirty and unwashed
- consistently inappropriately dressed for weather conditions
- consistently without adequate supervision and at risk of injury or harm
- constantly hungry, tired and listless, falling asleep in class, or malnourished
- unattended health problems and lack of routine medical care
- inadequate shelter and unsafe or unsanitary conditions
- abandonment by parents
- poor hygiene

Possible Behavioural Indicators of Serious Neglect:

- begging or stealing food
- gorging when food is available
- inability to eat when extremely hungry
- alienated from peers, withdrawn, listless, pale, and thin
- aggressive behaviour
- delinquent acts, for example, vandalism, drug or alcohol abuse
- little positive interaction with parent/carer
- appearing miserable or irritable
- poor socialising habits
- poor evidence of bonding, or little stranger anxiety
- indiscriminate with affection
- poor, irregular or non-attendance at School
- staying at school for longer hours

- self-destructive
- dropping out of school
- taking on an adult role of caring for a parent
- misusing alcohol or drugs
- academic issues

The process of identifying child abuse purely through observation of risk indicators can be complex and may occur over time. The complexity is magnified by the fact that many of the key risk indicators described may also occur as a result of other factors, not related to child abuse.

If you form a concern that a child may be being abused, you should make written notes of your observations recording both dates and times. You should also report the matter internally to a School Child Safe Officer.

Private Disclosure by a Child

If a student discloses a situation of abuse or neglect to you privately, you should stay calm and not display expressions of panic or shock.

You should reassure and support the child. You can do this by:

- stating clearly that the abuse is not the child's fault
- reassuring the child that you believe them
- telling the child that disclosing the matter is the right thing to do.

You should be patient, and allow the child to talk at their own pace. When responding you should use the child's language and vocabulary.

Sometimes a student may try to elicit a promise from you that you will not tell anyone about the allegation. You must not make this promise, as you are responsible for reporting the matter.

Finally, remember that your role is not to investigate the allegation. You should not interrogate the child or pressure them to tell you more than they want to.

Once a disclosure is made you must report the matter internally to a School Child Safe Officer as soon as possible. You should also make written notes of the circumstances of the disclosure recording both dates and times.

Following a disclosure of abuse or neglect by a student, staff should follow the steps set out in the School's Support Following Disclosure procedure.

Public Disclosure by a Child

Public disclosure occurs where you observe a child disclosing abuse to another child, or group of children.

In this circumstance you should use a strategy of "protective interrupting".

The aim of "protective interrupting" is to prevent a child from disclosing details of abuse in front of other children, whilst at the same time providing the child with the opportunity to disclose later, in a safe and confidential manner.

You can do this by:

- asking the child if you can talk privately

- moving the child away from the other students to a quiet space
- and then following the guidelines with respect to managing a private disclosure.

Third Party Disclosure

A third party such as a friend of the child, a relative or another parent/carer may provide you with information relating to child abuse.

In this situation you should:

- listen to the person's concerns seeking clarification where required
- thank the person for raising their concern
- advise the person that we have procedures for dealing with situations like this
- advise the person that you will discuss their concerns with the relevant authorities.

As with Private Disclosure, you should reassure and support the person providing the information.

Sometimes a person may try to elicit a promise from you that you will not tell anyone about the allegation. You **must not** make this promise, as you are responsible for reporting the matter.

Finally, remember that your role is not to investigate the allegation. You should not interrogate the third party and pressure them to tell you more than they want to.

Once a third party disclosure is made you must report the matter internally to a School Child Safe Officer as soon as possible. You should also make written notes of the circumstances of the disclosure recording both dates and times.

Disclosure by a Former Student

A former student of the School may come forward to disclose past abuse from their time at the School. If you receive a disclosure from a former student about historical abuse, you must act.

If the former student is still of school age in Victoria and currently attending a Victorian school, you must follow the Procedures for Responding to and Reporting Allegations of Child Abuse, specifically the obligations you may have under the following policies:

- Failure to Protect
- Obligation to Report Child Sexual Abuse
- Mandatory Reporting
- Reportable Conduct

Conduct that is Reportable to the Victorian Institute of Teaching

If the former student is no longer of school age or attending a school in Victoria, you must still act. For example, if the disclosure includes an allegation against a current staff member or teacher at the School this may trigger obligations under our Failure to Protect to remove the risk of abuse to other students.

Support Following Disclosure

You should take the following steps to support and assist a child after a disclosure of child abuse or neglect is made.

The range of measures employed will depend on:

- the degree of severity of the situation
- the risk of harm to the child, and

- the capability and willingness of the parent to protect the child from harm.

After a disclosure is made:

- do not promise the child that you will not tell anyone about the disclosure
- reassure the child that it was the right thing to do to tell an adult
- tell the child what you plan to do next
- do not confront the person believed to be the perpetrator
- report the matter to one of the School's Child Safe Officers who will be able to assist you in developing additional support strategies
- whenever there are concerns that a child is in immediate danger the Police should be called on 000.

Support for Staff and Volunteers - Witnessing a child protection incident or receiving a disclosure or allegation of abuse can be a stressful experience for staff and Volunteers involved. The School provides support to impacted staff and Volunteers to access necessary support.

Reporting a Child Abuse Concern Internally

Child abuse situations can be very complex, not only from the perspective of ascertaining whether abuse has occurred but also in understanding what steps to take to protect a child.

It is important to remember at all times that the safety and welfare of the child are paramount.

Therefore, if you have a concern that a child may be experiencing abuse, whether or not you have formed a belief on reasonable grounds that the abuse has occurred, you should immediately raise your concerns with one of the School's Child Safe Officers. Our Child Safe Officers will be able to assist you in clarifying your concerns and managing the next steps. The Principal and Senior Child Safe Officer are responsible for promptly managing the school's response to an allegation or disclosure of child abuse, and ensuring that the allegation or disclosure is taken seriously.

Lists of Child Safe Officers are displayed around the School and are provided to staff, students, volunteers and others (Appendix A).

If a Child Safe Officer cannot perform their role, for example, due to conflicts of interest or absence, these duties must be performed by either another Child Safe Officer, the Senior Child Safe Officer or the Principal.

Please note that reporting the matter internally does not release you from other legal and regulatory reporting obligations you may have, namely:

- Obligation to Report Child Sexual Abuse
- Failure to Protect
- Mandatory Reporting
- Reportable Conduct

In addition, these reporting obligations apply even if the Principal, a member of the Board or a Child Safe Officer advises you not to proceed with reporting suspected abuse.

Preserving Evidence

When an incident of suspected child abuse occurs at the School, consider all of the following:

- environment: do not clean up the area, and preserve the sites where the alleged incident occurred
- clothing: take steps to ensure that the person who has allegedly committed the abuse and the child who has allegedly been abused remain in their clothing. If this is not possible, ensure the clothes are not washed, handled as little as possible and stored in a sealed bag
- other physical items: ensure that items such as weapons, bedding and condoms are untouched
- potential witnesses: reasonable precautions must be taken to prevent discussion of the incident between those involved in the alleged incident.

General Legal Obligations to Report Child Sexual Abuse and “Act to Protect”

In Victoria there are specific criminal offences which impose general obligations on persons:

- aged 18 years or over to report any belief that a sexual offence has been committed, against a child under the age of 16 years, by a person over the age of 18 years (Crimes Act 1958 (Vic) section 327)
- in authority within a school to act to remove or reduce a substantial risk that a sexual offence will be committed against a child (Crimes Act 1958 (Vic) section 490)

Details of these obligations are set out in the following sections:

- The Obligation to Report a Sexual Offence
- The Obligation not to Fail to Protect

Obligation to Report a Sexual Offence

Source of Obligation

Under the Crimes Act 1958 (Vic) (section 327), anyone aged 18 years or over must make a report to the Police if they form a reasonable belief that a sexual offence has been committed against a child under the age of 16 years, by a person aged 18 years or over. Failure to make a report without reasonable excuse is an offence and carries a prison term.

If a report is made to the Department of Families, Fairness and Housing (DFFS) in accordance with Mandatory Reporting requirements, an additional report to the Police will not usually be required unless further information is obtained.

This obligation applies to anyone aged 18 years or over, including students aged 18 and over. The legislation also applies to teaching staff if not already covered by the mandatory reporting obligation.

What must be reported?

Any person aged 18 or over who forms a reasonable belief that a sexual offence has been committed by an adult (a person aged 18 years or over) against a child under 16 has an obligation to report that information to the Police.

What is a sexual offence?

The Crimes Act sets out what constitutes a "sexual offence". This includes:

- rape
- indecent assault
- incest
- sexual penetration
- grooming a child for sexual conduct
- encouraging a child to engage in, or be involved in, sexual activity.

A "sexual offence" includes an attempted sexual offence.

What is a reasonable belief?

A 'reasonable belief' is formed if a reasonable person in the same position would have formed the belief on the same grounds.

A 'reasonable belief' might be formed when:

- a child states that they have been sexually abused
- a child states that they know someone who has been sexually abused (sometimes the child may be talking about themselves)
- someone who knows the child states that the child has been sexually abused
- signs of sexual abuse lead to a belief that the child has been sexually abused.

Exceptions

If you fail to disclose a sexual offence against a child to the Police, you will not be held liable where your reason for not reporting is that:

- you fear on reasonable grounds for the safety of any person (other than the offender), and a failure to report is reasonable
- the victim told you about the sexual offence (directly or indirectly), the victim was over 16 years old when they told you about the sexual offence, and the victim requested that the information not be disclosed (unless the victim has an intellectual disability and does not have the capacity to make an informed decision about this)
- you believe on reasonable grounds that the information has already been disclosed to the Police by another person (such as to DFFS Child Protection as part of Mandatory Reporting) and you have no further information.

Unacceptable reasons for not reporting include if you are concerned with the interests (including the reputation, legal liability or financial status) of:

- the person involved in the sexual offence
- any organisation (such as the School).

A report made under the Children, Youth and Families Act 2005 (Vic) Mandatory Reporting obligations may constitute a 'reasonable excuse' if you believe that you have no further information to provide to the Police.

Failure to Protect offence

Source of Obligation

Where a person in a position of authority at the School knows that a staff member, volunteer, Third Party Contractor, or other person associated with the School poses a substantial risk of committing a sexual offence against a student or students, the person has a duty to take immediate action to ensure that the student or students are protected from that risk.

The School has a duty of care which requires the protection of all students from foreseeable risks while at school or engaging in School activities.

In addition, under section 490 of the Crimes Act 1958 (Vic) (Crimes Act) a person who:

- a) by reason of the position they occupy within or in relation to the School, has the power or responsibility to reduce or remove a substantial risk that a relevant child (under the age of 16 who is, or may come under the care, supervision or authority of the School) will become the victim of a sexual offence committed by a person of or over the age of 18 years who is associated with the School; and
- b) knows that there is a substantial risk that the person will commit a sexual offence against a relevant child,

must not negligently fail to reduce or remove that risk.

Who must act to protect?

The person responsible for taking steps to remove or reduce the risk to the student will depend upon the source of the risk. In a normal school context usually a member of the Leadership Team would have the necessary degree of supervision, power and authority to remove or reduce the risk. On tours, excursions, or camps a teacher or a volunteer coach could have the requisite power and responsibility.

Examples of people in a position of authority include:

- the School Board
- the Principal
- members of the School Leadership Team
- teachers
- volunteers where they are in a position of supervision

When should action be taken?

A person in a position of authority at the School is required to act if they know that there is a substantial risk that a student or students may become the victim of a sexual offence, and the risk is caused by a person associated with the School.

Knowledge is more than holding a tentative belief or mere suspicion.

If a person in authority has a suspicion or belief that students are at risk of harm they must take steps to follow up on that suspicion or belief by investigating further and should raise the issue with a School Child Safe Officer.

The duty to act extends to situations where the students at risk or the person in authority is outside of Victoria.

What is a substantial risk?

A risk will be a substantial risk if a reasonable person would have judged the risk of a sexual offence being committed against the student as being substantial.

It is not necessary to prove that a sexual offence was committed in order for the substantial risk to exist a person in a position of authority should not wait for a student to be harmed before acting.

A number of factors will contribute to determining if a risk is a substantial risk, including:

- the likelihood or probability that a child will become the victim of a sexual offence
- the nature of the relationship between a child and the adult who may pose a risk to the child
- the background of the adult who may pose a risk to the child, including any past or alleged misconduct
- any vulnerabilities particular to a child which may increase the likelihood that they may become the victim of a sexual offence
- any other relevant fact which may indicate a substantial risk of a sexual offence being committed against a child.

What is a sexual offence?

Action must be taken where there is a substantial risk of sexual offences occurring, including:

- rape
- indecent assault

- incest
- sexual penetration
- grooming a child for sexual conduct
- encouraging a child to engage in, or be involved in, sexual activity
- an attempted sexual offence or an assault with intent to commit a sexual offence.

Who is "a person associated with the School"?

A person associated with the School is an adult and can be a:

- Board member
- Principal
- Teacher
- Boarding house supervisor
- Employee
- Volunteer (including parents/carer volunteers)
- Third Party Contractor.

A person will not be considered to be associated with the School purely because they receive services from the School.

Procedure to Reduce or Remove a Substantial Risk

Where any person in a position of authority at the time, becomes aware of a risk of a sexual offence against a student or students under their care, they should immediately:

- take reasonable steps which would remove or reduce the risk to the student or students, which may include immediately removing the person from contact with the student or students
- report the matter to a School Child Safe Officer, and the Principal, as soon as practicable so that an investigation can be conducted
- make the appropriate report.

Appropriate action to be taken may include, for example:

- a current employee who is known to pose a risk to a student or students should be immediately removed from contact with students and reported to authorities and investigated
- a parent who is known to pose a risk of sexual abuse to children should not be allowed to attend overnight school camps as a parent helper.

Mandatory Reporting

Source of Obligation

The Children, Youth and Families Act 2005 (Vic) (CYFA) (section 184) requires Mandatory Reporters to make a report to Department of Families, Fairness and Housing (DFFS). DFFS Child Protection when they believe that a child (aged under 17) is in need of protection from significant harm from physical injury or sexual abuse.

If a Mandatory Reporter makes a report in accordance with their Mandatory Reporting obligations under the CYFA, an additional report to the Police under section 327 Crimes Act 1958 (Vic) may not be required unless you have further information.

Who must make a mandatory report?

Mandatory Reporters are defined by the CYFA in section 182, and include:

- teachers

- the Principal
- medical practitioners
- nurses
- registered psychologists
- early childhood workers.

It is the responsibility of other staff, volunteers or members of the School community to check whether they are Mandatory Reporters under child protection legislation.

Reporting by Non-Mandated Staff

If you are not a Mandatory Reporter, you still have the option of making a report to DFFS Child Protection under the CYFA if you believe on reasonable grounds that a child is in need of protection.

The CYFA states that any person who believes on reasonable grounds that a child is at risk of harm should report their concerns to DFFS Child Protection.

All School staff who have concerns that a student may be in need of protection or may have been the victim of a sexual offence, should notify a School Child Safe Officer as soon as possible to discuss their concerns. Also refer to The Obligation to Report a Sexual Offence (above).

A Mandatory Reporter must make a report even if the Child Safe Officer does not share their belief that a report must be made.

What gives rise to a mandatory report?

A Mandatory Report must be made when you form a belief on reasonable grounds that a child is in need of protection where the 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.

Reasonable Grounds

The concept of "reasonable grounds" requires you to consider whether another person, when faced with similar information, would also draw the same conclusion. It does not mean reporters are required to be certain, but rather reporters should ensure their concerns are well founded and based on information from a reliable source. There may be reasonable grounds for forming such a belief if:

- a child states they have been physically or sexually abused
- a child states that they know someone who has been physically or sexually abused
- someone who knows the child states that the child 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 a child's safety, stability or development
- the staff member observes signs 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.

Significant

"Significant" means that which is sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent.

What is "significant" is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child's safety, welfare or wellbeing.

Significant harm can result from a single act or omission or an accumulation of these.

Physical Injury or Sexual Abuse

To assist in identifying physical injury or sexual abuse, refer to the School's information relating to Definition and Key Risk Indicators of Abuse (see above).

Parents Have Not Protected, or Are Unlikely to Protect, the Child from Harm of That Type

The meaning of this phrase is not defined by legislation, but some examples may assist.

A parent who "has not protected, or is unlikely to protect that child from harm of that type" includes a parent who wants to protect their child from harm, but lacks the means to.

It also includes a parent who has the means to protect their child from harm, but does not want to.

A parent may be rendered "unlikely to protect" that child for many reasons. For example:

- that parent does not, or refuses to recognise that harm is occurring
- that parent or child may be subject to domestic violence
- that parent's partner may be abusive or harmful to the child.

"Parent" includes:

- the child's father
- the child's mother
- the spouse of the mother or father of the child
- the domestic partner of the father or mother of the child
- a person who has custody of the child
- a person who is named as the father on the child's birth certificate
- a person who acknowledges that he is the father of the child by an instrument under the Status of Children Act 1974 (Vic)
- a person in respect of whom a court has made a declaration or a finding or order that the person is the father of the child.

What to Report and When

A report becomes mandatory as soon as is practicable after forming the belief.

A report must include details of the belief, and the reasonable grounds of that belief.

Additional reports must be made on each occasion where you become aware of any further reasonable grounds for the belief.

Refer to the Four Critical Actions For Schools Responding to Incidents, Disclosures and Suspicions of Child Abuse, for guidance on making a decision on whether to report.

How is a report/referral made?

Whenever there are concerns that a child is in immediate danger the Police should be called on 000 or, for the local Nhill Police Station (03) 5391 1022.

A report to DFFS Child Protection should be considered if the staff member forms the view the child 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 and development
- the child's parents cannot or will not protect the child from harm.

To report concerns about the immediate safety of a child within their family unit, call the **24 hour Child Protection Crisis Line 13 12 78**.

Concerns that require immediate attention should be made to the local or regional Human Services Child Protection office, the After Hours Child Protection Emergency Services on **131 278**, or to Child First on **1300 543779**.

Once a report has been made to:

- the Police
- DFFS Child Protection
- Child FIRST

you should also notify the Principal or a School Child Safe Officer of the details of the report if they have not already been involved in the process.

What if I don't have a reasonable belief?

If you don't have a reasonable belief about a child, but still have concerns, you can refer the matter to a School Child Safe Officer.

There is also the option to refer the matter to Child FIRST.

A referral to Child FIRST should be considered if a staff member forms the view that the concerns have a low-to-moderate impact on the child and the immediate safety of the child is not compromised.

A referral can be made when the following factors may affect a child:

- significant parenting problems
- family conflict
- a family member's physical or mental illness, substance abuse, disability or bereavement
- isolated or unsupported families
- significant social or economic disadvantage.

What happens after a report/referral is made?

After receiving a report, DFFS 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 cases, DFFS Child Protection will inform the reporter of the outcome of the report.

After receiving a referral, Child FIRST may consult an experienced community-based Child Protection practitioner in their assessment. The assessment may lead to the involvement of a local family services organisation.

In most cases, Child FIRST will inform the referrer of the outcome of the referral.

Child FIRST must report the matter to DFFS Child Protection if they form the view the child is in need of protection.

Reports made to the Police will be dealt with in accordance with Police practice.

Reportable Conduct of Staff, Volunteers and Others

Source of Obligation

The Child Wellbeing and Safety Act 2005 (Vic) (the Act) requires the School to investigate and report to the Commission for Children and Young People (CCYP) allegations of "employee" reportable conduct or misconduct that may involve reportable conduct.

The School has developed the following which sets out our systems for enabling persons to report reportable conduct and for such reports to be investigated and responded to. This process is made available to all staff, Volunteers, Third Party Contractors, the Board, parents/carers and students via our public website and School intranet.

The CCYP's website provides additional guidance and materials which assist the School to understand and meet their obligations under the Act.

Who is an employee?

Section 3 of the Act defines "employee" as a person aged 18 years or over who is:

- employed by the School whether or not that person is employed in connection with any work or activities of the School that relate to children; or
- engaged by the School to provide services, including as a volunteer, contractor, office holder or officer, whether or not the person provides services to children.

A minister of religion or a religious leader is also an employee.

Of relevance to the School, the following people are considered to be employees:

- Board Members
- The Principal
- Staff Members
- Volunteers
- Third Party Contractors
- External Education Providers
- Pastors

What is reportable conduct?

Reportable conduct is defined in section 3 of the Act to mean:

- a sexual offence committed against, with or in the presence of, a child, whether or not a criminal proceeding in relation to the offence has been commenced or concluded;
- sexual misconduct committed against, with or in the presence of, a child;
- physical violence committed against, with or in the presence of, a child;
- any behaviour that causes significant emotional or psychological harm to a child; or
- significant neglect of a child.

"Sexual misconduct" includes:

- behaviour, physical contact or speech or other communication of a sexual nature, for example 'sexting'
- inappropriate touching or physical contact
- grooming behaviour
- voyeurism.

"Sexual offence" for the purposes of the Reportable Conduct Scheme means a serious sexual offence as set out in clause 1 of Schedule 1 of the Sentencing Act 1991 (Vic), which includes rape, attempted rape, sexual assault, incest, indecent act with a child, persistent sexual abuse of a child, grooming and the production or possession of child pornography.

"Significant" means in relation to emotional or psychological harm or neglect, that the harm is more than trivial or insignificant, but need not be as high as serious and need not have a lasting permanent effect.

The CCYP has provided guidance on how to identify physical violence, behaviour that causes emotional or psychological harm to a child and neglect.

The Commission has provided guidance on how to identify physical violence, behaviour that causes emotional or psychological harm to a child and neglect.

"Physical violence" includes an act that causes physical injury or pain. Examples of physical violence can include:

- hitting/kicking/punching
- pushing/shoving/grabbing/throwing/shaking
- using an object to hit or strike
- using inappropriate restraint/excessive force.

Physical violence does not include:

- reasonable steps taken to protect a child from immediate harm, such as taking a child's arm to stop them from going into oncoming traffic
- medical treatment given in good faith by an appropriately qualified person, such as a first aid officer administering first aid.

"Behaviour that causes emotional or psychological harm to a child" requires a clear link between the alleged conduct and the significant harm suffered (significant is defined above).

Signs that a child may have been emotionally or psychologically harmed may include:

- patterns of out-of-character behaviour
- regression in behaviour
- distress and anxious behaviours
- other physical symptoms, such as self-harm.

The exacerbation or aggravation of an existing mental health disorder may also cause emotional or psychological harm.

Examples of emotional or psychological harm may include:

- exposure to violence or threats of violence
- self-destructive behaviour
- antisocial behaviour
- persistent hostility/rejection
- humiliation/belittling
- scapegoating.

It will not be reportable conduct if:

- a person takes reasonable steps to protect a child from immediate harm
- a person with responsibility for discipline takes lawful and reasonable disciplinary action, such as sending a child to sit in 'time out' for a period of time
- an appropriately qualified person, gives medical treatment in good faith such as a first aid officer administering first aid.

"Neglect" occurs when a person does not meet their obligations and responsibilities to keep a child safe and well. The neglect:

- must be more than minor and insignificant
- does not need to have a lasting or permanent effect
- may be an ongoing situation or a one-off incident, as long as it is not minor in nature.

Our Child Safe Code of Conduct outlines expected standards of behaviour for all staff, volunteers and Third Party Contractors at the School. It is important to note that a breach of this Code will not always constitute an incident of reportable conduct. Such breaches can often be dealt with at the School level and don't need to be reported to the CCYP. For example, reasonable discipline of a student would not amount to behaviour that causes emotional or psychological harm to a child and therefore is not reportable conduct.

What must be notified?

The School must notify the CCYP of a reportable allegation against a staff member. The School does not need to share the reasonable belief to be required to make the report.

Reportable allegation is defined in section 3 of the Act to mean any information that leads a person to form a reasonable belief that a staff member has committed:

- reportable conduct; or
- misconduct that may involve reportable conduct –
- whether or not the conduct/misconduct is alleged to have occurred in the course of the person's employment at the School.

Guidance from the CCYP states that reasonable belief is more than a suspicion. There must be some objective basis for the belief. However, it is not the same as proof and does not require certainty.

Who must make the notification?

Any person may disclose a reportable allegation to the CCYP by using an online form available from the CCYP's website, by phone or by letter (section 16L of the Act).

While any person may disclose a reportable allegation, the Principal of the School must notify the CCYP of a reportable allegation (section 16M).

The Principal of the School has distinct responsibilities under the Reportable Conduct Scheme.

It is a criminal offence for the Principal to fail to disclose a reportable allegation to the CCYP without a reasonable excuse. The Act doesn't define what a reasonable excuse may be, but section 16M(5) provides an exemption if they honestly and reasonably believed that another person had notified the CCYP.

The Principal must make a report using an online form available from the CCYP's website.

Fulfilling the Principal Responsibilities

The Principal is responsible for ensuring the School complies with the reportable conduct obligations under the Act. However, the CCYP does not expect the Principal to practically carry out their responsibilities alone. They may seek help from other people within the School. This may include creating and developing systems, sending approved notifications to the CCYP, or conducting investigations on behalf of the Principal.

The Principal cannot delegate their responsibilities under the Act - they are still solely responsible for ensuring the School's compliance with the Reportable Conduct Scheme.

The Principal has authorised the Deputy Principal to carry out physical or practical tasks such as making notifications to the CCYP, or liaising with the CCYP, when the Principal is unavailable.

Reportable Conduct and Other Reporting Obligations

The reportable conduct obligation covered in this policy is separate and distinct from the:

- Mandatory Reporting obligation under the Children, Youth and Families Act 2005 (Vic)
- Obligation to Report a Sexual Offence obligation under the Crimes Act 1958 (Vic)
- Conduct that is Reportable to the Victorian Institute of Teaching under the Education and Training Reform Act 2006 (Vic).

The threshold for reporting allegations of reportable conduct is much lower than these other reporting obligations.

Any allegations of criminal conduct, including physical violence, significant emotional or psychological abuse, sexual offences and significant neglect must be reported to the Victorian Police as the first priority. A Police investigation will take priority over any investigation conducted by the School under this Policy.

Internal Reporting of Reportable Allegations

As soon as a person, including a staff member, forms a reasonable belief that a staff member at the School has engaged in reportable conduct or misconduct that may involve reportable conduct (a reportable allegation), the person must notify the Principal.

The report may be made verbally or in written form using the Responding to Suspected Child Abuse Template.

This Template was created for reporting abuse, rather than reportable conduct but it is an excellent way to record as much information about reportable allegations as is available.

Where the reportable allegation involves the Principal, the reporter must notify the School Board Chair. The reporter may also notify the CCYP directly using an online form available from the CCYP's website, by phone or by letter.

Where a verbal report is made by a staff member, it should be followed up with a written report provided to the Principal within 48 hours of the verbal report.

Reporting to the CCYP by the Principal

Where the Principal receives a reportable allegation from any person, including a staff member, they must notify the CCYP within three business days.

Where a person has a reasonable belief that the Principal has engaged in reportable conduct, verbal and written reports should be given to the School Board Chair who will become the "head" of the School for the purposes of reporting the reportable allegation.

There are two stages of reporting.

The CCYP must be notified by the Principal in writing of:

- the reportable allegation as soon as possible, and in any event within three business days of the Principal being notified of the reportable allegation (Stage One Report)
- the proposed next course of action (see below), as soon as practicable, and within 30 days of becoming aware of the reportable allegation (Stage Two Report).

Stage One Report

An online form available on the CCYP's website must be used for the Stage One Report.

The report to the CCYP must state:

- that a reportable allegation has been made against a staff member
- the name (including any former name and alias, if known) and date of birth, if known, of the staff member
- whether the Victoria Police has been contacted about the reportable allegation
- the name, address and telephone number of the School
- the name of the Principal.

If the staff member is a registered teacher and the misconduct involves a charge, conviction or finding of guilt of a sexual offence, the School must immediately notify the Victorian Institute of Teaching (VIT) under our Conduct that is Reportable to the Victorian Institute of Teaching policy. The timing of making a Stage One Report to the Commission under this policy will coincide with the timing of a report made to the VIT.

What happens after a report to the CCYP is made?

After the Principal has made a report to the CCYP, they must ensure that an appropriate investigation of the reportable allegation is conducted.

The investigation can be conducted by the Principal or authorised representative. Alternatively, the School can appoint an investigator.

Any allegation of child abuse, including physical violence, significant emotional or psychological abuse, sexual offences or significant neglect, must be reported to the Victorian Police. A Police investigation will take priority over any investigation conducted by the School under this policy.

The Principal must notify the CCYP of who will be conducting the investigation.

The investigation must be conducted in accordance with the rules of procedural fairness and natural justice.

A Police investigation into any matter takes priority over an investigation by the School. On becoming aware that the Police are investigating a reportable allegation:

- the School should consult with the Police before commencing an investigation to find out if the Police are, or will be, conducting an investigation
- the School's investigation should be put on hold until the Police investigation is complete.

The Principal must give the CCYP:

- a copy of the findings of the investigation and the reasons for those findings
- details of any disciplinary or other action that the School proposes to take in relation to the Staff Member and the reasons for that action
- if the School does not propose to take any disciplinary or other action in relation to the Staff Member, the reasons why no action is to be taken.

Under the Act, a staff member may seek a review by the CCYP of a finding made at the conclusion of an investigation.

Stage Two Report

The report to the CCYP must state:

- detailed information about the reportable allegation
- whether or not the School proposes to take any disciplinary or other action in relation to the staff member and the reasons why it intends to take, or not to take, that action
- any written submissions made to the Principal concerning the reportable allegation that a staff member wished to have considered in determining what, if any disciplinary or other action should be taken in relation to the staff member.

Any allegation of Child Abuse, including physical violence, significant emotional or psychological abuse, sexual offences or significant neglect, must be reported to the Victorian Police. A Police investigation will take priority over any investigation conducted by the School.

Information Sharing: Children and Parents/Carers

The Principal may disclose:

- information about the progress of the investigation
- the findings, reasons for the findings and the recommendations made at the conclusion of the investigation
- an action taken in response to those findings

to:

- the child who is the subject of the reporting allegation
- a parent
- a carer
- the DFFS if the child is under its care.

Information Sharing: Schools, the CCYP and Others

The Principal may disclose information in relation to:

- a reportable allegation
- a concern that reportable conduct has been committed
- the investigation of a reportable allegation or concern about reportable conduct
- the findings of an investigation and the reasons or recommendations made at the conclusion of the investigation
- any action taken in response to those findings

to:

- the CCYP
- the head of another entity governed by the Act, such as another school
- a regulator
- the Chief Commissioner of Police
- if necessary for the purposes of an investigation, an independent investigator
- if necessary for the purposes of a Working with Children Check, the Secretary to the Department of Justice and Regulation
- a relevant Minister.

Publication of Information

The School must not publish information (includes making the information publicly available in writing or email) that would enable the identification of:

- a person or who notified the CCYP
- a child in relation to whom a reportable allegation was made or a finding of reportable conduct was made.

The Act provides more information on the meaning of "publish" if required.

Powers of the CCYP

The CCYP has broad powers under the Act in relation to investigating a reportable allegation at the School. The CCYP may visit the School, inspect documents and interview Staff or students involved in the reportable allegation.

The School must assist the CCYP in all reasonable aspects of its investigation.

Responding to Other Concerns About the Wellbeing of a Child

If you have any concern about the wellbeing of a child or young person, regardless of whether or not it has been caused by abuse or neglect, your concern should be taken seriously and acted upon.

The School and its teaching staff, non teaching staff, Board members, Principal, Volunteers, Third Party Contractors and External Education Providers (together, known as "staff" for the purposes of this policy) owe a duty of care to all students at the School to ensure that they feel safe and are supported at School.

Concerns about the wellbeing of a child, that do not appear to be the result of abuse or neglect, may be reported to:

- Child FIRST; and
- the Victorian Police.

- DFFS Child Protection should also be contacted if you believe a child is in need of protection.

Child FIRST

Child FIRST is a community-based referral point to Family Services in Victoria. In addition to reporting suspected abuse to the appropriate authorities in accordance with the School's Procedures for Responding to and Reporting Allegations of Child Abuse, all staff should make a referral to Child FIRST if:

- you have significant concern for a child's wellbeing
- your concerns have a low-to-moderate impact on the child
- the child's immediate safety is not compromised
- you, or the School, have discussed the referral with the child's family and they are supportive of it.

Examples of concerns that staff should refer to Child FIRST include instances where a child's care or development is significantly impacted by:

- parenting problems
- family conflict or breakdown
- pressure due to a family member's physical/mental illness
- significant social or economic disadvantage.

7.2 Victoria Police

In addition to reporting suspected abuse to the appropriate authorities in accordance with the School's Procedures for Responding to and Reporting Allegations of Child Abuse, all staff must contact Victoria Police on 000 if:

- a child's immediate safety is compromised
- a child is partaking in any risk taking activity that is illegal or extreme in nature or poses a high risk to the child.

DFFS Child Protection

In addition to reporting suspected abuse to Child FIRST or the Police, the appropriate authorities in accordance with the School's Procedures for Responding to and Reporting Allegations of Child Abuse, all staff should contact DFFS Child Protection if you believe a child is in need of protection.

Common grounds for protection include instances where:

- a child's parents have abandoned the child and after reasonable inquiries, the parents cannot be found and no other suitable person can be found who is willing and able to care for the child
- a child's parents are dead or incapacitated and there is no other suitable person willing and able to care for the child
- a child is displaying extreme risk-taking behaviour, which has potentially severe or life-threatening consequences. For example, severe alcohol or drug use, unsafe sexual activity including prostitution, or violent or dangerous peer group activity. Staff should also report extreme risk-taking behaviour that is illegal to the Police
- there is a threat of harm to an unborn child, including circumstances where a parent has previously demonstrated an inability to safely parent.

Conduct that is Reportable to the Victorian Institute of Teaching **Reportable Conduct**

The School has a duty of care to investigate and act on allegations of employee misconduct or conviction which relate to their ability to perform their functions.

Under the Education and Training Reform Act 2006 (Vic), the School must notify the Victorian Institute of Teaching (VIT) once the School has taken action against a registered teacher. The VIT then has powers to investigate and take further action.

VIT Reporting, Mandatory Reporting and Reporting to the CCYP

The reporting obligation covered in this process is separate and distinct from the Mandatory Reporting obligation under the Children, Youth and Families Act 2005 (Vic) (refer to Mandatory Reporting) and the Reportable Conduct Scheme under the Child Wellbeing and Safety Act 2005 (Vic) refer to (Reportable Conduct).

Internal Reporting of Allegations of Staff Misconduct

Any allegation of teacher misconduct must be immediately reported to the Principal, or the Chair of the School Board should the allegation involve the Principal.

Internal Investigation of Allegations of Misconduct

Once an allegation of misconduct has been made (which does not require reporting to Department of Families, Fairness and Housing (DFFS) DFFS Child Protection under the Mandatory Reporting obligations) an internal investigation, led by the Principal, or the Chair of the Board if the allegation relates to the Principal, will be conducted in such a manner as the particular circumstances demand.

It is important to note that an internal investigation must not be conducted in relation to an allegation that is the subject of Mandatory Reporting until clearance is given by the relevant authorities (Police or DFFS Child Protection).

Reporting Obligations to the VIT and VRQA

The School must notify the VIT and VRQA if the School has taken action against a registered teacher in response to:

- allegations of serious misconduct
- serious incompetence
- fitness to teach (which relates to character, reputation and conduct, and whether the teacher is physically and mentally able to teach)
- a registered teacher's ability to practice as a teacher is seriously detrimentally affected or likely to be seriously affected because of an impairment.

The School must immediately notify the VIT and VRQA if the School becomes aware that a teacher:

- has been charged with or committed for trial for a sexual offence, (including grooming, encouragement and child pornography offences)
- has been convicted or found guilty of an indictable offence (offences detailed in the Crimes Act 1958 (Vic) and the Wrongs Act 1958 (Vic), including offences which carry prison sentences of 5 years or more or penalties over a threshold level).

The School should also notify the VIT and VRQA if a teacher takes action against them in another forum such as the Fair Work Commission.

"Actions" to be Reported

"Actions" which will be reported by the School to the VIT include (but are not limited to):

- disciplinary action taken by the School
- where a teacher resigns after being advised by the School that it is inquiring into allegations.

When to Notify the VIT

The VIT should be notified of the action taken against a teacher once the process initiated by the School has been initiated.

VIT Response

On receiving the notification, the VIT has the power to:

- ensure that it has obtained all relevant information from the School, and may request further information
- decide whether the matter does not reach the threshold required for it to proceed
- conduct an investigation, an informal hearing, or a formal hearing
- summarily suspend the teacher on an interim basis pending an investigation, if the VIT forms a reasonable belief that the teacher poses an unacceptable risk of harm to children and believes that suspension is necessary to protect children.

A formal hearing may result in findings which can result in cautions, reprimands, conditions imposed including counselling and further education, suspension, cancellation of registration and/or a period of disqualification.

Impact on Working with Children Check

Where an employee, volunteer, or Third Party Contractor has been charged with or found guilty of a serious sexual, violent or drug-related offence (including grooming and child pornography offences) (Category 1 or Category 2 offence in the Working with Children Act 2005 (Vic)) their Working with Children Card will be revoked and they will not be able to work, or volunteer to work with children.

Managing Reporting With Culturally Diverse Groups

Nhill Lutheran School recognises that students and parents from different backgrounds may not be comfortable reporting allegations of abuse. In order to support these groups, the School will seek advice from a representative of the community and the community itself through a number of processes at the time of enrolment, during transition and as the need arrives due to circumstances.

Communication with Parents/Carers

In many cases of suspected child abuse, or where it is suspected that a child is at risk of being abused, it is critical that the child's parents/carers are notified as soon as is practicable after a notification has been made to the appropriate external authority. This enables the child's parents/carers to take steps to:

- prevent or limit their child's exposure to further abuse
- ensure that their child receives the support that is needed.

It is the School's practice that any notification made to parents/carers of a child suspected to have been abused, or is at risk of being abused, is made by the Principal or the Senior Child Safe Officer after a notification to either DFFS Child Protection or the Police has been made, and only with their express permission.

Before contacting parents/carers the School's Principal or a Child Safe Officer must seek advice from DFFS Child Protection and/or the Police, depending on who the report was made to. The Principal or a Child Safe Officer may be advised by an external authority not to contact the parents in circumstances where:

- the parents/carers are alleged to have engaged in the abuse
- a disclosure to the parents/carers may subject the child to further abuse
- the child is a mature minor (assessed to be sufficiently intelligent and mature to make such decisions on their own behalf) and has requested that the parents/carers not be contacted
- the notification is likely to have an adverse effect on an ongoing investigation into the incident.

The Principal may disclose information about an investigation into a reportable allegation to a parent or carer of the child in relation to which a reportable allegation has been made.

Support for Students Interviewed at the School

The School has certain legal requirements when a request is made by the Police or DFFS Child Protection workers to interview students regarding child protection incidents at the School. Students to be interviewed may include victims, witnesses or those alleged to have perpetrated abuse.

Support for Students

All students interviewed by the Police or DFFS Child Protection at the School must be supported. Where possible, the student's parents/carers should be present for any interview. Where this is not practicable, one of the following persons may provide support to the student during the interview, as appropriate:

- the Principal
- a Child Safe Officer
- in the case of Police interviews, an independent support person over the age of 18 who is not connected with the School, for example a social worker or nurse (independent supportive adult).

Consideration should be given as to whether there may be a conflict of interest between the independent supportive adult and the student being interviewed. For example, a situation may arise where the Principal or a Child Safe Officer is related to the perpetrator of the child protection incident, the student is a family member, or the Principal or a Child Safe Officer may be the perpetrator.

General Protocols

The School's Principal must:

- facilitate interviews requested by the Police or DFFS Child Protection workers
- advise students of their right to have an independent supportive adult, parent or carer present at such an interview
- arrange for the student to choose an independent supportive adult to be present
- balance their obligation to protect the rights of students with their obligation to assist the Police and DFFS Child Protection in their exercise of duty
- ensure there is someone acting as an independent supportive adult for students interviewed at School by the Police or DFFS Child Protection workers
- observe confidentiality at all times in the management of a mandatory reporting or criminal case.

Contacting Parents/Carers

Before contacting a student's parents/carers, the Principal must seek advice from the Police or DFFS Child Protection to determine if parents/carers should be present at the interview.

Where appropriate, parents/carers must be advised of the scheduling of an interview with the Police. Parents/carers should also be advised of interviews that have been scheduled with DFFS Child Protection where it is deemed to be appropriate, however DFFS Child Protection may conduct interviews with students without parental/carer knowledge or consent in exceptional circumstances.

Student as a Victim/Witness

When the Principal allows interviews involving students who may be victims or witnesses, they should:

- support and encourage the student to provide as much information as possible

- inform the student that a note of the circumstances and the content of the interview will be made and communicated to their parents/carers as soon as possible, unless doing so causes a risk of abuse.

Student as a Suspect

If Police need to speak with a student who has allegedly abused another child, or student at the School, this should preferably be done in the presence of the student's parents/carers, or another independent supportive adult.

Complying with Court Orders

A subpoena or witness summons is a court order that compels the School to produce documents or attend court and give evidence, or both. The Principal or a staff member will usually be issued with a subpoena or witness summons because a party to legal proceedings believes that the School, the Principal or a staff member has information or documents that are relevant to the proceeding.

The School will seek external legal advice and support relating to complying with subpoenas or witness summons.

Making Additional Reports

There are some circumstances in which you will be required to make an additional report to an appropriate external authority.

Reporting Further Grounds for Belief or Suspicion

If you hold a reasonable belief that a child has been, or is at risk of being abused, you must still make a report to the relevant external authority about a child even if:

- DFFS Child Protection or the Police have previously been involved or are currently involved with the child and/or their family
- you are aware that another party, such as another staff member, volunteer, or family member, has raised concerns with the relevant authorities.

Every report is critical to protecting a child by building evidence and enabling external authorities to gain a clear understanding of the risks posed to the child.

Another Person Has Made a Report

There may be times when two or more staff members at the School (for example the Principal and a Child Safe Officer) have formed a belief about the same child on the same occasion and based on the same information.

In this situation, it is sufficient that only one of the staff members make a report to the relevant external authority, as the belief is based on the same information. However, the other staff member, who does not make the report, is obliged to ensure that the report has been made and that all grounds for their own belief were included in the report made to the authority.

If staff members do not agree on what should be reported, for example a staff member does not agree with the Principal's decision to make a report to an external authority, the staff member is legally obliged to make a report anyway.

Other Concerns About the Wellbeing of a Child

If you believe that a child has not been subjected to abuse or neglect but still hold significant concerns about the child's wellbeing, you still may be required to report your concerns to DFFS Child Protection, the Police or Child FIRST.

Child Protection Complaints Management

The School has developed a Complaints Handling Program to ensure that any child protection-related feedback, comments or complaints from School community members and relevant stakeholders are captured, analysed and acted upon where appropriate.

This may include feedback about certain staff members or volunteers, or the School's Child Protection Program.

When a complaint is made to the School it is important for the School to consider whether the complaint raises any concerns about unreported abuse and/or risk of abuse at the School.

The School Board, staff including the Principal, volunteers, Third Party Contractors and External Education Providers must follow the School's Procedures for Responding to and Reporting Allegations of Child Abuse if any information received with a complaint leads to new grounds for a reasonable belief or suspicion that a student may be subject to, or at risk of, any unreported abuse.

- Making a Child Safe Report - The Process
- Four Critical Actions for Schools

Confidentiality and Privacy

Anyone who has access to information regarding a case of suspected child abuse must keep such information confidential and secure and must only disclose or discuss this information with those involved in managing the situation.

You must not provide undertakings that are inconsistent with their reporting obligations in the School's Child Protection Program. In particular, you must not promise a student that you will not tell anyone about the student's disclosure.

Students and any other parties who become involved in the investigation (this may include other students) should be informed of the reporting process and be required to maintain confidentiality.

Inappropriate disclosure will be subject to disciplinary action.

Protection of Reporter's Identity

Reports or referrals made to DFFS Child Protection or Child FIRST are confidential and the reporter's identity is generally protected by law. Exceptions include if:

- the reporter chooses to inform the child or family of the report
- the reporter consents in writing to their identity being disclosed
- a court or tribunal decides 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 the reporter is required to attend court to provide evidence.

The identity of the person who makes a report to the Police, including reports under section 327 of the Crimes Act 1958 (Vic) (Obligation to Report a Sexual Offence), will remain confidential unless:

- the person themselves discloses their identity or they consent in writing to their identity being disclosed
- a court or tribunal decides that it is necessary in the interests of justice for the person's identity to be disclosed.

Reporter Liability

A person who makes a Mandatory Report in accordance with the Children, Youth and Families Act 2005 (Vic), or a report under the Child Wellbeing and Safety Act 2005 (Vic) (Reportable Conduct Scheme) will not be held liable for the eventual outcome of any investigation.

If a report is made in good faith, it does not constitute a breach of professional ethics on the part of the reporter and the reporter cannot be held legally liable in respect of the report.

Protection of Staff's WWCC Status

The School will only be informed of whether an individual passes or fails the WWC Clearance. None of the information gathered for the WWC Clearance, such as criminal or professional records, will be passed on to Nhill Lutheran School.

Protection of Personal Information

How Nhill Lutheran School handles the information we collect about individuals (referred to in the Privacy Act 1988 (Cth) as personal information) is very important, as the people we deal with expect us to handle their personal information properly and we have a legal obligation to do so. Personal information is information, or an opinion, about an identified individual, or an individual who is reasonably identifiable:

- whether the information, or opinion, is true or not
- whether the information, or opinion, is recorded in a material form or not.

The Privacy Act 1988 (Vic) only applies to personal information that is captured in a record.

Requests for Information

If you receive a request from the Police, the Commission for Children and Young People (CCYP) or DFFS Child Protection for information relating to a student who has been impacted (or is suspected to have been impacted) by child abuse, you should:

- obtain the request for information in writing; and
- ensure that the written request includes:
 - the name of the Police officer, the representative of the CCYP or DFFS Child Protection worker, the organisation they work for and their contact details
 - a description of the information and/or documents being sought
 - the reasons why the information and/or documents are being sought
 - what authority the officer/worker or the organisation believes that they have to access the requested information and documents.

When information and/or documents are requested in this way, you may be permitted to share the information. However, you are not compelled to do so.

Information Sharing with the School Community

The School takes great care to assess the relevance and appropriateness of sharing information about a child protection incident before providing any information about child abuse to the School community because even the confirmation of an incident or allegation can lead to the identification of a victim.

Child Protection Record Keeping

Effective child protection record keeping is one of the School's key strategies in the management of its child protection obligations, including the fulfillment of our duty of care.

It is through such record keeping that the School can ensure that, should there ever be a need for evidence of the School's child safe culture or precautions and preventative measures taken in response to the risk of child abuse, the School has well-documented and easily-accessible records.

Documenting a Suspicion or Belief of Abuse

Where a staff member, Board member, volunteer or other member of the School community forms the belief on reasonable grounds that a student is in need of protection, written and dated notes of their observations and concerns should be recorded to assist in a referral/report of child abuse.

All verbal and written communications regarding child protection matters (including notes of observations, student disclosures, meetings and telephone calls) must be properly documented. The documented records should include dates and times and enough detail to record key conversations, especially those relating to the student's disclosure.

The records of child protection must be stored securely.

How to Record Observations, Disclosures or Allegations of Abuse, Grooming or Student Sexual Offending

The School requires all members of the School community, including the Board, staff, volunteers, Third Party Contractors and External Education Providers to use the Responding to Suspected Child Abuse Template form or the Student Sexual Offending Record Keeping Template to record all observations, beliefs, suspicions, disclosures or allegations of abuse.

The Templates are provided by the DET and DFFS Child Protection for all Victorian schools and are made available on the School's shared drive and in hard copy at the School.

All completed Template reporting forms are to be given to the School's Principal or a Child Safe Officer. The School maintains records of all child abuse observations, disclosures, allegations, incidents and subsequent investigations.

DATE: APRIL 2022

FOR REVIEW: APRIL 2025

APPENDIX A

Our Child Safe Officers - Who do I talk to?

Nhill Lutheran School has appointed the people listed below as the School's Child Safe Officers. Each Child Safe Officer is available to answer any questions that you may have with respect to our Child Safe Policy and Child Safe Program.

The School's Child Safe Officers are your first point of contact for reporting child safe issues within the School. They receive special training that allows them to deal with child safe concerns both sensitively and effectively.

'Child Abuse' includes:

- Sexual offences;
- Grooming;
- Physical violence;
- Serious emotional or psychological harm;
- Serious neglect;
- Family violence, or exposure to family violence.

If you have any concern that a child may be experiencing any form of abuse, whether or not you have formed a belief on reasonable grounds that the abuse has occurred, you should immediately raise your concerns with one of our Child Safe Officers.

These Child Safe Officers can be contacted:

- In Person
- Calling School Reception on (03) 5391 2144 and requesting to speak to an officer;
- Emailing the officer

The welfare and best interest of the child are paramount. Whenever there are concerns that a child is in immediate danger the Police should be called on 000 or 112.



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