



SELBY PRIMARY SCHOOL – No 4685

STUDENT WELFARE:
MANDATORY REPORTING POLICY

Ratified by School Council: August 2015

Review date: July 2016

1. CONTEXT

Child abuse can have a significant effect on a child's physical or emotional health, development and wellbeing. School staff have a duty of care to protect and preserve the safety, health and wellbeing of children and young people in their care and staff must always act in the best interests of those children and young people. If a staff member has any concerns regarding the health, safety or wellbeing of a child or young person it is important to take immediate action.

Selby Primary School takes the obligations under legislation, to report children in need of protection, very seriously.

2. OBJECTIVES – to ensure that:

- as soon as a person becomes aware that a child's health, safety or wellbeing is at risk this is reported to Child Protection in a timely manner
- any belief of a child at risk of harm or in need of protection is made on reasonable grounds and all reports are made in accordance with the *Children Youth and Families Act 2005* (CYFA) regulations
- any information about the identity of reporters is kept confidential unless the reporter consents to the disclosure of their identity
- confidentiality is respected when dealing with a case of suspected child abuse or neglect and details and the identity of the child and their family are only discussed with those involved in managing the situation
- all interviews are conducted and support people are provided in accordance with CYFA regulations

3. IMPLEMENTATION

Mandated reporting of children requiring protection

Mandated staff members must make a report to the Department of Health and Human Services (DHHS) Child Protection as soon as practicable after *forming a belief on reasonable grounds* that a child or young person is in need of protection from significant harm as a result of physical injury or sexual abuse, and the child's parents are unable or unwilling to protect the child.

The Following professional groups are prescribed under section 182 of the *Children Youth and Families Act 2005* (CYFA) as **mandatory reporters**:

- teachers registered to teach under the *Education and Training Reform Act 2006*, or any person who has been granted permission to teach under that Act, including principals and students training to become teachers
- registered medical practitioners (including psychiatrists)
- nurses (including school nurses)
- police

There may be times when two or more mandated staff members, for example a teacher and a principal, have formed a belief about the same child or young person on the same occasion. In this situation it is

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sufficient for only one of the mandated staff members to make a report. The other staff member is obliged to ensure that the report has been made and that all of the grounds for their own belief were included in the report made by the other staff member.

Failure to report by mandated professionals

A failure by mandated professionals and staff members to report a reasonable belief that a child is in need of protection from significant harm as a result of physical or sexual abuse may result in the person being prosecuted and a court imposing a fine under the CYFA.

Non-mandated staff members

Section 183 of the CYFA states that any person, who believes on reasonable grounds that a child is in need of protection, *may* report their concerns to DHHS Child Protection. This means that any person, including non-mandated school staff, is able to make a report to Child Protection when they believe that a child or young person is at risk of harm and in need of protection, and the child's parents are unable or unwilling to protect the child.

Any adult (mandated and non-mandated) who forms a reasonable belief that a *sexual offence* has been committed in Victoria by an adult against a child under 16 **must report** that information to police. It is a criminal offence not to make a report, except in the following circumstances:

- The victim is 16 years of age or older and does not have an intellectual disability that limits his/her capacity to make an informed decision; and he/she does not want the information reported to the police
- The victim has disclosed the information in confidence in the course of a therapeutic relationship with you as a registered medical practitioner or counsellor.
- The victim turned 16 years of age before 27 October 2014.

Reasonable excuses for failing to comply with the requirement include:

- a reasonable belief that the information has already been reported to police or DHHS Child Protection disclosing all of the information
- a reasonable fear that the disclosure will place someone (other than the alleged perpetrator) at risk of harm.

Forming a belief on reasonable grounds

A person may form a belief on reasonable grounds that a child is in need of protection after becoming aware that a child or young person's health, safety or wellbeing is at risk and the child's parents are unwilling or unable to protect the child.

There may be reasonable grounds for forming such a belief if:

- a child or young person states that they have been physically or sexually abused
- a child or young person states that they know someone who has been physically or sexually abused (sometimes the child may be talking about themselves)
- someone who knows the child or young person states that the child or young person has been physically or sexually abused
- a child shows signs of being physically or sexually abused.
- the staff member is aware of persistent family violence or parental substance misuse, psychiatric illness or intellectual disability that is impacting on the child or young person's safety, stability or development
- the staff member observes signs or indicators of abuse, including non-accidental or unexplained injury, persistent neglect, poor care or lack of appropriate supervision
- a child's actions or behaviour may place them at risk of significant harm and the child's parents are unwilling or unable to protect the child.

Staff members form a professional judgement or belief, in the course of undertaking their professional duties based on:

- warning signs or indicators (such as those above) of harm that have been observed or inferred from information about the child
- knowledge of child and adolescent development
- consultation with colleagues and other professionals
- professional obligations and duty-of-care responsibilities

Reporting a belief

Teachers and other school staff are encouraged to discuss any concerns about the safety and wellbeing of students with the principal or a member of the school leadership team. If a principal or member of the leadership team does not wish to make a mandatory report, this does not discharge the teacher's obligation to do so if they have formed a reasonable belief that abuse may have occurred. If the teacher's concerns continue, even after consultation with the principal or member of the leadership team, that teacher is still legally obliged to make a mandatory report of their concerns.

Staff members, whether or not mandated, need to report their belief when the belief is formed in the course of undertaking their professional duties. A report must be made *as soon as practicable* after forming the belief and on each occasion on which they become aware of any further reasonable grounds for the belief.

If one staff member has a different view from another staff member about making a report and the staff member continues to hold the belief that a child is in need of protection, that person is obliged to make a report to Child Protection.

Protecting the identity of the reporter

Staff **do not** require the permission of parents, carers or guardians to make a report to Child Protection, nor are they required to tell parents, carers or guardians that they have done so.

Confidentiality is provided for reporters under the CYFA. The CYFA prevents disclosure of the name or any information likely to lead to the identification of a person who has made a report in accordance with legislation, except in specific circumstances.

The identity of a reporter must remain confidential unless:

- the reporter chooses to inform the child, young person or family of the report
- the reporter consents in writing to their identity being disclosed
- a court or tribunal decides that it is necessary for the identity of the reporter to be disclosed to ensure the safety and wellbeing of the child
- a court or tribunal decides that, in the interests of justice, the reporter is required to attend court to provide evidence.

Information provided during a protective investigation may be used in a court report if the risks to the child or young person require the case to proceed to court. In these circumstances, the source of the information may be required to provide evidence to the court.

If Child Protection decides that the report is about a significant concern for the wellbeing of a child, they may refer the report to a community-based child and family service and disclose the identity of the reporter to that service. However, the CYFA provides that neither Child Protection nor the community-based child and family service may disclose the reporter's identity to any other person without the reporter's consent.

Professional protection for reporters

If a report is made in good faith:

- it does not constitute unprofessional conduct or a breach of professional ethics on the part of the reporter
- the reporter cannot be held legally liable in respect of the report

A person who makes a report in accordance with the legislation will not be held liable for the eventual outcome of any investigation of the report.

Child Protection Process

Processing reports

The CYFA allows for two types of reports to be made in relation to significant concerns for the safety or wellbeing of a child

- o a report to Child Protection or
- o a referral to Child FIRST.

A report to Child Protection should be made if, after taking into account all of the available information, the staff member forms a view that the child or young person is in need of protection because:

- the harm or risk of harm has a serious impact on the child's immediate safety, stability or development
- the child's parents cannot or will not protect the child or young person from harm.

Upon receipt of a report, Child Protection may seek further information, usually from professionals who may also be involved with the child or family, to determine whether further action is required.

In most circumstances, Child Protection will inform the reporter of the outcome of the report.

When the report is classified by Child Protection as a Wellbeing Report, Child Protection will in turn make a referral to Child FIRST.

Interviews at Victorian schools

The role of investigating an allegation of child abuse rests solely with Child Protection and/or Victoria Police.

Child Protection may conduct interviews of children and young people at school without parental knowledge or consent. However, a child will only be interviewed at a Victorian school in exceptional circumstances and if it is in the child's best interests to proceed in this manner. Child Protection will notify the school of any intention to interview a child or young person. This may occur regardless of whether the school is the source of the report to Child Protection.

When Child Protection practitioners arrive at the school, the principal or their nominee will ask to see their identification before allowing Child Protection to have access to the child or young person.

The role of school staff

The roles and responsibilities of staff in supporting children and young people who are involved with Child Protection may include acting as a support person for students, attending Child Protection case plan meetings, observing and monitoring students' behaviour, and liaising with professionals.

School staff **do not** have responsibility for liaising with the parents, carers or guardians of the child or young person regarding interviews and other matters relating to the case. This responsibility rests with

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The school does not have the power to prevent parents, carers or guardians from removing their children from the school and should not attempt to prevent the parents, carers or guardians from collecting the child. If a parent/carer or guardian removes a child before a planned interview has taken place, the principal and/or their nominee must contact Child Protection or Victoria Police immediately.

Support persons

Children and young people should be advised of their right to have a supportive adult present during interviews. If a child is too young to understand the significance of the interview, a staff member should make arrangements for a supportive adult to attend with the child.

The principal or their delegate may be identified as a support person for the child or young person during the interview, unless they believe that doing so will create a conflict of interest. Prior to the commencement of the interview, the Child Protection practitioner should always authorise the staff member to receive information regarding Child Protection's investigation. This may occur verbally or in writing using the relevant Child Protection proforma.

Support persons must refrain from providing their opinions or accounts of events during interviews.

Case confidentiality

Staff must respect confidentiality when dealing with a case of suspected child abuse and neglect, and must only discuss case details and the identity of the child or the young person and their family with those involved in managing the situation.

When a child or young person has moved to another school, professional judgement should be exercised as to what information needs to be passed on. This will be guided by usual procedures for passing on information about a child's general wellbeing or special needs, and the role of the school in any ongoing care plans.

Staff Training

Staff are informed of Mandatory Reporting requirements as part of their initial induction to the school. Staff are required to complete the online Mandatory Reporting program annually.

4. RELATED POLICIES

- Bullying
- Student Engagement and Welfare

5. REFERENCE

VRQA - 4.1 (a) Care Safety and Welfare of Students

CYFA - <http://www.dhs.vic.gov.au/cpmanual/intake/overview-of-intake-of-reports-under-the-children,-youth-and-families-act/1122-mandatory-and-other-required-reporting/3>

6. GLOSSARY/ACRONYMS

Child abuse includes:

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

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CYFA - *Children Youth and Families Act 2005*

DET - Department of Education and Training

DHHS – Department of Health and Human Services

VRQA - Victorian Registration and Qualifications Authority Framework

7. EVALUATION

This policy will be reviewed annually or more often if necessary due to changes in regulations or circumstances.