

Protecting Children – Reporting and Other Legal Obligations

Policy

The purpose of this policy is to:

- ensure school staff are aware of and comply with their legal responsibilities to protect the safety and wellbeing of children and young people
- explain the process following a report to Department of Families, Fairness and Housing Child Protection service (Child Protection).

Summary

School staff have a range of legal obligations with respect to protecting children and young people from abuse.

- School staff must be aware of and comply with their legal obligations with respect to reporting suspected child abuse and providing ongoing appropriate support.
- School staff must follow the [Four Critical Actions](#) where there is an incident, disclosure or suspicion of child abuse.
- Where a school staff member has reported a concern to Child Protection but they continue to have concerns for the child after Child Protection has closed the case, they may escalate the matter through Child Protection complaints management processes or reporting concerns from the principal to their regional Area Executive Director.

Details

School staff play a vital role in protecting children from harm and are well placed to observe signs or behaviours that may indicate risks of child abuse.

School staff must act, by following the [Four Critical Actions](#) , as soon as they witness an incident, receive a disclosure or form a reasonable belief that a child has, or is at risk of being abused.

Recognising different types of child abuse

Types of child abuse include:

- physical abuse
- sexual abuse
- grooming
- family violence
- emotional abuse
- neglect.

For information, refer to: [PROTECT: Identify child abuse](#)

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Making a report or referral — [Four Critical Actions](#) (See attached document)

School staff must follow the Four Critical Actions when responding to an incident, disclosure or suspicion of child abuse.

School staff must follow the Four Critical Actions every time they become aware of a further instance or risk of abuse. This includes reporting new information to authorities

Reporting obligations where there is a concern that a child is being abused

For information on how to report a suspicion, disclosure or incident of abuse, see the [Four Critical Actions](#).

When making any report in regards to suspected child abuse, we use [Responding to suspected child abuse template](#) to keep clear and comprehensive notes.

Failure to disclose

All adults must report to Victoria Police where they form a reasonable belief that a sexual offence has been committed by an adult against a child under the age of 16.

Failure to disclose the information may be a criminal offence unless you have a 'reasonable excuse' or have an 'exemption' from doing so.

If you are an adult that reasonably believes that a sexual offence has been committed against a child under the age of 16 by another adult, then you must call Victoria Police on [000](#) or your local police station.

For more information, visit the Department of Justice and Community Safety website: [Failure to disclose offence](#).

Failure to protect

Principals or school leadership staff, who become aware that an adult associated with the school poses a risk of sexual abuse to a child under the care, of the school, must take all reasonable steps to remove or reduce that risk.

This may include, for example, removing the adult from child-related work pending investigation. Failure to do so may be a criminal offence.

This applies to any staff member in a position of authority (e.g. principals, assistant principals and campus principals).

For more information, visit the Department of Justice and Community Safety website: [Failure to protect offence](#).

Reportable Conduct Scheme

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Principals must notify the Employee Conduct Branch as soon as possible after becoming aware of an allegation of reportable conduct.

There is an allegation of reportable conduct where a person has a reasonable belief that there has been:

- a sexual offence, sexual misconduct or physical violence committed against, with or in the presence of a child, or
- behaviour causing significant emotional or psychological harm to a child, or
- significant neglect of a child, or
- misconduct involving any of the above.

The Department's Employee Conduct Branch will report allegations of 'reportable conduct' raised against Department employees (and contractors, volunteers, allied health workers and other office holders) who are 18 years or over to the Commission for Children and Young People (CCYP).

The contact number for the Employee Conduct Branch is [03 9637 2595](tel:0396372595).

For more information refer to the [Reportable Conduct Scheme](#).

Mandatory reporting

A mandatory reporter must report to the Child Protection as soon as practicable if, in the course of practising their profession or carrying out their duties, they form a belief on reasonable grounds that:

- a child has suffered, or is likely to suffer, significant harm as a result of physical and/or sexual abuse, and
- the child's parents have not protected, or are unlikely to protect, the child from harm of that type.

It may be a criminal offence not to report in these circumstances.

Individuals at school required to report:

- Victorian Institute of Teaching (VIT) registered teachers, including principals
- school staff who have been granted permission to teach by the VIT
- staff who provide direct support to students for mental, emotional or psychological wellbeing, including (but not limited to) school health and wellbeing staff, primary welfare officers, student wellbeing coordinators, mental health practitioners, chaplains, and Student Support Services staff.

Child in need of therapeutic treatment

Any person who believes on reasonable grounds that a child over 10 but under 18 years of age has been exhibiting sexually abusive behaviours and may be in need of therapeutic treatment may make a report to Child Protection.

School staff must also report student sexual offending to the Victoria Police.

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For more information, refer to: [Identify and Respond to Student Sexual Offending](#).

Significant concerns for the wellbeing of a child

All concerns about the wellbeing of a child (or unborn child) should be taken seriously and acted upon.

School staff must contact Victoria Police if:

- there is any concern for a child's immediate safety and/or
- a child is partaking in any risk-taking activity that is illegal and extreme in nature or poses a high risk to the child or any other person.

School staff can contact Child Protection if:

- after consideration of all available information you form a view that the child is in need of protection and
- you believe that the child's parents/carers will not be open to support from family services to address their child's wellbeing.

For further information, refer to: [Responding to other concerns about the wellbeing of a child](#).

For contact details visit:

- [Child FIRST Child and family services](#)
- [The Orange Door](#)
- [The Lookout service directory](#) — for information, and guidance to help you respond to family violence
- [1800 RESPECT](#)— for family violence victims/survivors to be referred to counselling and information
- Child Protection — visit [Making a report to child protection](#)
- Victoria Police — call [000](#) or your local police station.

What happens when you make a report to Child Protection?

Confidentiality and professional protections

When you make a report, your identity as a reporter must remain confidential unless:

- you choose to inform the child, young person or parent of the report
- you consent in writing to your identity being disclosed
- a court or tribunal decides that it necessary for your identity to be disclosed to ensure the safety and wellbeing of the child
- a court or tribunal decides that you in the interests of justice the evidence needs to be given.

If a report is made in good faith:

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- 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.

The process once you report to Child Protection

Intake

When you make a report to Child Protection, your report will be received by the intake team. Intake determines the appropriate response and provides advice to reporters including advice about where children and families can access support services. Intake will decide whether your report should proceed to referral or investigation.

Investigation

If your report is classified as a protective intervention report and/or a therapeutic treatment report, it will proceed to investigation by Child Protection. An investigation establishes if a child is in need of protection as defined by the law. An investigation involves interviews with the child and parents.

Requests for information

Child Protection, Child FIRST/The Orange Door, and/or Victoria Police may request information from school staff about the child or family to investigate a report and assess the risk or wellbeing concerns of the child.

When sharing information with Child Protection, school teachers, principals, kindergarten teachers and any person in charge of an education service may disclose information to Child Protection in good faith in accordance with the Children Youth and Families Act 2005. This disclosure of information does not constitute unprofessional conduct or a breach of professional ethics, or expose the person to any liability.

For more information refer to the [Requests for Information about Students Policy](#).

Interviews

As part of an investigation, Child Protection and/or Victoria Police may conduct interviews of children at the school without the parent/carer's knowledge or consent. Child Protection would only interview children at school where it is in the best interests of the child.

For policy and guidance on police and DHHS interviews at school, refer to: [Police and DHHS Interviews](#).

Decision

After an investigation has been undertaken, Child Protection will decide whether the report has been substantiated and protective intervention is required.

Witness summons

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If Child Protection makes a protection application in the Children's Court, school staff might be required to produce documents or give evidence in court if requested. This is called a subpoena or a witness summons. Refer to: [Legal Claims, Subpoenas, Summonses and Other Legal Documents](#)

Protection order phase

If the court finds that the child is in need of protection and that an order is required to promote the child's ongoing safety and development, they will grant a protection order.

The primary role of the Child Protection practitioner during this phase is to administer the protection order made by the Children's Court and continue to engage with the child and family to address the protective concerns.

Support for the child or young person

Before, during, and after the Child Protection process, school staff must provide ongoing support for children impacted by abuse. School staff can support students by:

- developing a student support plan in consultation with wellbeing professionals
- acting as a support person for the child
- attending Child Protection case planning meetings
- observing and monitoring the child's behaviour
- referring to and/or liaising with wellbeing professionals.

Escalating concerns

Where a school staff member continues to have concerns about a child after Child Protection has closed the case, the school can escalate the matter by:

- using [Child Protection's complaints management process](#)
- escalating concerns from the principal to their regional area executive director. The area executive director can then share this information with their counterpart at Child Protection.

Training obligations

School staff use the Protecting Children — Mandatory Reporting and Other Obligations eLearning module to learn how to protect the safety and wellbeing of children and young people.

Requirements — school staff

School staff who are:

- mandatory reporters must complete the module once per calendar year
- not mandatory reporters are strongly encouraged to complete the module once per calendar year.

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Other legal obligations relating to suspicions, disclosures or incidents of child abuse

Duty of care

All school staff have a duty of care to take reasonable steps to protect children under their care from harm that is reasonably foreseeable. In relation to suspected child abuse, reasonable steps may include (but are not limited to):

- acting on concerns and suspicions of abuse as soon as practicable
- seeking appropriate advice or consulting with other professionals or agencies
- reporting the suspected child abuse to appropriate authorities such as Victoria Police and Child Protection (refer to [Four Critical Actions PROTECT](#))
- arranging counselling and/or other appropriate welfare support for the child
- providing ongoing support to the child and young person
- sharing information with other school staff who will also be responsible for providing ongoing support to the child

For more information, refer to:

- [Duty of Care](#)
- [Your reporting and legal obligations PROTECT](#)
- [Identifying and responding to all forms of abuse in Victorian schools](#)

Child Safe Standards

All schools are required to comply with the Child Safe Standards and Ministerial Order 870 — Child Safe Standards, to create and maintain a child safe organisation.

For information on the Child Safe Standards, refer to [Child Safe Standards](#).

Related policies

- [Child Safe Standards](#)
- [Duty of Care](#)
- [Legal Claims, Subpoenas, Summonses and Other Legal Documents](#)
- [Police and DHHS Interviews](#)
- [Reportable Conduct Scheme](#)
- [Requests for Information about Students](#)
- [Risk Management — Schools](#)
- [Student Sexual Offending and Problem Sexual Behaviour](#)

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Relevant legislation

- Children, Youth and Families Act 2005 (Vic)
- Child Wellbeing and Safety Act 2005 (Vic)
- Crimes Act 1958 (Vic)
- Education and Training Reform Act 2006 (Vic)
- Ministerial Order 870 — Child Safe Standards

This Policy was last ratified by School Council

August 2021