



OSBORNE PRIMARY SCHOOL 2655

# Mandatory Reporting Policy

## RATIONALE:

A broad range of professional groups are identified in the *Children Youth and Families Act 2005* (CYFA) as mandatory reporters. Mandated staff members must make a report to 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 professionals are prescribed as mandatory reporters under section 182 of the CYFA:

- primary and secondary school teachers and principals (including students in 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 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.

### **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 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.

## AIM:

### **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.
- The staff member observes signs or indicators of a grooming offence occurring.
- 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.

**There is zero tolerance of Child Abuse by the staff at Osborne Primary School.**

## **IMPLEMENTATION:**

### **Reporting a belief**

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**

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.

This means that 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.

## **Legal Obligations**

All staff have a legal obligation to report. They are obligation to protect, to disclose, to report.

### **Failure to report**

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.

### **Failure to Protect**

Any staff member in a position of authority who becomes aware that an adult associated with their organisation (such as an employee, contractor, volunteer, sport coach or visitor) poses a risk of sexual abuse to a child under 16 years of age, who is in the care or supervision of the organisation, must take all reasonable steps to reduce or remove that risk. Failure to take reasonable steps to protect a child in the organisation from the risk of sexual abuse from an adult associated with the organisation, is a criminal offence. In a school context this will include the Principal and the Business Manager and may extend to School Counsellors, Heads of Department and Heads of School.

### **Grooming Offence**

The offence of grooming prohibits predatory conduct designed to 'prepare' or 'groom' a child for future sexual activity. The offence applies to communication with children under 16 years of age. Grooming can be conducted in person or online, for example via interaction through social media, web forums and emails. The offence can be committed by any person aged 18 years or over. It does not apply to communication between people who are both under 18 years of age.

While failure to disclose only covers child sexual abuse, all adults should report other forms of child abuse to authorities. Failure to disclose does not change mandatory reporting responsibilities.

**Mandatory reporters** (doctors, nurses, midwives, teachers (including early childhood teachers), principals and police) must report to child protection if they believe on reasonable grounds that a child is in need of protection from physical injury or sexual abuse.

### **Making a report to Child Protection**

The CYFA allows for two types of reports to be made in relation to significant concerns for the safety or wellbeing of a child – a report to Child Protection or referral to Child FIRST.

A report to Child Protection should be considered 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 harm or risk of harm is persistent and entrenched and is likely to have a serious impact on the child's safety, stability or development.
- the child's parents cannot or will not protect the child or young person from harm.

Where during the course of carrying out their normal duties, a school staff member forms the belief on reasonable grounds that a child is in need of protection, the staff member must make a report to Child Protection regarding this belief and the reasonable grounds for it as soon as practicable. Staff members may form a professional judgement or belief, in the course of undertaking their professional duties based on:

- warning signs or indicators of harm that have been observed or inferred from information about the child.
- legal requirements, such as mandatory reporting.
- knowledge of child and adolescent development.
- consultation with colleagues and other professionals.
- professional obligations and duty-of-care responsibilities.
- established protocols.
- internal policies and procedures in an individual licensed children's service or school.

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.

Any person who is registered as a teacher under the *Education and Training Reform Act 2006*, or any person who has been granted permission to teach under that Act, including principals, is mandated to make a report to Child Protection. In the course of undertaking their professional duties, mandated staff members are required to report their belief, when the belief is formed on reasonable grounds that a child is in need of protection from significant harm as a result of sexual abuse or physical injury.

School policy and procedures stipulate how teaching staff fulfil their duty of care towards children and young people in their school.

Teachers are encouraged to discuss any concerns about the safety and wellbeing of students with the principal. If a principal 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, that teacher is still legally obliged to make a mandatory report of their concerns. Information about the identity of a person making report to Child Protection must be kept confidential unless the reporter consents to the disclosure of their identity. If the staff member wishes to remain anonymous, this information should be conveyed at the time that the reporter makes the mandatory report.

#### **The role of school staff**

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.

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

The role 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.

#### **Confidentiality**

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

#### **Interviews at Victorian schools**

Child Protection may conduct interviews of children and young people at school without parental knowledge or consent. However, a child will be interviewed at a Victorian school only in exceptional circumstances and if it is 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 should ask to see their identification before allowing Child Protection to have access to the child or young person.

### **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.

A staff member may be identified as a support person for the child or young person during the interview. Prior to the commencement of the interview, the Child Protection practitioner should always authorize the staff member to receive information regarding Child Protection's investigation.

This may occur verbally or in writing using the relevant Child Protection proforma. Independent persons must refrain from providing their opinions or accounts of events during interviews. A principal or their delegate may act as an independent person when the child or young person is to be interviewed, unless they believe that doing so will create a conflict of interest.

### **Advising parents, carers or guardians**

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. It is the responsibility of Child Protection to advise the parents, carers or guardians of the interview at the earliest possible opportunity. This should occur either before, or by the time the child arrives home.

### **Ensuring that a Child Protection interview takes place**

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 should contact Child Protection or Victorian Police immediately.

### **Staff Training**

Principals should ensure all teachers are aware of their mandatory reporting responsibilities in reporting sexual abuse and physical injury.

Staff will be informed of Mandatory Reporting requirements as part of their initial induction to the school and will be provided with supporting documentation in the Staff handbook which is updated annually. The PROTECT document is given to all staff.

All staff will complete the DET online training modules as per the DET schedule.

*Additional added as required.....*

### **Reportable conduct scheme for Victorian schools**

As of 1 July 2017 all Victorian school principals are required to bring allegations of reportable conduct by employees to the Commission for Children and Young People.

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

- a sexual offence (even prior to criminal proceedings commencing), sexual misconduct or physical violence committed against, with or in the presence of a child

- behaviour causing significant emotional or psychological harm
- grooming
- significant neglect of a child.

### **What is changing?**

- School principals will have a responsibility to report any allegations of misconduct that may include reportable conduct to the CCYP within three days of becoming aware of the allegation. ***NOTE underlined BELOW***
- School principals will need to notify the CCYP of all allegations of conduct that may involve reportable conduct by employees, contractors, volunteers, allied health staff and school council employees.

### **What is not changing?**

- Principals' responsibilities to manage employee misconduct will not change.
- The Reportable Conduct Scheme does not change a principal's mandatory reporting and other reporting obligations. Principals must contact Victoria Police if they suspect a criminal offence has occurred involving a child.

### **Government schools**

- Government school principals do not need to make a report directly to the CCYP. When an allegation is reported, the Employee Conduct Branch will provide advice and support to principals on how to manage the matter and will report the allegation to the CCYP (if appropriate).
- The process for government schools was communicated in the DET School Update, 2 May 2017.

Following the Betrayal of Trust Report, the Victorian Government passed legislation in February 2017 to introduce a Reportable Conduct Scheme in Victoria. The Reportable Conduct Scheme complements the child safe standards and other existing child safety measures.

For more information, visit the [Commission for Children and Young People](#).

### **EVALUATION:**

This policy was update in May 2019 and will be reviewed as required.