

HAWKESDALE P12 COLLEGE



Mandatory Reporting Policy

All staff at Hawkesdale P12 will follow the DET guidelines in relation to Mandatory reporting. The guidelines are outlined below as found on the DET website.

DET Guidelines

It is the role of teachers to be able and willing to recognise children and young people who appear to be abused or neglected or their parents/carers have not protected them from harm, and to act decisively on their behalf as soon as possible.

4.6.2.5.1 Mandated school staff

Any person who is registered as a teacher under the Victorian Institute of Teaching Act (2001), principals within the meaning of the Education and Training Reform Act (2006) or any person who has been granted permission to teach under Victorian Institute of Teaching Act (2001) is mandated to report sexual abuse or physical injury that results from abuse or neglect, to the Department of Human Services, Child Protection under the Children, Youth and Families Act (2005). From December 2020 this now includes registered psychologists and any 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 coordinators, student wellbeing coordinators, mental health practitioners, chaplains and Student Support Services staff.

All school staff are required to complete the LearnEd mandatory reporting module once each year.

Registered Medical Practitioners, persons registered under the Nurses Act (1993) and members of the police force are also mandated under the Children, Youth and Families Act (2005) to report sexual abuse or physical injury that results from abuse or neglect, to the Department of Human Services, Child Protection. A mandatory report must be made when a mandated professional has formed a reasonable belief that a child is in need of protection because:

- the child is at apparent risk of harm
- a disclosure of abuse or neglect has been made by a child or others
- there is a reasonable belief that a child is being subjected to sexual abuse or physical harm resulting from physical abuse or neglect
- the child's parents/carers cannot or will not protect them from that harm.

Under these circumstances, teachers and principals are mandated by law under section 184 of the *Children, Youth and Families Act (2005)* to make a report to Department of Human Services, Child Protection:

'A mandatory reporter who, in the course of practising his or her profession or carrying out the duties of his or her office, position or employment as set out in section 182, forms the belief on reasonable grounds that a child is in need of protection on a ground referred to in section 162(c) or 162(d) must report to the Secretary that belief and the reasonable grounds for it as soon as practicable

(a) after forming the belief; and

(b) after each occasion on which he or she becomes aware of any further reasonable grounds for the belief.'

When allegations of physical assault, sexual assault or sexual harassment occur in settings outside the family, these allegations must be reported to Victoria Police Sexual Offences and Child Abuse (SOCA) Unit, as a criminal investigation may be required. A mandatory report to Department of Human Services, Child Protection may not be required unless the parents/carers are unable or unwilling to protect the child or young person from further abuse or the teacher has formed a belief that the child is in need of protection.

Mandatory reporters **must** also follow the Four Critical Actions to ensure they fulfil all their legal obligations, as outline in the education department PROTECT process.

4.6.2.5.2 Non-mandated school staff

Any person employed by, or working in a school, on forming a reasonable belief that a child may be at risk, should take immediate action, either by reporting to Department of Human Services, Child Protection and/or advising appropriate senior staff about their concerns.

Section 183 of the Children, Youth and Families Act (2005) states that **any person** who believes on reasonable grounds, that a child is in need of protection, may report to Department of Human Services, Child Protection of that belief and of the reasonable grounds for it.

This means that any person including non-mandated school staff are able to make voluntarily a report to Department of Human Services, Child Protection when they believe a child is at risk and in need of protection and the child's parents are **unable or unwilling** to protect the child. Under this part of the Act, reports to Department of Human Services, Child Protection are made for ethical reasons or out of a genuine concern for a child or young person, rather than because of mandatory reporting obligations.

Non-mandated school staff may also consider making a report of possible child abuse or neglect due to the general duty under law to take action to protect children and young people. This is known as "...the duty of reasonable care owed by each person to another..." (See Schools Reference Guide section 6.16 Legal Liability and associated matters: 6.16.1.2 General Duties under law).

4.6.2.5.3 A child in need of therapeutic treatment

There are instances where students may exhibit sexually abusive behaviours towards other people, students or staff. In these cases, the school's response to these behaviours includes ensuring or facilitating the student's involvement in appropriate support services such as therapeutic treatment, usually involving the student being engaged by appropriate local specialist counselling services.

However, in some cases the parents/carers of the student may not permit or enable the child to access or engage in these support services. In such cases a report to Department of Human Services, Child Protection may be made under section 185 of the *Children, Youth and Families Act (2005)* which states that:

"Any person who believes on reasonable grounds that a child who is 10 years of age or over but under 15 years of age is in need of therapeutic treatment (as defined in section 244) may report to the Secretary that belief and the reasonable grounds for it."

Under section 244 of the Children, Youth and Families Act (2005), such a report can be made if the child has exhibited "sexually abusive behaviours." (10) Schools that are considering making a report to Department of Human Services, Child Protection of a child in need of therapeutic treatment should seek advice from the Department of Human Services, Child Protection, and/or consult with the DET incident support and operations centre 1800 126 126.

(10) See sections 185, 244, 245 and 246 Children, Youth and Families Act (2005)

4.6.2.6 Other reports to Child Protection

4.6.2.6.1 Emotional abuse or neglect

It is not mandatory under the *Children, Youth and Families Act (2005)* to report concerns about the possible emotional abuse or neglect of a child. However, a child believed to be suffering emotional abuse or neglect may be at risk and in need of protection.

If a member of school staff or a person employed at the school has a reasonable belief that a student may be suffering emotional abuse or neglect, they have a professional obligation (See 6.16.1.2 General duties under law) as well as a 'Duty of Care' (See 6.16.1.1 Specific duty of care to the student) to take action to protect the student from harm. Any concerns about a student should be reported to Department of Human Services, Child Protection as soon as practicable and the principal or a member of the school leadership team informed that a report has been made.

4.6.2.6.2 Female genital mutilation (FGM)

The practice of female genital mutilation (FGM) is illegal in Australia. The increasing number of migrants and refugees settling in Victoria, who come from communities that may practice FGM, means that school staff may become aware of this issue.

FGM is used to describe a range of procedures, which involve partial or total removal of the female external genitalia and/or injury to the female genital organs for cultural or any other non-therapeutic reasons. FGM is generally performed on girls between the ages of seven days and fourteen years, and may have immediate and long-term consequences for a girl's physical, emotional, sexual health and wellbeing. FGM is sometimes known as female circumcision or female genital cutting.

FGM is practiced in all areas of the world but is more prevalently performed by a range of cultural groups from Africa, Asia and some Middle Eastern countries. Of those groups settling in Victoria, FGM is sometimes a cultural practice among communities from Cameroon, the Democratic Republic of Congo, Djibouti, Egypt, Ethiopia, Eritrea, Ghana, Kenya, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, Somalia, Sudan, Tanzania, Togo and Uganda. FGM is also practiced among certain ethnic groups in some Asian countries such as India, Indonesia, Malaysia and Pakistan, as well as some groups from the Arabian Peninsula such as Oman, Saudi Arabia, the United Arab Emirates and Yemen.

The incidence of FGM is increasing worldwide, seemingly as migrants import the practice to new communities and more established migrant communities seek to retain a link with the culture of their homeland. The World Health Organisation (WHO) estimates that between 100 and 140 million girls and women worldwide have undergone FGM (World Health Organisation, 2008). For further information on eliminating FGM please see: www.who.int/reproductivehealth/publications/fgm/fgm_statement_2008.pdf.

While it is important to remember that while FGM is not perceived by those communities who practice it as harming or abusing a female child, this practice is illegal and can have very significant physical and psychological repercussions. Further information including the types and consequences of FGM can be obtained from the WHO at the website http://www.who.int/topics/female_genital_mutilation/en/.

4.6.2.6.2.1 Legal implications

In 1996, an amendment to the Victorian Crimes Act (1958) (Vic) made FGM a criminal offence, prohibiting the performance of FGM procedures on a child or the removal of a person or child from Victoria to another state or country to have such procedures performed. Having the parent or guardian's consent to the procedure is not a defence.

4.6.2.6.2.2 FGM and mandatory reporting

In accordance with mandatory reporting requirements, if a mandated professional 'forms the belief on reasonable grounds that a child is in need of protection', in relation to physical harm or sexual abuse, a report must be made to the Department of Human Services, Child Protection of that belief and the reasonable grounds for it as soon as practicable. (Children, Youth and Families Act 2005, section 184).

Schools may become aware that a child has had, or is likely to have FGM performed upon them. This may be grounds for believing that the child is in need of protection. FGM falls within the requirements for mandatory reporting of likely significant harm as a result of physical injury and possibly emotional harm. (See 4.6.2.4 Responding to allegations or disclosures of child abuse, neglect or student sexual assault).

Intervention by Department of Human Services, Child Protection may be appropriate where this is necessary to ensure the protection of the child, either to prevent FGM from occurring, or to ensure access to appropriate health care where required, and culturally relevant support for girls who have already undergone the practice.

4.6.2.6.2.3 Further information and advice

Further information, advice or guidance in responding to FGM issues can be obtained from:

- DET incident support and operations centre 1800 126 126.
- School Nursing – school nurses may phone (03) 9096 8417
- Family and Reproductive Rights Education Program (FARREP) at the Royal Women's Hospital – phone (03) 8345 3058.

4.6.2.6.3 Concurrent duty of care

Quite apart from mandatory reporting requirements, a teacher has a concurrent duty of care to protect a student from harm that is reasonably foreseeable (See 6.16.1.1 Specific Duty of Care). A breach of this duty of care may lead to legal action being taken against the individual teacher or teachers concerned.

A breach of this duty of care will be established if a teacher or principal failed to take immediate (11) and positive steps (12) after having acquired actual knowledge or a belief that there is a risk that the child is being abused or neglected including sexual abuse.

4.6.2.6.4 Forming a belief

The Children, Youth and Families Act (2005) states that teachers must report to the Department of Human Services, Child Protection when they '...form a belief on reasonable grounds'(13) that a child has suffered, or is likely to suffer, significant harm as a result of physical injury or as a result of sexual abuse (14).

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

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- (11) See Responding to Allegations of Student Sexual Assault – Procedures for Victorian Government Schools, page 14
- (12) See Schools Reference Guide, Section 6.16 legal liability and associate matters
- (13) Children, Youth and Families Act (2005), Section 162
- (14) Adapted from the Children, Youth and Families Act (2005), Section 184

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

4.6.2.6.5 Reasonable grounds

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

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

It is important that in the course of forming a belief that teachers do not use leading questions to suggest that abuse took place. Instead, if information is required to clarify the process of forming a belief, open-ended or general questions should be used, for example, "Can you tell me what made you feel scared?"

Note: It is not the responsibility of teachers or other Department of Education and Early Childhood Development personnel to determine whether child abuse and neglect has occurred. Teachers and principals should never attempt to seek detailed information from a child about the specifics of suspected abuse nor should they attempt to investigate what may have occurred. That responsibility rests with the Department of Human Services, Child Protection as the agency authorised to investigate, or with Victoria Police Sexual Offences and Child Abuse (SOCA) Unit where appropriate.

4.6.2.6.6 Making a mandatory report

Once a teacher or principal has formed a belief or a disclosure has been made, a report must be made to the Department of Human Services, Child Protection as soon as practicable.

A teacher may wish to seek advice from the principal or a member of the school leadership team to help form the belief that a report is required and assistance to make the report. This is entirely appropriate and should form part of normal school procedures.

A mandatory report should always be made as soon as possible. Seeking assistance or advice should not cause undue delay in making a report, it is expected that, in the majority of instances, a report should be made **on the same day** as a belief is formed or a disclosure has been made.

Note: A report should also be made on **each occasion** that the teacher becomes aware of further reasonable grounds for the belief that a student is in need of protection or when circumstances involving the child or the child's situation changes.

4.6.2.6.6.1 Historical matters

In some cases, students will disclose a sexual assault or abuse that occurred sometime in the past. On some occasions, the incident may have occurred a number of years ago. These disclosures should still be responded to immediately.

4.6.2.6.6.2 Reporter's responsibility

While it is solely the responsibility of the person who has formed a belief to make the mandatory report or ensure that it is made, it is also important that the school principal or a member of the school leadership team be consulted about what has occurred. This is so that appropriate steps can be taken to support students and staff affected by the incident and to ensure the safety and wellbeing of the school community.

4.6.2.6.6.3 Parents/carers permission

Teachers and principals **do not require** the permission of parents/carers to make a mandatory report, nor are they required to tell parents or carers that they have done so.

4.6.2.6.6.4 Taking notes

Any person involved in making a mandatory report should ensure that comprehensive notes are taken in a logical chronological order and these notes are updated each time additional information becomes available.

4.6.2.6.7 Discharge of mandated responsibility

To discharge their mandated responsibility a teacher or principal must either make a report personally or be satisfied that the report has been made to the Department of Human Services, Child Protection. It should be noted that the duty to report:

- applies regardless of whether the alleged suspected abuse occurred in Victoria, outside the State or on the school grounds
- is not discharged when a teacher advises the principal or other staff of his or her belief.

Teachers are required to discuss any concerns about the safety and wellbeing of students with the school principal or a member of the school leadership team. If the principal or member of the school 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 a teacher's concerns about the safety and wellbeing of a student continue, even after consultation with the principal, **that teacher is still legally obliged** to make a mandatory report about their concerns.

If a teacher has concerns about the health and wellbeing of a student and is unsure how to proceed, advice can be obtained from regional student wellbeing staff or from the DET incident support and operations centre 1800 126 126.

4.6.2.6.8 Reporting to Child Protection

Once a decision has been made to contact Department of Human Services, Child Protection, school staff should endeavour where possible to have the following information at hand prior to calling the Department of Human Services, Child Protection:

- name of family and children
- the relevant addresses, language spoken and date of birth
- reason for concern about the child or children (as factual and specific as possible)
- the reporter's involvement with the family
- any other people or agencies involved
- any concerns about a child protection worker's safety in visiting the family
- any information about the best time to find parents/carers at home
- if the family knows that a report is being made.

An inability to provide all this information should not delay the reporting process.

School staff should make the report as soon as possible, provide all the information available, and if necessary follow up later with further information as it becomes available. Upon receiving a report, the Department of Human Services, Child Protection will exercise discretion as to whether or not the child or young person's circumstances warrant an investigation by a child protection worker.

If a teacher is unsure as to whether a matter is serious enough to warrant the Department of Human Services, Child Protection intervention, they should seek advice from their principal, a member of the school leadership team, regional office student wellbeing staff or the Student Critical Incident Advisory Unit on (03) 9637 2934 or 9637 2487 (See also 4.6.2.4.12 Department services and external organisations).

In some cases, Department of Human Services, Child Protection may advise schools that their concerns should be referred to Child First. (See 4.6.2.4.20 Child First). In these cases, Department of Human Services, Child Protection should refer the matter to Child First and arrange for them to contact the school.

Note: The child protection process was strengthened and the referral process to Child FIRST introduced in the Children, Youth and Families Act (2005). The implementation of the new arrangements is an evolving process and school staff may find that arrangements have been updated. If you are unsure how to respond, contact Department of Human Services, Child Protection.

4.6.2.6.8.1 Reports involving Koorie students

If any report to Department of Human Services, Child Protection, including a mandatory report, involves a Koorie student, the principal must advise the regional office, who, together with the regional Koorie Support Officer, will ensure that appropriate support is arranged.

4.6.2.6.8.2 Reports involving international students

If any report to Department of Human Services, Child Protection, including a mandatory report, involves an International student, the principal must advise the Department of Education and Early Childhood Development, International Division on (03) 9637 2990 and consult with them so that appropriate support can be arranged.

4.6.2.6.9 Reporters protected

Registered teachers or principals in Victoria have a key role to play in ensuring that vulnerable children are protected and supported. Reporting to Department of Human Services, Child Protection involves sharing information about children's safety and development where it could help a vulnerable child.

4.6.2.6.9.1 What information can be shared?

Teachers and principals making reports or providing information to Department of Human Services, Child Protection, Victoria Police Sexual Offences and Child Abuse (SOCA) Unit and Child First are specifically protected against legal, professional and civil actions by the Children, Youth and Families Act (2005) provided they are "acting in good faith" in the interests of the child.(15)

School staff are allowed to any share information with Department of Human Services, Child Protection that may help them to make an initial assessment about a child. Any information that is relevant to the protection or development of a child when Department of Human Services, Child Protection is investigating a report, or during subsequent child protection intervention is allowed to be shared.

4.6.2.6.9.2 Confidentiality of identity

Information about the identity of a person making a report to Department of Human Services, Child Protection must be kept confidential unless the reporter consents to it being disclosed.

If the reporter wishes to remain anonymous, this information should be conveyed while making the mandatory report.

4.6.2.6.9.3 Legal protection

Any person making a report to Department of Human Services, Child Protection cannot be subject to any legal liability in respect of the giving of information in good faith.

4.6.2.6.9.4 Professional protection

Authorised disclosure of information as part of a report to Department of Human Services, Child Protection cannot be held to constitute unprofessional conduct or a breach of professional ethics. As a result, a person making a report cannot be disciplined by their professional body, or incur any formal adverse professional consequences in their workplace.

4.6.2.6.10 Penalties for not making a mandatory report

Failure to make a mandatory report when required can lead to criminal prosecution of the teacher or principal.

4.6.2.6.11 Privacy requirements

The details of mandatory report should remain confidential. Only those people within a school who require information to ensure the safety and wellbeing of students and staff should be provided with enough information to act appropriately without being given specific details about the incident or allegation. Teachers and principals should refrain from unnecessary discussions about individual students and what may or may not have occurred.

In the case where the person who allegedly committed the abuse is a parent or carer, only the key staff directly involved with the child at the school need to know, such as the class teacher, the year level coordinator and the principal. It is good practice under these circumstances to only provide to staff directly involved with the student as much information as is required to ensure that the safety and wellbeing of the student.

For example, staff directly involved with the student should be informed that the child has been involved in a matter unrelated to school and they should be monitored and may need support. The same staff should not be given any specific details of what may have occurred including the substance of the allegation and who is alleged to be involved.

When a teacher feels a genuine need to discuss with another person the possibility of making a mandatory report involving the sexual or physical abuse of a student, then the person chosen should have:

- a direct responsibility for the safety and wellbeing of the student such as a principal or Assistant principal or student welfare staff
- an involvement in providing advice and support to schools in relation to critical incidents such as regional student wellbeing staff, Regional Network Leaders or the DET incident support and operations centre 1800 126 126.
- the capacity to act on the information to protect the student from harm such as the Department of Human Services, Child Protection or the Victoria Police Sexual Offences and Child Abuse (SOCA) Unit.

It is inappropriate for a teacher to discuss concerns they might hold with any third party such as other parents and other members of the school community.

A teacher should also ensure that the student or their family is not identified or capable of being identified in any way by the teacher's actions or comments other than to the proper authorities.

4.6.2.7 Providing information to Police and Child Protection

At times, teachers and principals are required to provide police officers with information and assistance during an investigation, school staff should ensure that the Victoria Police are provided with full cooperation at all times.

During or after an investigation, police officers may ask teachers or principals for a statement relating to a mandatory report or an allegation of student sexual assault and the subsequent criminal investigation. Teachers and principals should be aware that, as mandatory reporters, they are **not required** to provide a statement to Victoria Police relating to the reasons or beliefs leading to their mandatory report.

Statements should only be required if mandatory reporters have directly witnessed abuse or have direct factual knowledge of what has occurred.

4.6.2.7.1 Police and Child Protection student interviews at school

Schools and school staff have an equal duty of care to all students. This includes any and all students who may be directly or indirectly involved in an allegation of abuse or neglect including sexual assault. To discharge the school's duty of care, school staff should ensure that students are protected from further injury or damage by supporting students at all times.

Any interviews of students by Victoria Police would usually be carried out in a police station with parents/carers present. Interviews by child protection workers would normally be carried out in the home with parents/carers present. However, there are occasions when Victoria Police and Department of Human Services, Child Protection need to interview students at school as a matter of urgency or necessity.

In these circumstances, a request must be made to the principal (or delegate) who must be advised of the reason for the interview. Every effort should be made to ensure the student's parents/carers are present during the interview if appropriate. However, if a parent/carer cannot be present, they may request that a principal or school nominee be present during the interview acting "in loco parentis."⁽¹⁶⁾

The principal or nominee should request departmental identification of child protection workers and/or Victoria Police officers before allowing access to interview a child or young person.

The interview of a student at school by Victoria Police or child protection workers is not permitted unless someone is acting as an independent supportive adult for that student.

The role of an independent person acting "in loco parentis" is to ensure the student understands what is happening and to provide support. Independent persons must refrain from providing their opinions or accounts of events during interviews. Principals or their delegate may if necessary, act as an independent person where the student is to be interviewed, unless they believe it will create a conflict of interest to do so.

4.6.2.7.2 Student interviews at school without parental knowledge

If a child or young person is to be interviewed at school without parents/carers present at the request of the Victoria Police or the Department of Human Services, Child Protection, the principal or delegate must be provided with reasonable grounds to satisfy themselves that there is a valid reason for parents/carers to be excluded from the interview.

For example; when the allegation involves parents/carers; when the allegation involves siblings or other members of the student's family; or, when the person who is alleged to have committed the abuse may have some other relationship to the student or their parents/carers.

The principal is required to balance the obligation to protect the rights of the student and the parents/carers with the obligation to assist the Victoria Police in the exercise of their duty.

A principal's responsibility is to ensure that any student who may be interviewed at school by police or child protection workers is supported by someone acting 'in loco parentis' during the interview. This requirement applies whether the interview relates to a matter that the school is aware of, or the interview relates to a matter of which the school is unaware.

(16) 'in loco parentis' a Latin phrase commonly accepted to mean "in place of a parent"

Reference:

- This policy has been developed in conjunction with the DET's School Policy and Advisory Library <http://www.education.vic.gov.au/school/principals/spag/Pages/spag.aspx>.

Evaluation:

- This policy will be reviewed as part of the school's three-year review cycle.

This policy was ratified by school council on _____

School Council President

Principal