

## **MANDATORY REPORTING (CHILD PROTECTION) POLICY** **Child Safe Standard 5**

### **Rationale**

- All school staff have a duty of care to take reasonable steps to prevent reasonably foreseeable injury to children and young people under their care. This includes taking reasonable steps to protect their safety, health and wellbeing.
- If a staff member has concerns about the safety, health and wellbeing of children in their care it is important to take immediate action.

### **Child Safe Standards**

The Child Safe Standards are compulsory minimum standards for all Victorian early childhood services and schools to ensure they are well prepared to protect children from abuse and neglect. The Standards support all Victorian early childhood services and schools to embed a culture of no tolerance for child abuse but, where necessary, to respond appropriately to actual or suspected abuse.

### **Aims**

- To ensure the Northern School for Autism complies with the Mandatory Reporting requirements of the *Children, Youth and Families Act 2005*, the *Crimes Act 1958* and other legislation.
- To ensure the school complies with DET policy and guidelines.
- To ensure the safety of children through the creation and maintenance of a child safe environment.
- To ensure the school complies with Child Safe Standard 5.
- To ensure staff are aware of their roles and responsibilities in protecting the safety and wellbeing of children and young people and are able to:
  - Understand their various legal obligations to report and take other reasonable steps to discharge the duty of care that may be owed to the child or young person.
  - Identify indicators that a child or young person has been, is being, or is at risk of being abused.
  - Make a report about a child or young person who has been, is being, or is at risk of being abused.

### **Definitions**

Mandatory reporting is the obligation by law of persons belonging to the following categories of persons to report concerns about the health, safety and wellbeing of children -

- Teachers registered to teach or who have permission to teach pursuant to the *Education and Training Reform Act 2006* (Vic).
- Principals of government and non-government schools.
- Registered medical practitioners.
- Nurses.
- All members of the police force.

A 'reasonable belief' or a 'belief on reasonable grounds' is not the same as having proof but is more than mere rumour or speculation. A 'reasonable belief' is formed if a reasonable person in the same position would have formed the belief on the same grounds. For example, a 'reasonable belief' might be formed if:

- A child states that they have been physically or sexually abused.

- A child states that they know someone who has been physically or sexually abused (sometimes the child may be talking about themselves).
- Someone who knows a child states that the child has been physically or sexually abused.
- Professional observations of the child's behaviour or development leads a professional to form a belief that the child has been physically or sexually abused or is likely to be abused.
- Signs of abuse lead to a belief that the child has been physically or sexually abused.

Reasonable grounds include abandonment of the child, death or incapacitation of the child's parents, the child has suffered or is likely to suffer significant harm from physical, sexual or emotional causes or if the child's parents are unable or unwilling to care for the child.

A report should be made to DHHS Child Protection in circumstances where, for example:

- The child is engaging in risk-taking behaviour.
- Female genital mutilation has occurred, or there is a risk of it occurring.
- There is a risk to an unborn child.
- A child or young person is exhibiting sexually-abusive behaviours.
- There are indications that a child is being groomed. For information see: [Department of Justice and Regulation – Grooming offence](#).

### **Mandatory Reporting**

Mandatory reporters must make a report to the Department of Health and Human Services (DHHS) (Child Protection) as soon as practicable if, in the course of practising their profession or carrying out their duties, they form reasonable belief that a child or young person is in need of protection due to physical injury or sexual abuse, and the child's parents are unable or unwilling to protect the child from that abuse. A mandatory reporter who fails to comply with these reporting obligations may be committing a criminal offence. For list of mandatory reporters, please see Definitions below.

### **Failure to Disclose**

All adults, not just professionals who work with children, have a legal obligation to report to Victoria Police when 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 amount to a criminal offence unless you have a "reasonable excuse" or have an "exemption" from doing so.

### **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 or visitor) poses a risk of sexual abuse to a child under the care, authority or supervision of the organisation, 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. If a staff member in a position of authority fails to take reasonable steps in these circumstances, this may amount to a criminal offence.

The offence applies only to adults in a position of authority within an organisation. In a school context, this may include Principals, Assistant Principals, and Campus Principals. To read more information about the 'failure to protect offence', see: Department of Justice and Regulations – Failure to protect offence.

### **Child in Need of Protection**

Any person can make a report to DHHS Child Protection if they believe on reasonable grounds that a child is in need of protection for any of the following reasons:

- The child has suffered or is likely to suffer significant harm as a result of:
  - Physical injury and their parents are unable or unwilling to protect the child.

- Sexual abuse and their parents are unable or unwilling to protect the child.
- Emotional or psychological harm and their parents are unable or unwilling to protect the child.
- The child has been abandoned and there is no other suitable person who is willing and able to care for the child.
- The child's parents are dead or incapacitated and there is no other suitable person who is willing and able to care for the child.
- The child's physical development or health has been, or is likely to be significantly harmed and the parents are unable or unwilling to provide basic care, or effective medical or other remedial care.

Department policy requires all staff who form a belief on reasonable grounds that a child or young person is in need of protection to report their concerns to DHHS Child Protection or Victoria Police. In the case of school staff, they must also discuss their concerns with the principal or a member of the school leadership team.

#### **Child in Need of Therapeutic Treatment**

Any person who believes on reasonable grounds that a child over 10 but under 15 years of age has been exhibiting sexually abusive behaviours and may be in need of therapeutic treatment should make a report to DHHS Child Protection. Sexually abusive behaviours can be exhibited when a child uses their power, authority or status to engage another person in sexual activity that is unwanted, or where the other party is incapable of giving informed consent (such as other children who are younger or who have cognitive impairments). In the case of student sexual offending, Department policy requires staff to also report to the Victoria Police. In the case of school staff, they must also discuss their concerns with the Principal or a member of the School Leadership Team.

#### **Significant Concern for the Wellbeing of a Child**

Any person who has a significant concern for the wellbeing of a child should report these concerns to DHHS Child Protection, or refer the child and their family to Child FIRST. A significant concern for the wellbeing of a child may arise, for instance, where any of the following factors may have a significant adverse impact on a child's care, welfare or development:

- Significant parenting problems.
- Family conflict or family breakdown.
- Pressure due to a family member's physical/mental illness, substance abuse, or disability.
- Vulnerability due to youth, isolation or lack of support.
- Significant social or economic disadvantage.

In the case of school staff, they must also discuss their concerns with the principal or a member of the school leadership team. For more information, see [PROTECT - Responding to other concerns about the wellbeing of a child](#) at the website below

#### **Duty of Care**

In addition to the mandatory reporting and other reporting obligations mentioned above, all school staff have duty of care obligations and obligations arising out of the Child Safe Standards. All school staff have a duty of care to take reasonable steps to prevent reasonably foreseeable injury to children and young people under their care. This includes taking reasonable steps to protect their safety, health and wellbeing.

In the case of a child who may be in need of protection or therapeutic treatment, or where there are significant concerns about the wellbeing of a child, reasonable steps may include (but are not necessarily limited to):

- Acting on concerns and suspicions of abuse as soon as practicable.

- Seeking appropriate advice or consulting with other professionals or agencies when the school staff member is unsure of what steps to take.
  - Reporting the suspected child abuse to appropriate authorities such as Victoria Police and DHHS Child Protection.
  - Arranging counselling and/or other appropriate welfare support for the child.
  - Providing ongoing support to the child and young person – this may include attending DHHS Child Protection Case Planning meetings, and convening regular Student Support Group meetings.
  - Sharing information with other school based staff who will also be responsible for monitoring and providing ongoing support to the child or young person.
- For more information on responding to all forms of child abuse, see [PROTECT: Four Critical Actions](#).

### **Implementation**

- The safety of every child at the school is our highest priority.
- The school has a **zero tolerance of child abuse**.
- Mandatory reporters will make a report 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 or young person is in need of protection, as a result of physical injury or sexual abuse, and the child's parents are unable or unwilling to protect the child.
- The school will ensure that all staff are aware of their responsibilities under the “failure to disclose” and “failure to protect” legislation as described above including that failure to comply with the reporting obligations may be committing a criminal offence.
- Any person who forms a belief on reasonable grounds that a child or young person is in need of protection may report their concerns to DHHS Child Protection or Victoria Police.
- If a child over ten years of age but under fifteen years of age is displaying sexually abusive behaviours and is in need of therapeutic treatment they may report their concerns to DHHS Child Protection.
- Any person who has significant concerns for the wellbeing of a child or young person may report their concerns to DHHS Child Protection or Child FIRST.
- Any adult 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.

In cases where staff have concerns about a child, they should also discuss these concerns with the Principal or member of the Leadership Team. The individual staff member should then make their own assessment about whether they should make a report and to whom the report should be made.

### **Reporting to the Relevant Agency**

- **In case of emergency or if a child is in immediate danger the school will contact Triple Zero (000) or the local police station.**

- To report concerns that are life threatening phone 000 or the local police station. To find the nearest Victoria Police Sexual Offences and Child Abuse Investigation Team contact the local police station.
- To report concerns about the immediate safety of a child within their family unit to DHHS Child Protection, call the Child Protection Crisis Line on 13 12 78 (24 hours 7 days, toll free).
- To report concerns to DHHS Child Protection, contact the local Child Protection Office.
- Make a written record of the report which includes the following information:
  - The date and time of the report and a summary of what was reported.
  - The name and position of the person who made the report and the person who received the report.
- Notify relevant school staff and/or Department staff of a report to DHHS Child Protection or Child FIRST. For Victorian government schools, the allegations must be reported to the:
  - Principal or member of the school Leadership Team.
  - Department's Security Services Unit on (03) 9589 6266.
  - Relevant Regional Office.
  - Student Critical Incident Advisory Unit on (03) 9637 2934 or (03) 9637 2487.
- Staff should notify the Victoria Police if there is a reasonable belief that a criminal offence may have been committed.
- In the case of international children, the Principal will notify the International Education Division on (03) 9637 2990 to ensure that appropriate support is arranged for the student.
- In the case of Koorie children, the Principal will notify the Regional Office to ensure that the regional Koorie support officer can arrange appropriate support for the child.
- DHHS Child Protection and/or Victoria Police may conduct interviews with children at the school without the knowledge or consent of the parent/carer.
- Interviewing children at school should only occur in exceptional circumstances and if it is in the best interests of the child to proceed in this manner.
- DHHS Child Protection and/or Victoria Police will notify the Principal of their intention to interview the child on the school premises.
- When DHHS Child Protection practitioners/Victoria Police officers come to the school premises, the Principal will request to see identification before permitting them to have access to the child.
- When a child is being interviewed by DHHS Child Protection and/or Victoria Police, school staff will arrange to have a supportive adult present with the child.
- The roles and responsibilities of staff members in supporting children who are involved with DHHS Child Protection may include acting as a support person for the child, attending DHHS Child Protection case planning meetings, observing and monitoring the child's behaviour, liaising with professionals and/or respond to a witness summons by producing documents or giving evidence.
- DHHS Child Protection and/or Child FIRST and/or Victoria Police may request information about the child or family for the purpose of investigating a report and assessing the risk to the child or young person.
- In certain circumstances, DHHS Child Protection can also direct school staff and Department staff to provide information or documents about the protection or development of the child. Such directions should be in writing and only be made by authorised persons within DHHS Child Protection. For more information see: Requests for Information About Students.
- If DHHS Child Protection makes a Protection Application in the Children's Court of Victoria, any party to the application may issue a Witness Summons to produce documents and/or to give evidence in the proceedings, see: [Subpoenas and Witness Summonses.](#)
- The identity of a reporter must remain confidential unless the reporter chooses to inform the child or parent/carer of the report, the reporter consents in writing to their identity being disclosed or a Court or Tribunal decides that it is necessary for the identity of the reporter to be disclosed or the reporter is required to provide evidence.

- 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 and the reporter cannot be held legally liable in respect of the report.
- An annual professional learning session will be held on protecting the safety and wellbeing of children (mandatory reporting protocol). The online module must be completed by all staff, teaching and support.
- New staff will be briefed about their mandatory reporting responsibilities and procedures as part of the induction procedure.
- If a report of sexual abuse is received from a child who formerly was in attendance, the school will contact the Department's Student Critical Incident Advisory Unit on (03) 9637 2934.
- It is important that, after a critical incident occurs or is disclosed, the school develops strategies to support all children who may have been involved in or impacted on by the incident. Support plans should be developed in consultation with parents/carers. It is also important to involve in the planning process any external organisations that are providing support to children.
- Please refer also to the school's *Duty of Care Policy, Police & DHHS Interviews Policy, Risk Management Policy, Responding to Student Sexual Offences Policy, Access to Reports & Other Information about Students Policy, Information Privacy Policy* and the Child Safe Standards.

### **NSA Specific Procedures**

Staff members of NSA 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.
- Knowledge of child and adolescent development.
- Consultation with colleagues and other professionals.
- Established protocols.
- Internal policies and procedures in an individual licensed children's service or school.

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, are 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.

NSA policy and procedures stipulate how teaching staff fulfil their duty of care towards children and young people in their school. Teachers of NSA are encouraged to discuss any concerns about the safety and wellbeing of children 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.

Information about the identity of a person making a 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 NSA Staff**

NSA staff members 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 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 children, attending Child Protection case plan meetings, observing and monitoring children's behaviour, and liaising with professionals.

### **Confidentiality**

NSA 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 and/or Victoria Police may conduct interviews of children and young people at NSA without parental knowledge or consent. However, a child will be interviewed at a school only 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 nominee must 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 authorise the NSA staff member to receive information regarding Child Protection's investigation. This may occur verbally or in writing using the relevant Child Protection pro-forma. 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**

NSA staff does 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**

NSA 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 or their nominee should contact Child Protection or Victoria Police immediately.

### **NSA Staff Training**

NSA 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 their staff handbook. Updates will take place annually as part of the Performance and Development/Staff meeting rotation.

### **Evaluation**

This policy will be reviewed as part of the school's three year policy review cycle or if guidelines change (latest DET updates late March & late April 2017).

### **Resources**

School Policy and Advisory Guide.

[www.education.vic.gov.au/management/governance/spag/default.htm](http://www.education.vic.gov.au/management/governance/spag/default.htm)

[www.education.vic.gov.au/principals/spag/safety/Pages/childprotection.aspx](http://www.education.vic.gov.au/principals/spag/safety/Pages/childprotection.aspx)

[www.education.vic.gov.au/about/programs/health/protect/Pages/ecresponding.aspx](http://www.education.vic.gov.au/about/programs/health/protect/Pages/ecresponding.aspx)

This policy was ratified by NSA School Council on 13 September 2012

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