

PENSHURST PRIMARY SCHOOL

CHILD PROTECTION REPORTING

Statement:

Penshurst Primary School considers the safety of children as being of paramount importance. Penshurst Primary School has a zero tolerance of child abuse.

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.

Teachers (including Principals) are mandated reporters.

Rationale:

When teachers form a belief that a child may be at risk of harm due to sexual abuse or physical injury that results from abuse or neglect, they have a legal responsibility to notify the Department of Health and Human Services. (DHHS)

Dimboola Memorial Secondary College must meet the mandatory reporting requirements of the *Children, Youth and Families Act 2005*, the **Child Safe Standards** (Ministerial Order No. 870 – effective August 1, 2016) as well as meet the school's duty of care obligations to students.

Purpose:

The purpose of this policy is to ensure that children's rights to be safe are maintained and each child is protected against physical and sexual abuse, and neglect.

Definitions:

Child abuse/neglect

Child abuse and neglect occurs when a parent/guardian or any other person having the care of a child inflicts, or allows to be inflicted, physical injury or gross deprivation on the child that causes or creates a substantial risk of death, disfigurement, impairment of physical or emotional health or development, or creates or allows to be created a substantial risk of such injury. This definition includes sexual abuse and/or sexual exploitation of the child.

Children and young people have the right to be protected from abuse and neglect. When teachers form a belief that a child may be at risk of harm due to sexual abuse or physical injury that results from abuse or neglect, they have a legal responsibility to notify the Department of Human Services.

Mandatory reporting

Since 1993 teachers have been mandated to report suspected child abuse or neglect to the Department of Human Services Child Protection. As of July 2003, this was updated to include any person who is registered as a teacher or principal under the *Victorian Institute of Teaching Act 2001* or has been granted permission to teach under that Act. Any and all persons so described are mandated to report physical injury that results from abuse or neglect, and sexual abuse, to the Department of Human Services Child Protection.

This legal requirement to report child physical and sexual abuse arises from Section 184 of the *Children, Youth and Families Act 2005*. In summary:

If, in the course of his or her duties, a teacher or principal forms the belief on reasonable grounds that a child is in need of protection on the grounds that a child has suffered, or is likely to suffer, significant harm as a result of physical injury or sexual abuse, and the child's parents have not protected or are unlikely to protect the child from

harm of that type; the person must notify the Department of Human Services Child Protection of that belief and of the reasonable grounds for it, as soon as practicable -

After forming the belief
and

After each occasion on which he or she becomes aware of any further reasonable grounds or the belief.

Forming a belief

The *Children, Youth and Families Act 2005* states that teachers must notify the Department of Human Services when they form a belief on reasonable grounds 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.

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

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 to determine whether that belief should be investigated.

Reasonable grounds

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

- A child tells the teacher they have been abused
- Someone else tells the 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 the teacher that they know someone who has been abused (often a child is referring to him or herself), and the 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.

Implementation:

Any person who is registered as a teacher or principal under the *Victorian Institute of Teaching Act 2001* or has been granted permission to teach under that Act are mandated to report physical injury to any person 17 years of age or younger that results from abuse or neglect, and sexual abuse, to the Department of Human Services Child Protection.

Teachers will be informed annually of their legal responsibilities to report child abuse and neglect to the Department of Human Services and will be provided with information on how to recognise and respond to child abuse.

If a teacher suspects that a child is in need of protection from physical and/or sexual abuse it is essential that he/she document any concerns and observations in a confidential file. In all cases, teachers are advised to inform the principal of his or her concerns as early as possible. Over a period of time it may become apparent to the teacher that there are reasonable grounds on which to form a belief that the child needs protection.

Following a discussion with the Principal or Principal's nominee about his/her concerns and observations:

The teacher may form the belief that it is necessary to make a report. In this case the teacher must make a report to the Department of Human Services as soon as practicable. It is the responsibility of the individual teacher to ensure that this notification has occurred and that all reasonable grounds supporting the belief have been reported. The teacher may continue to suspect that a child is in need of protection. In this case the teacher should continue to monitor and support the child.

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. 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.

Those involved in any process of consultation around mandatory reporting must maintain confidentiality regarding the child, the family, the notifier and any alleged perpetrator. Confidentiality is provided for reporters under the CYFA.

A teacher does not need permission from parents or caregivers to notify, nor do you need to inform them that you are notifying.

A teacher may notify the Department of Human Services Victoria of his/her belief without the prior knowledge of the Principal. It is strongly recommended that the teacher inform the Principal or Principal's nominee of his/her action as soon as practicable.

It may be necessary for the Department of Human Services to interview a child at school when a notification of abuse has been made. Such requests may be directed to the Principal or the Principal's nominee.

It is important to advise children or young people of their right to have a supportive adult present at such an interview. This may be the Principal or a teacher.

When Officers of Child Protection Victoria or the Police seek an interview with a child, the Principal should cooperate with the authorised agency.

He or she should:

- Arrange for the child to choose a supportive adult to be present.
- Follow the recommended procedures from the Department of Human Services and the DEECD.
- Ensure that arrangements are in order for any interview that is to take place at the school.
- Seek or offer appropriate pastoral support for the reporting staff member.
- Observe confidentiality at all times in the management of a mandatory reporting case.
- If legal assistance is required, contact the DEECD

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.

Teaching staff are required to update their Mandatory Training annually and supply the Principal/Assistant Principal with a copy of their Certificate of Completion.

This policy should be read in conjunction with the new legislation regarding "failure to disclose" child sexual abuse. Refer to the appendix below and the following information.

New criminal offences to improve responses to child sexual abuse.

Three new criminal offences have been introduced to improve responses within organisations and the community to child sexual abuse. The offences form part of the Victorian Government's response to the recommendations of ***Betrayal of Trust***, the report of the Parliamentary Inquiry into the Handling of Child Abuse by Religious and other Non-Government Organisations.

'Failure to disclose' offence

A new offence came into effect on 27 October 2014 for adults who fail to disclose child sexual abuse to police. The new offence applies to all adults, not just professionals who work with children.

Any adult who holds a reasonable belief that a sexual offence has been committed by an adult against a child in Victoria must report that belief to police, unless they have a reasonable excuse for not reporting.

For information about how the offence may affect the reporting obligations of funded organisations and Department of Health & Human Services staff, a fact sheet is available to download from this page.

'Failure to protect' offence

A new 'failure to protect' offence came into effect on 1 July 2015 that applies to people within organisations who knew of a risk of child sexual abuse by someone in the organisation and had the authority to reduce or remove the risk, but negligently failed to do so.

A fact sheet is available to download from this page with more information about the offence.

Grooming offence

A grooming offence is now in effect to target individuals who communicate with a child or their parents with the intent of committing child sexual abuse.

This policy was last ratified by school council:

June 2018

How to make a report to Child Protection

Who to contact?

- **To report concerns that are life threatening ring Victoria Police 000**
- **To report concerns about the immediate safety of a child within their family unit, call the Child Protection Crisis Line 13 12 78 (24 hours, 7 days a week, toll free within Victoria)**
Note: this is an emergency service for weekends and after hours only and will pass on cases to the relevant regions the following working day
- **To make a report to the Child Protection Intake Line in the Grampians Region, phone – 1800 075 599**
- **To contact a Child Protection office close to you, call the local DHHS in Horsham on 5381 9777**

NB: When making a report to Child Protection, the DET Template must be used to record the details of the report. The template is included in the "Keeping Children Safe" – Teacher Resource Kit. (On Staff Share)

New criminal offence to protect children from sexual abuse

What is the offence?

A new criminal offence for failing to protect a child under the age of 16 from the risk of sexual abuse commenced on 1 July 2015.

The offence requires a person in a position of authority to reduce or remove the risk of sexual abuse of a child by an adult associated with their organisation.

A person in a position of authority in the organisation will commit the offence if they know of the risk of abuse and have the power or responsibility to reduce or remove the risk, but negligently failed to do so.

Who does the offence apply to?

The offence applies to a person in authority in any organisation that exercises care supervision or authority over children. This includes certain Department of Health & Human Services staff and those working or volunteering for other organisations, including organisations that are not funded by the department.

A person in authority is someone who, by reason of their position within an organisation, has the power or responsibility to reduce or remove a substantial risk of child sexual abuse.

Examples of people in authority may include residential house supervisors, chief executive officers, board, council or committee members, school principals, service managers and religious leaders. It may also apply to people with less formal involvement in an organisation. For example, a volunteer parent coach responsible for the supervision of a junior sports team may be a person in authority, even if their role is informal or limited.

Who is a 'person associated with' an organisation?

The offence requires a person in authority to act if they know that a *person associated with their organisation* poses a substantial risk of child sexual abuse. This definition does **not** include a person solely because they receive services from the organisation. Examples include:

- Registered adult sex offenders who are receiving services from the department are *not* considered to be associated with the organisation solely because they are a client of the department. This means that the offence does not apply to risks posed by these clients.
- A parent living in the community who is involved with child protection services or who has a child in out-of-home care, and who may pose a risk of sexual abuse to a child, would *not* be considered to be 'associated with' the department under the offence.

The offence relates to risk of sexual abuse by adults. Therefore, a child under the age of 18 who poses a risk of abusing other children would *not* be covered by this offence.

However, staff should continue to comply with departmental standards, screening requirements, program requirements and policies on preventing, reporting and responding to child abuse, for example:

- [Critical Client Incident Management Instruction](#); and
- [Instruction on Responding to Allegations of Physical or Sexual Assault](#) (RAPSA).
- [Incident Reporting Instruction \(May 2013\) \(Health\)](#) (for non-VHIMS reporting organisations)
- [Victorian Health Incident Management Policy \(Health\)](#) (for VHIMS reporting organisations).

Sports and recreation organisations can also refer to the [Victorian Code of Conduct for Community Sport](#) and [VicSport 'Safeguarding Children'](#) websites for resources about creating child-safe organisations.

Why is this offence being introduced?

This offence will encourage organisations to actively manage the risks of sexual offences being committed against children in their care and further protect them from harm.

The Victorian Government is strengthening laws to protect our children from sexual abuse and exposure to sexual offenders in response to *Betrayal of Trust*, the report of the Inquiry into Child Abuse by Religious and other Non-Organisations. This is in recognition of the shared community responsibility to protect children from abuse and to provide a safe environment for children.

Examples of organisations in scope of the offence

The offence applies to people in authority within a *relevant organisation*. A relevant organisation is one that exercises care, supervision or authority over children, whether as part of its primary function or otherwise. This includes organisations that are not funded by the Victorian Government.

Some examples of the types of organisations that fall within scope of the offence include:

- Churches and religious bodies
- education and care services (such as childcare centres, family day care services, kindergartens and outside school hours care services)
- licensed children's services such as occasional care services
- schools and other educational institutions
- organisations that provide accommodation to children and young people, such as boarding schools and student hostels
- out-of-home care services
- community service organisations providing services for children
- hospitals and other health services
- government agencies or departments providing services for children
- municipal councils (for example those that deliver Maternal and Child Health services)
- sporting groups and youth organisations
- charities and benevolent organisations providing services for children.

Further information

Further information about the offence is available on the Department of Justice & Regulation website at: <http://www.justice.vic.gov.au/home/safer+communities/protecting+children+and+families/failure+to+protect+offence>. Alternatively you can contact childsafestandards@dhhs.vic.gov.au.