

Child Protection

Mandatory Reporting



Source of Obligation

The Children Youth and Families Act 2005 (Vic) (CYFA) requires that mandatory reporters must make a report to the Department of Health and Human Services (DHHS) Child Protection when they believe that a child or young person is in need of protection from significant harm from physical injury or sexual abuse.

In addition, under Section 327 Crimes Act 1958 (Vic) (the Crimes Act), it is an offence for anyone aged 18 years or over, to fail to make a report to police, without reasonable excuse, where that person forms a reasonable belief that a sexual offence has been committed against a child under the age of 16 years, by a person aged 18 years or over. See **Child Protection – Reporting of Child Sexual Offences by Non-Mandatory Reporters**.

If a report is made by mandatory reporters in accordance with CYFA mandatory reporting obligations, an additional report to police under Section 327 Crimes Act may not be required unless you have further information.

St Catherine's Policy

Child Protection policies are designed to set out in plain English, obligations in relation to mandatory reporting of child abuse in Victoria. They outline abuse and neglect risk indicators, key requirements when managing student disclosure, initial notification procedures, the development of a management plan, the provision of ongoing support, record keeping and confidentiality.

All staff are to successfully complete the eLearning module.

The following CEOSale Schools policies advise schools of their requirements when managing student disclosure, following procedures, providing support, keeping of records and confidentiality. These policies also inform schools of their responsibilities in relation to child grooming and their obligation to protect children.

- ***Child Protection and Safety Policy***
- ***Protection of Children – Failure to Disclose Policy***
- ***Protection of Children – Grooming Policy***
- ***Protection of Children – Failure to Protect Policy***

All staff are required to complete the online Mandatory Reporting eLearning module each year. See **Training Module**.

Who Must Make a Mandatory Report?

Mandatory Reporters include:

- Teachers;
- The Principal;
- Medical practitioners; and
- Nurses.

It is the responsibility of other staff, volunteers or members of the school community to check whether they are mandatory reporters under child protection legislation.

If you are not a mandatory reporter, you still have the obligation as a significant adult of making a report to DHHS.

What Gives Rise to a Mandatory Report?

A mandatory report must be made when you form a belief on **reasonable grounds** that a child is in need of protection where the child has suffered, or is likely to suffer, **significant** harm as a result of:

- **Physical injury**; or
- **Sexual abuse** (Refer to **Betrayal of Trust: “Failure to Disclose” Offence**);

and the **child’s parents have not protected, or are unlikely to protect**, the child from harm of that type.

a. Reasonable Grounds

The concept of ‘reasonable grounds’ requires you to consider whether another person, when faced with similar information, would also draw the same conclusion. It does not mean reporters are required to be certain, but rather reporters should ensure their concerns are well founded and based on information from a reliable source.

There may be reasonable grounds for forming such a belief if:

- A child or young person states they have been physically or sexually abused;
- A child or young person states that they know someone who has been physically or sexually abused;
- 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 a child or young person’s safety, stability or development;
- The staff member observes signs of abuse, including non-accidental or unexplained injury, persistent neglect, poor care or lack of appropriate supervision; or
- 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.

Grounds for belief include matters of which a person has become aware and any opinions based on those matters.

b. Significant

‘Significant’ means that which is sufficiently serious to warrant a response by a statutory authority irrespective of a family’s consent.

What is ‘significant’ is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person’s safety, welfare or wellbeing.

Significant harm can result from a single act or omission or an accumulation of these.

c. Physical Injury or Sexual Abuse

To assist identifying physical injury or sexual abuse, St Catherine's has a Child Protection Policy. Refer to **Child Protection – Abuse, Grooming & Neglect Identification & Initial Notification**.

d. Parents Have Not Protected, or Are Unlikely to Protect, the Child from Harm of That Type

The meaning of this phrase is not defined by legislation, but some examples may assist.

A parent who 'has not protected, or is unlikely to protect that child from harm of that type' includes a parent who wants to protect his or her child from harm, but lacks the means to.

It also includes a parent who has the means to protect his or her child from harm, but does not want to.

A parent may be rendered 'unlikely to protect' that child for many reasons. For example:

- That parent does not, or refuses to recognise that harm is occurring;
- That parent or child may be subject to domestic violence; and
- That parent's partner may be abusive or harmful to the child.

'Parent' includes:

- The child's father;
- The child's mother;
- The spouse of the mother or father of the child;
- The domestic partner of the father or mother of the child;
- A person who has custody of the child;
- A person who is named as the father on the child's birth certificate;
- A person who acknowledges that he is the father of the child by an instrument under the Status of Children Act 1974 (Vic); and
- A person in respect of whom a court has made a declaration or a finding or order that the person is the father of the child.

What to Report and When

A report becomes mandatory as soon as is practicable after forming the belief.

A report must include details of the belief, and the reasonable grounds of that belief.

Additional reports must be made on each occasion where you become aware of any further reasonable grounds for the belief.

Refer to the Victorian Department of Education's **Step-by-Step Guide to Making a Report to Child Protection or Child FIRST** (Child and Family Information, Referral and Support Team) for guidance on making a decision on whether to report.

How is a Report/Referral Made?

The CYFA allows for two types of reports to be made in relation to significant concerns for the safety of a child. These are a report to DHHS Child Protection or a referral to Child FIRST (Child and Family Information, Referral and Support Team).

To report concerns that are life threatening call Victoria Police 000.

To report concerns about the immediate safety of a child within their family unit, call the 24-hour Child Protection Crisis Line 13 12 78.

Concerns that require immediate attention should be made to the local regional Human Services Child Protection office or the After Hours Child Protection Emergency Services on 13 12 78.

A report to DHHS Child Protection should be considered if the staff member forms the view 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 and development; or
- The child's parents cannot or will not protect the child from harm.

What If I Don't Have a Reasonable Belief?

If you don't have a reasonable belief about a child, but still have concerns, you can refer the matter to Child FIRST.

A referral to Child FIRST should be considered if a staff member forms the view that the concerns have a low-to-moderate impact on the child and the immediate safety of the child is not compromised.

A referral can be made when the following factors may affect a child:

- Significant parenting problems;
- Family conflict;
- A family member's physical or mental illness, substance abuse, disability or bereavement;
- Isolated or unsupported families; and
- Significant social or economic disadvantage.

To contact Child FIRST, refer to their website.

Confidentiality of the Reporter's Identity

Reports or referrals made to DHHS Child Protection or Child FIRST are confidential and the reporter's identity is generally protected by law. Exceptions include if:

- The reporter chooses to inform the child or family of the report;
- The reporter consents in writing to their identity being disclosed;
- A court or tribunal decides it is necessary for the identity of the reporter to be disclosed to ensure the safety and wellbeing of the child; and
- A court or tribunal decides the reporter is required to attend court to provide evidence.

Reports made under Section 327 Crimes Act are also confidential and generally protected by law.

Professional Protection for Reporters

A person who makes a mandatory report in accordance with the CYFA will not be held liable for the eventual outcome of any investigation.

If a report is made in good faith it does not constitute a breach of professional ethics on the part of the reporter and the reporter cannot be held legally liable in respect to the report.

Reporting by Non-Mandated Staff

The CYFA states that any person who believes on reasonable grounds that a child is at risk of harm should report their concerns to DHHS Child Protection.

School staff, who are not mandated by the CYFA, and who have concerns that a student may be in need of protection or may have been the victim of a sexual offence, should notify the School Leadership Team as soon as possible to discuss their concerns with the view to making a report to DHHS Child Protection and/or the Police. See **Child Protection – Reporting of Child Sexual Offences by Non-Mandatory Reporters**.

Non-mandated staff include cleaners, canteen staff, administration staff, non-teaching staff, speech pathologists and Education Support Officers.

What Happens After a Report/Referral is Made?

After receiving a report, DHHS 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 cases, DHHS Child Protection will inform the reporter of the outcome of the report.

After receiving a referral, Child FIRST may consult an experienced community-based Child Protection practitioner in their assessment. The assessment may lead to the involvement of a local family services organisation.

In most cases, Child FIRST will inform the referrer of the outcome of the referral.

Child FIRST must report the matter to DHHS Child Protection if they form the view the child is in need of protection.

Reports made to Police will be dealt with in accordance with Police practice.

Implementation

This policy is implemented through a combination of:

- Staff training;
- Effective communication and incident notification procedures;
- Effective record keeping practices; and
- Initiation of corrective actions where necessary.

Discipline for Breach of Policy

Where a staff member breaches this policy, St Catherine's may take disciplinary action, including in the case of serious breaches, summary dismissal.

Related Policies

- ***Child Protection – Abuse, Grooming & Neglect Identification & Initial Notification***
- ***Child Protection – Misconduct by Staff, Volunteers & Others Policy***
- ***Child Protection – Detecting, Reporting and Addressing Grooming Behaviours***
- ***Child Protection – Reporting of Child Sexual Offences by Non-Mandatory Reporters***
- ***Child Protection – Working with Children Checks Policy***

- ***Child Protection – Taking Action to Protect Students from Risk of Sexual Offences***
- ***Critical Incident Management (Traumatic Events) Policy***
- ***Counselling Services (Student) Policy***

Key References

- Department of Education and Early Childhood Development and Department of Human Services protocol, ***Protecting the safety and wellbeing of children and young people.***
- ***Overview of Law Reform Related to Child Safety and Protection.***

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