



# Child Safeguarding Program

## Mandatory Reporting to Child Protection

Key terms in this Policy are **bolded**, and their definitions are listed at the end of this page.

This Policy must be read in conjunction with the Definitions and Key Indicators of Abuse and Other Harm, Reporting a Child Safety Incident or Concern Internally, Duty to Protect/Failure to Protect, Reporting to Police, Non-Mandatory Reporting to Child Protection and Reportable Conduct. Fulfilling the roles and responsibilities contained in this Policy does not displace or discharge any of these other obligations that arise if a person reasonably believes that a child is at risk of child abuse or other harm.

## Source of Obligation

Section 184 of the Children, Youth and Families Act 2005 (Vic) (CYFA) requires that certain people must make a report to the Department of Families, Fairness and Housing (Child Protection) if:

- **in the course of their professional work** or carrying out duties of their office, position or employment,
- they form a **belief on reasonable grounds** that a child (aged under 17) is **in need of protection** because:
  - the 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 the harm.

These people are called Mandatory Reporters.

Failure to make a report is an offence.

## Who is a Mandatory Reporter?

Mandatory Reporters are listed in section 182 of the CYFA and are:

- registered medical practitioners
- nurses
- midwives
- registered teachers and early childhood teachers
- principals of government and non-government schools
- school counsellors
- police officers
- out of home care workers (other than voluntary foster and kinship carers)
- early childhood workers
- youth justice workers
- registered psychologists
- people in religious ministry\*

This means that, at St Mary's School, Echuca, the following people are Mandatory Reporters:

- teachers
- the Principal/Responsible person
- medical practitioners
- early childhood teachers and workers
- persons in religious ministry who work or volunteer at the school in their religious capacity.\*

\*"Person in religious ministry" is defined by the CYFA to mean "a person appointed, ordained or otherwise recognised as a religious or spiritual leader in a religious institution." This definition includes a chaplain, priest, pastor, minister, brother and nun.

It does not matter whether they are engaged by the school in a paid or volunteer role, as long as they are working in the relevant profession.

## Application to Students Aged 17 or Over

The legislative requirements for Mandatory Reporting to Child Protection apply only with respect to students aged 16 or under and to students aged 17 who are subject to a child protection order. Therefore, a reasonable belief that a student aged 17 or over is in need of protection as a result of physical or sexual abuse cannot be reported to Child Protection, unless they are the subject of a child protection order.

A reasonable belief that a student aged 17 years or older has suffered or is likely to suffer significant harm as a result of physical injury or sexual abuse should instead be reported to the Police. Reporting to Police for students aged over 18 can only occur if the student consents to the report or, if they do not consent, to lessen or prevent a serious or imminent threat to an individual's life, health, safety or welfare. For more information, refer to [Information Sharing with Consent](#), [Information Sharing Without Consent](#) and [Reporting to Police](#).

It is the school's policy that all child safety incidents and concerns involving a student, including those involving students aged 17 and over, must be reported internally. Therefore, even if an external report is not possible, staff members have the same internal reporting obligations with respect to a reasonable belief of physical or sexual abuse of a student aged 17 or over as they do for students aged 16 or under. For more information, refer to [Reporting a Child Safety Incident or Concern Internally](#).

## Reporting by Non-Mandated Reporters

Mandatory Reporters who reasonably believe that a child (aged under 17) may be in need of protection for reasons other than physical or sexual abuse, or whose concerns arose other than in the course of their work, can still report externally.

Staff, Volunteers or Contractors who are not Mandatory Reporters can also report externally if they reasonably believe that a child (aged under 17) is in need of protection.

In fact, the [Four Critical Actions for Schools: Responding to Incidents, Disclosures or Suspicions of Child Abuse](#) published by the Department of Education, Catholic Education Commission of Victoria and Independent Schools Victoria (Four Critical Actions), sets out circumstances in which staff members **must** make these reports.

These reports can be made to either Child Protection or to the Police under section 183 of the CYFA. For more information, refer to [Non-Mandatory Reporting to Child Protection](#).

All school Staff, Volunteers or Contractors who have child safety concerns about a student should notify a Child Safeguarding Officer as soon as possible to discuss their concerns. For more information, refer to [Reporting a Child Safety Incident or Concern Internally](#).

Even if you are not a Mandatory Reporter to Child Protection under the CYFA, you may still be required to make an external report to other agencies under other legislation or under our Child Safeguarding Program. For more information, refer to [Non-Mandatory Reporting to Child Protection](#), [Reporting to Police](#) and [Responding to Other Concerns About the Wellbeing of a Student](#).

## When to Make a Mandatory Report

If you are a Mandatory Reporter, you must make a Mandatory Report to Child Protection when, **in the course of your work or duties** for the school, you form a **belief on reasonable grounds** that:

- a child **is in need of protection** because they have suffered or are 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.

You must make your Mandatory Report as soon as practicable after forming your reasonable belief.

In addition, if you are a Mandatory Reporter and have formed the required belief, you must make a Mandatory Report even if you have discussed the matter with the Principal/Responsible person, a Child Safeguarding Officer or the 'Head' of the school and they do not share your belief that a report must be made. In particular, you have a personal legal obligation to make a Mandatory Report even if the Principal/Responsible person or other person you reported to internally at the school tells you not to report.

As a Mandatory Reporter, you must also make a Mandatory Report on each occasion that you form the required belief, even if you have made a report about the same child or young person in the past. For more information, refer to [Making Additional Reports](#).

To help you decide whether you should make a report to Child Protection, you may refer to:

- the Victorian Department of Education's [Step-by-Step Guide to Making a Report to Child Protection or Child FIRST](#)

- the joint protocol published by Child Protection, Department of Education and Early Childhood Development, Licensed Children's Services and Victorian Schools [Protecting the Safety and wellbeing of children and young people](#)
- Child Protection's [Mandatory Reporting to Child Protection in Victoria – frequently asked questions](#).

## What if My Concern is Not About Physical or Sexual Abuse or if I am Unsure if I Have a 'Reasonable Belief'?

If you are a Mandatory Reporter and you have a reasonable belief that a child is in need of protection for reasons other than physical or sexual abuse, you must still make a report to Child Protection. For more information, refer to [Non-Mandatory Reporting to Child Protection](#).

If a child safety incident or concern does not meet the requirements for Mandatory Reporting to Child Protection (for example because the concern is not about physical or sexual abuse or because the child's parents have protected or are likely to protect the child from the harm), you must still follow other relevant procedures set out in this Child Safeguarding Program, including [Reporting a Child Safety Incident or Concern Internally](#), and keeping records of observations. For more information, refer to [Child Safeguarding Record Keeping](#).

If you are concerned that a student may be experiencing physical or sexual abuse, but you are unsure whether your concern rises to the level of "a belief on reasonable grounds" that the child is in "need of protection", you should immediately raise your concerns with a [Child Safeguarding Officer](#). They are able to assist you in clarifying your concerns and managing the next steps.

## How to Make a Mandatory Report to Child Protection

***Whenever there are concerns that a child is in immediate danger, call the Police should on 000.***

Under the CYFA, Mandatory Reports must be made to a "protective intervenor". Protective intervenors are defined in the CYFA as the Secretary of Child Protection (or their delegate) and all Police officers.

If you have contacted Police, either as a result of [Responding to an Emergency](#) or [Reporting to Police](#), then you have made your Mandatory Report.

If you have not contacted Police, you must report to Child Protection. You must do this by:

- during business hours (8:45am-5:00pm, Monday to Friday), telephoning the Child Protection intake service for the local government area where the child resides, listed [here](#).
- after hours, telephoning Child Protection on 13 12 78.

Reports to Child Protection cannot be made via the Child Protection website or email, as staff who monitor the Child Protection website are not delegates of the Secretary of Child Protection.

You should provide as much of the following information as you can:

- details – the child's or young person's name, age and address
- indicators of harm – the reason for believing that the injury or behaviour is the result of abuse or neglect
- reason for reporting – the reason why the call is being made now
- safety assessment – assessment of immediate danger to the child or children. For example, information may be sought on the whereabouts of the alleged abuser or abusers
- description – description of the injury or behaviour observed
- child's whereabouts – the current whereabouts of the child or young person
- other services – your knowledge of other services involved with the family
- family information – any other information about the family
- cultural characteristics – any specific cultural or other details that will help to care for the child, for example, cultural origins, interpreter, or disability needs.

## What Happens After a Report is Made

After receiving 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.

If the matter progresses to investigation, Child Protection officers will observe and speak with the child or young person and their parents. They may also speak with relevant professionals, information holders and other significant people in the child's life who can inform the investigation or provide information to assist Child Protection to assess if the child is in need of protection. In circumstances involving physical and sexual abuse and serious neglect, investigations may be conducted jointly with Victoria Police.

If the matter does not progress to investigation, Child Protection may provide advice to the Mandatory Reporter, refer the family to support services in the community (such as Child FIRST or The Orange Door), or they may decide to take no further action.

In most cases, Child Protection will inform the reporter of the outcome of the report.

For more information, refer to Child Protection's [Mandatory Reporting to child protection in Victoria – frequently asked questions](#).

## **Mandatory Reporting to Child Protection and Other Reporting Obligations**

Although a reasonable belief that a child aged under 16 has been sexually abused would normally require [Reporting to Police](#), you do not need to report to Police if you make a Mandatory Report to Child Protection. This is because Child Protection notifies the Police of all allegations of child sexual abuse that it receives. However, you may still need to make a Report to Police if you have further information. You will also need to [report this internally](#).

A reasonable belief that a child has been physically or sexually abused by a staff member, Volunteer or Contractor must be reported to Child Protection as a Mandatory Report as well as both internally and externally in accordance with [Reportable Conduct](#). If the staff member is a teacher, the school must also report to the Victorian Institute of Teaching. For more information, refer to [Reporting Teacher Misconduct to the Victorian Institute of Teaching](#).

## **Record Keeping about Mandatory Reports to Child Protection**

When a Mandatory Report to Child Protection is made in response to a child safety incident or concern, this must be recorded on the [PROTECT Recording your actions: Responding to suspected child abuse - A Template for Victorian Schools](#). For more information on how to record Mandatory Reports, refer to [Child Safeguarding Record Keeping](#).

## **Key Definitions**

### **Belief on reasonable grounds**

The concept of a belief on reasonable grounds, or a reasonable belief, requires you to consider whether another person, when faced with similar information, would also draw the same conclusion. It is a low threshold.

A reasonable belief does not require proof but does require more than a mere rumour or suspicion. Reporters should ensure that their concerns are well founded and based on information from a reliable source.

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

- you witness the physical or sexual abuse of a child
- a child tells you that they have been physically or sexually abused
- a child tells you that they know someone who has been physically or sexually abused
- someone who knows the child tells you that the child has been physically or sexually abused
- a child shows physical or behavioural signs of being physically or sexually abused.

## **In the course of their professional work or when carrying out the duties of their office, position or employment**

The meaning of this phrase is not defined in the CYFA. It likely means that the belief that the child is in need of protection must arise as a result of the Mandatory Reporter's duties at or for the school. This includes duties that occur at school events that take place outside school grounds, such as sporting competitions, excursions and camps.

Incidents or concerns that arise outside of these duties (for example, while doing personal shopping outside school hours, a teacher witnesses a child being physically injured by their parent) do not fall into Mandatory Reporting requirements. The teacher can still make a Non-Mandatory Report to Child Protection but would not be subject to criminal charges if they fail to do so.

## **In need of protection**

When a child is in need of protection it means that the state should intervene in the life of the child and/or their family in order to protect the child from harm, regardless of whether or not the child or their family consent.

Section 162 of the CYFA sets out the grounds on which a child is considered 'in need of protection.' For the purposes of Mandatory Reporting to Child Protection, the child must be in need of protection because:

- the child has suffered, or is likely to suffer, significant harm as a result of physical injury and the child's parents have not protected, or are unlikely to protect, the child from harm of that type (refer to Physical Abuse and Physical Violence)
- the child has suffered, or is likely to suffer, significant harm as a result of sexual abuse and the child's parents have not protected, or are unlikely to protect, the child from harm of that type (refer to Sexual Abuse and Sexual Offences)



The harm may be caused by a single act, omission or circumstance or accumulate through a series of acts, omissions or circumstances.

## Significant harm

Significant harm is not defined in the CYFA. It has been defined in case law, and is defined in the Victorian [Child Protection Manual](#), as harm that:

- is more than trivial or insignificant, but need not be as high as serious
- is important or of consequence to the child's development
- need not have a lasting or permanent effect, nor necessarily be treatable.

Significant harm may reasonably be expected to produce a substantial and demonstrably adverse impact on the child's safety, welfare or wellbeing.

In general, it would mean harm that is sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent.

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

## Parents have not protected, or are unlikely to protect, the child from harm

The meaning of this phrase is not defined in the CYFA, but some examples may assist.

A parent who has not protected or is unlikely to protect that child from harm includes a parent who wants to protect their child from harm but lacks the means to.

It also includes a parent who has the means to protect their child from harm but does not want to.

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

- the parent does not, or refuses to recognise that harm is occurring
- the parent or child may be subject to domestic violence
- the 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)
- 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.