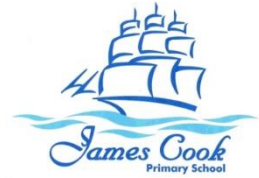


JAMES COOK PRIMARY SCHOOL **MANDATORY REPORTING POLICY**



Rationale:

Primary and secondary school teachers and Principals (including students in training to become teachers) are prescribed as mandatory reporters by law under section 182 of the Children, Youth and Families Act 2005 (CYFA) to make a report to child protection.

It is mandated that if a teacher or Professional who during the course of carrying out duties forms the belief on reasonable grounds that a child is in need of protection must report to Child Protection as soon as practicable after forming the belief and after each occasion on which they become aware of any further grounds for the belief.

Aims:

To protect children and young people from abuse and neglect by ensuring school staff:

- a) Understand their mandatory reporting responsibilities and duty of care obligations to protect children and young people from child abuse including physical and sexual abuse.
- b) Know how to make a mandatory report to the Department of Human Services (DHS) Child Protection when they have formed a belief on reasonable grounds that a child or young person is at risk of significant harm.
- c) Are able to identify and be aware of the indicators of abuse.
- d) To make teachers and support staff aware of their legal obligations regarding reporting of abusive, negligent and inappropriate behaviour towards students in their care. Teachers and Principals must understand and acknowledge their duty of care toward all children in the school

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.

Non-mandated staff members who believe on reasonable grounds that a child is in need of protection are encouraged to speak to their Principal as well as being able to report their concerns to DHS Child Protection.

While failure to disclose only covers child sexual abuse, all adults should report other forms of child abuse to authorities. Failure to disclose does not change mandatory reporting responsibilities.

Mandatory reporters (doctors, nurses, midwives, teachers (including early childhood teachers), principals and police) must report to child protection if they believe on reasonable grounds that a child is in need of protection from physical injury or sexual abuse.

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.

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

- **Failure to Disclose Offence (s.327)** Any staff member who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child under 16 years of age must disclose the information to the police. Failure to disclose the information to the police is a criminal offence and applies to all adults in Victoria, not just professionals who work with children. The obligation is to disclose the information to the police as soon as it is practicable to do so, except in limited circumstances such as where the information has already been reported to DHHS Child Protection.
- **Failure to Protect (s.49C (2))** Any staff member in a position of authority who becomes aware that an adult associated with their organisation (such as an employee, contractor, volunteer, sport coach or visitor) poses a risk of sexual abuse to a child under 16 years of age, who is in the care or supervision of the organisation, must take all reasonable steps to reduce or remove that risk. Failure to take reasonable steps to protect a child in the organisation from the risk of sexual abuse from an adult associated with the organisation, is a criminal offence. In a school context this will include the Principal and the Business Manager and may extend to School Counsellors, Heads of Department and Heads of School.
- **Grooming Offence (s.49B (2))** - The offence of grooming prohibits predatory conduct designed to 'prepare' or 'groom' a child for future sexual activity. The offence applies to communication with children under 16 years of age. Grooming can be conducted in person or online, for example via interaction through social media, web forums and emails. The offence can be committed by any person aged 18 years or over. It does not apply to communication between people who are both under 18 years of age.

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:

- To make Teachers and Principals aware that it is mandated that if they form a belief about a child they are mandated to report to Child Protection.
- 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.
- Non-mandated staff (Education Support Staff) who believe there is reasonable grounds for forming a belief are encouraged to speak to the Principal regarding their concerns.
- To make sure school staff are aware that they may report a case due to their involvement with children in the community and forming a belief that a student may be in an unsafe situation.
- To outline teacher's duty of care at all times and that teachers are obliged to protect children from harm that is reasonably foreseeable. 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 and positive steps after having acquired actual knowledge of formed a belief that there is a risk

Implementation

Teachers will be informed annually of their legal obligations and responsibilities to report child abuse and neglect to the Department of Human Services and will be provided with information on how to recognize and respond to child abuse. Staff will be required to complete the elearning Module each year.

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/her concerns as early as possible.

Where during the course of carrying out their normal duties, a school staff member forms the belief on reasonable grounds that a child is in need of protection, the staff member must make a report to Child Protection regarding this belief and the reasonable grounds for it as soon as practicable.

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, is mandated to make a report to Child Protection.

Teachers are encouraged to discuss any concerns about the safety and wellbeing of students 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.

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.

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.
- Those involved in any process of consultation around mandatory reporting must maintain confidentiality regarding the child, the family, the notifier and any alleged perpetrator.
- The teacher does not have to seek permission from parents or caregivers to notify. In most cases it is not advisable to do this owing to the nature of some disclosures. If parent asks for the identity of the notifier, confidentiality must be maintained and the teacher is not obliged to tell the parent or guardian.
- A teacher may notify the Department of Human Services Victoria of his/her belief without the prior knowledge of the Principal, however the teacher must 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.

The Principal 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 DET.
- Ensure that arrangements are in order for any interview which 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 DET.

Resources

Children, Youth and Families Act 2005

Crimes Act 1958

Education and Training Reform Act 2006

Victorian Institute of Teaching Act 2001

Department Resources

- [A step-by-step guide to making a report to Child Protection or Child FIRST \(PDF - 270Kb\)](#)
- [Protecting the safety and wellbeing of children and young people](#)
- [Mandatory Reporting eLearning Module](#)

Evaluation

This policy will be reviewed in three years or as legislation is amended.