

Background

Mandatory reporting arises from the requirements of the Children, Youth and Families Act 2005 (Vic.) any person may make a report to the Department of Human Services or to family services such as Child FIRST and Child Protection. However, section 182 of the Act lists those professionals who are obliged to notify protective services if they form a belief, based on reasonable grounds, that a child has suffered, or is likely to suffer significant harm as a result of physical injury or sexual abuse, or if the child's parents or guardians have not protected or are unlikely to protect the child from harm of that type. For the protection of children from harm due to physical injury and sexual abuse. School personnel mandated under this Act who, in the course of carrying out their duties, form a reasonable belief that a child is in need of protection from physical injury or sexual abuse, must report that belief and the grounds for it as soon as possible.

Responsibilities under Legislation

The *Children, Youth and Families Act 2005 (Vic)*, states that certain professionals must report to the Department of Human Services (Child Protection Services), when in the course of their professional duty: -

- (they) form the belief on reasonable grounds that a child is 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 or caregiver have not protected, or are unlikely to protect the child from harm;-
- the child has suffered, or is likely to suffer, significant harm as a result of sexual abuse and the child's parents or caregiver have not protected, or are unlikely to protect the child from harm.

Specifically, the Victorian professionals mandated to report are:

- Legally qualified medical practitioners, registered nurses and members of the Victorian police force
- Primary school and secondary school teachers and principals.

The above people are referred to as *mandatory reporters*. Therefore all Bayview College teaching staff are mandated to report under the legislation, when they have reasonable grounds, and it is an offence under the Mandatory Reporting amendment to the Children and Young Persons Act, and may incur a fine if a report is not made.

Although only *mandatory reporters* have a legal responsibility to report abuse, everyone employed at the College has a moral responsibility to report all types of possible or known child abuse.

Teaching staff at Bayview College are encouraged to follow the process below, however are reminded that they must report even if the colleagues they consult, and/or the Principal does not share the same belief, as mandated by legislation.

Failure to Comply and Failure to Disclose Sexual Abuse

If you are a mandated reporter, failure to notify your belief, when you have reasonable grounds, is an offence under the Children, Youth and Families Act 2005 (Vic.) and can lead to criminal prosecution.

The offence for Failure to disclose child sexual abuse to the police came into effect on 27 October 2014. The offence requires that any adult who holds a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child (aged under 16) must disclose that information to police. Failure to disclose the information to police is a criminal offence.

The offence applies to all adults, not just professionals who are mandated to report all forms of child abuse. Therefore, Board Directors, parent volunteers and senior students 18 years and over are also obliged to make a report.

Reporting Process

Forming a reasonable belief

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.

Making Observations

Individual staff members should make observations and keep notes of concerns that have led them to believe a report may be necessary.

Clarify Whether a Report to Child Protection Services is Required

A report to Child Protection or Child FIRST is **required** when

- A teacher believes, based on reasonable grounds, that a child has suffered, or is likely to suffer, significant harm as a result of physical, sexual, emotional abuse or neglect
AND
- The child's parents or caregiver have not protected, or are unlikely to protect the child from such harm.

The belief and the reasonable grounds for forming that belief should be reported by an individual authorised by the School to Child Protection Services as soon as practicable. Additional reports should be made after each occasion in which there is awareness of further concerns. It is permissible for a teacher to ask a child sufficient questions to establish a reasonable belief, but care should be taken not to ask leading questions. Once a concern has been raised the matter should be referred to appropriately trained or senior staff such as Director of Wellbeing, Deputy Principal or Principal. The role of the notifying staff member from this point forward is to continue monitoring the child of concern. It is NOT the role of the mandated notifier to take on the role of investigator.

If there is uncertainty about the need for a mandatory report to Child Protection the Principal/ Director of Student Wellbeing should ring the Department of Human Services for advice/secondary consultation.

Making a Report to Child Protection Services

If a staff member believes a report to Child Protection Services is required, the Director of Student Wellbeing, Deputy Principal or Principal must be notified. The notifying staff member,

Director of Student Wellbeing, Deputy Principal or Principal will proceed with a report to Child Protection Services.

The following information will be required when making a report:

- The child's name, age and address
- The name, age and address of any known siblings
- The reason for believing that the injury or behaviour is the result of abuse or neglect
- The assessment of the immediate danger to the child
- Current whereabouts of the child or young person
- A description of the injury or behaviour observed
- Any other information you have about the family

Your identity as a notifier will remain confidential unless:

- You choose to inform the child and/or family of the notification yourself
- You consent to your identity as the notifier being disclosed

After internal discussion, it is usual that the teacher who formed the belief would report to Child Protection Services. However it is possible that, as a result of discussion with others in the school, it becomes clear that several teachers share the same belief. It must be ensured that one person nominated by the other teachers will report to Child Protection Services on behalf of those teachers. The reporting teacher should ensure that a copy of the recorded observations and concerns is placed with the Principal. If a report is made on behalf of a number of teachers, all who agreed to the nominee's acting for them will have signed to indicate their acceptance of the notes as an accurate record. This process should be well documented in school records to protect the individual teachers not making the report. The Principal maintains a confidential file of this and all further steps.

Communication

A decision regarding who else (if anyone), should be informed, needs to be made. Parents, guardians or care givers of the alleged victim are to be contacted unless circumstances indicate this should not occur. Staff members are encouraged to discuss this with the Duty Worker when they make the notification.

The need for confidentiality should be remembered at all times in the interest of the child and family. Only where the welfare of the child will be affected should the matter be discussed with anyone else.

If, following a report, a family approaches the School, they should be politely directed to speak with the Director of Student Wellbeing, Deputy Principal or Principal. Individual teachers should not engage in discussion with parents or others without the presence (or the express authorisation) of the Principal.

Even where senior management representatives meet with parents or others in regard to a report, it is recommended that an interview be conducted with a minimum of two designated school staff members present. The focus of such a meeting should be on the welfare of the child, not on justifying the actions or perceptions of the staff involved.

Support

It is essential that reports are managed in a caring, supportive and confidential manner. Support for the responding staff member and the student who is the cause for concern as well as anyone else affected should be arranged. Access to the School's Employee Assistance

Program will be promoted and managers shall monitor the wellbeing of the responding staff member and any other effected individual (including the alleged perpetrator if an employee of the School).

Staff will also be provided with regular awareness on mandatory reporting and protection of children education.

Monitoring

After notification to Child Protection Services is made, a senior protective worker will decide whether or not further investigation is required. The notifying staff member will be advised of this decision. If the notifying staff member is not advised, the Principal may contact Child Protection Services and request information about what action is proposed.

Document Control, Protection of Individuals and Confidentiality of Information

Other than ensuring the safety of all involved, there should be no detailed communication with alleged perpetrators or any other students involved until after approval from Victoria Police. Police and Child Protection Services are to be the investigating body at all times.

What Happens After Notification

When a notification is made to Child Protection Services assessment is made as to the level of intervention required. A senior protective worker will decide whether or not further investigation is required. The notifier will be advised of this decision. Child Protection Services may visit the child and family where the child is considered to be at risk of significant harm.

A child will only be removed from the parents' care when safety cannot be guaranteed. Police will be involved where situations of sexual abuse or serious injury are evident or other matters require action.

Indemnity for Mandated Individuals

In accordance with the Act, mandatory reporting is not a breach of professional etiquette, ethics or conduct.

The identity of a notifier will remain confidential unless:

- The notifier chooses to inform the child and or family of the notification
- The notifier consents in writing to identity as the notifier being disclosed
- The court decides it needs this information in order to ensure the safety and wellbeing of the child
- The court decides that the interests of justice require that the evidence be given.

However, teachers should be aware that, if the report becomes the subject of a Protection Application to the Children's Court, he/she may be required to give evidence (voluntarily or by subpoena) to the Court.

Civil action cannot be taken against a notifier if he/she holds an honest belief that the child was abused. This does not mean that he/she is required to believe beyond doubt that the abuse or neglect has occurred. The belief may be based on reasonable grounds only.

Records

The Principal holds a confidential file of all steps taken and the outcome.

Definitions

The Department of Human Service's defines child abuse as an act by parents or caregivers which endangers a child's or young person's physical health or emotional health or development. Child abuse can be a single incident, but often takes place over time.

In Victoria, a child or young person is defined as under 17 years of age.

The definition of child abuse includes:

Physical injury which results from abuse or neglect. This refers to a situation in which a child suffers or is likely to suffer significant harm for an injury inflicted by the child's parent or caregiver. The injury may be inflicted intentionally or may be the inadvertent consequence of physical punishment, or physically aggressive treatment of the child.

Sexual abuse, which occurs when an adult or someone bigger and/or older than the child uses power or authority over the child to involve the child in a sexual activity, and the child's parents or caregiver has not protected the child. Physical force is sometimes involved.

Emotional abuse, which occurs when a child is repeatedly rejected or frightened by threats. This may involve name calling, being put down by or continual coldness from the parent or caregiver to the extent that it affects the child's physical and emotional growth and development.

Neglect, which is failure to provide the child with the basic necessities of life, such as food, clothing, shelter, supervision and education to the extent that the child's health and development are placed at risk.

The protection of children is a shared responsibility across families, the community, professionals and the Government. All professionals have a duty of care to the children with whom they work and it is important that they understand their roles and responsibilities in reporting and responding to child abuse.

Notifying suspected child abuse can be the first step in stopping the abuse and protecting the child from further harm. Child abuse rarely stops without intervention occurring and help being offered. Early identification and effective intervention can lessen the initial and long-term effects of child abuse and promote recovery of the children and families concerned.

The Victorian Government introduced legislation requiring professionals to notify Child Protection Services if they have reasonable grounds to believe the child is at risk of sexual abuse or physical injury resulting from abuse or neglect. While the reporting of emotional abuse and neglect is not mandatory, it is important that children are protected from these sorts of abuse.

Legislative Requirements

Charter of Human Rights and Responsibilities Act 2006
Education and Training Reform Act 2006 (ETRA)
Children, Youth and Families Act 2005 (CYFA)
Education and Training Reform Regulations 2007 (ETRR)
Crimes Act 1958

Associated Documentation

DEECD A Step-by-step guide to making a report to Child Protection or Child FIRST