



Department of
Education

CHILD PROTECTION POLICY

CHILD PROTECTION PROCEDURES FOR PRINCIPALS

CHILD PROTECTION PROCEDURES FOR TEACHERS

CHILD PROTECTION PROCEDURES FOR SCHOOL PSYCHOLOGISTS

CHILD PROTECTION PROCEDURES FOR BOARDING SUPERVISORS

CHILD PROTECTION PROCEDURES FOR NON-TEACHING STAFF

This PDF contains the following documents:

Document 1:

Child Protection Policy v3.1

Effective: 25 July 2017

Last update date: 25 July 2017

Document 2:

Child Protection Procedures for Principals v3.1

Effective: 25 July 2017

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Document 3:

Child Protection Procedures for Teachers v3.1

Effective: 25 July 2017

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Document 4:

Child Protection Procedures for School Psychologists v3.1

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Document 5:

Child Protection Procedures for Boarding Supervisors v3.1

Effective: 25 July 2017

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Document 6:

Child Protection Procedures for Non-Teaching Staff v3.1

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Department of
Education

CHILD PROTECTION POLICY

EFFECTIVE: 25 JULY 2017

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1 POLICY STATEMENT

The Department is committed to being a child safe organisation through the prevention, identification and reporting of child abuse and neglect. This includes the provision of support to children who have been abused, or are affected by abuse or neglect.

2 POLICY RULES

All Department staff will:

- take all actions and make decisions based on the best interests of the child;
- apply child safe principles;
- report all concerns relating to possible child abuse and neglect; and
- comply with the procedures relevant to their position:
 - Child Protection Procedures for Principals;
 - Child Protection Procedures for Teachers;
 - Child Protection Procedures for School Psychologists;
 - Child Protection Procedures for Boarding Supervisors; and
 - Child Protection Procedures for Non-Teaching Staff.

Guidance

The child safe principles that apply to this policy are:

- *actions that reduce the likelihood of harm occurring to children and young people;*
- *actions that increase the likelihood of any harm being discovered; and*
- *appropriate responses by staff to any disclosures, allegations or suspicions of harm.*

For further information, visit the [Commissioner for Children and Young People](#) website.

The Department promotes positive and inclusive school communities where all members feel safe and are safe.

Principals should take into account the following principles for making decisions in the best interest of the child:

- *the need to protect the child from harm;*
- *the capacity of the child's parents to protect the child from harm;*
- *the capacity of the child's parents, or of any other person, to provide for the child's needs;*
- *the nature of the child's relationship with the child's parents, siblings and other relatives and with any other people who are significant in the child's life;*
- *the attitude to the child, and to parental responsibility, demonstrated by the child's parents;*
- *any wishes or views expressed by the child, having regard to the child's age and level of understanding in determining the weight to be given to those wishes or views;*
- *the child's age, maturity, sex, sexuality, background and language;*
- *the child's physical, emotional, intellectual, spiritual and developmental needs; and*
- *the child's educational needs.*

The procedures for teachers apply to staff who are registered with the Teacher Registration Board of Western Australia and are currently working in the role of a teacher.

The procedures for boarding supervisors apply to staff who hold an office or position at a boarding facility; the duties of which include the supervision of children living at the facility while they attend school.

The procedures for non-teaching staff include but are not limited to the following positions: Aboriginal and Torres Strait Islander education officers, corporate services managers school officers, education assistants, library assistants, laboratory assistants, home economics assistants, participation coordinators, attendance officers, youth support officers, social trainers, school based community liaison officers, public service officers, other officers and wages staff.

3 RESPONSIBILITY FOR IMPLEMENTATION AND COMPLIANCE

Implementation of the policy is the responsibility of all staff.

Compliance monitoring is the responsibility of line managers.

4 SCOPE

This policy applies to all Department staff.

5 DEFINITIONS

BELIEF ON REASONABLE GROUNDS

A belief formed on reasonable grounds that a child has been sexually abused may be based on but is not limited to:

- disclosure of information provided by a child or parent/carer;
- disclosure of child sexual abuse by a third party; and/or
- observed evidence of physical and/or behavioural indicators.

The belief may be based on a number of child protection concerns that form the 'reasonable grounds' and may have been documented over time. There is no requirement to provide proof of child sexual abuse.

Refer to [Indicators of Abuse](#).

CHILD

A person who has not reached the age of 18 years of age and, in the absence of positive evidence as to age, means a person who is apparently under 18 years of age.

CHILD ABUSE

Occurs when a child has been subjected to physical, sexual, or emotional abuse and/or neglect which has resulted or is likely to result in harm to the child's wellbeing. It may involve ongoing, repeated or persistent abuse, or arise from a single incident.

CHILD EXPLOITATION MATERIAL

Child pornography or material that involves the depiction of a child in a sexual context, or engaging in sexual activity and at a basic level can include material involving a child in an offensive or demeaning context or being subjected to abuse, cruelty or torture such as posing without clothes, and exposure of genitals, anus region, or breasts. It includes a wide range of formats such as texts, pictures, film, printed or written material.

CHILD PROTECTION CONCERN

A concern about the wellbeing of a child based on the observation of indicators or information that may lead to a concern for:

- the care of the child;
- the physical, emotional, psychological and educational health and/or sexual development of the child; and
- the safety of the child (s3 *Children and Community Services Act 2004*).

CHILD SAFE ORGANISATION

The Australian Children's Commissioners and Guardians (ACCG) define a child safe organisation as one that consciously and systematically:

- creates conditions that reduce the likelihood of harm occurring to children and young people;
- creates conditions that increase the likelihood of any harm being discovered; and
- responds appropriately to any disclosures, allegations or suspicions of harm.

Refer to [Responding to disclosures](#).

CHILD SEXUAL ABUSE

Occurs when a child is exposed to, or involved in, sexual activity that is inappropriate to the child's age and developmental level. It includes circumstances where the child has less power than another person involved, is exploited or where the child has been bribed, threatened or coerced. It also includes situations where there is a significant difference between the developmental or maturity level of the child and another person involved.

Some examples are: letting a child watch or read pornography; allowing a child to watch sexual acts; fondling a child's genitals; having oral sex with a child; sexual assault (including sexual touching or vaginal or anal penetration that is non-consensual); and using the internet to find a child for sexual exploitation.

CONFIDENTIALITY

The protection of personal, private and sensitive information. Professional codes of conduct and the Department's [Staff Conduct and Discipline policy](#) reinforce the importance of protecting an individual's privacy.

DOCUMENTED EDUCATION PLAN

A support document for schools and teachers as they plan, monitor, assess and evaluate teaching and learning programs that address individual needs such as individual education plans and individual behaviour plans.

DUTY OF CARE

A duty imposed by the law to take care to minimise the foreseeable risk of harm to another.

EMOTIONAL ABUSE

Occurs when an adult harms a child's development by repeatedly treating and speaking to a child in ways that damage the child's ability to feel and express their feelings. Emotional abuse includes psychological abuse and being exposed to an act of family and domestic violence.

Some examples are: constantly putting a child down; humiliating or shaming a child; not showing love, support or guidance; continually ignoring or rejecting the child; exposing a child to family and domestic violence; threatening abuse or bullying a child; threats to harm loved ones, property or pets.

FAMILY AND DOMESTIC VIOLENCE

Under the *Restraining Orders Act 1997 s.6*, an act of family and domestic violence means one of the following acts that a person commits against another person with whom he or she is in a family and domestic relationship:

- (a) assaulting or causing personal injury to the person;
- (b) kidnapping or depriving the person of his or her liberty;
- (c) damaging the person's property, including the injury or death of an animal that is the person's property;
- (d) behaving in an ongoing manner that is intimidating, offensive or emotionally abusive towards the person;
- (e) pursuing the person or a third person, or causing the person or a third person to be pursued:
 - (i) with intent to intimidate the person; or
 - (ii) in a manner that could reasonably be expected to intimidate, and that does in fact intimidate, the person;
- (f) threatening to commit any act described in paragraphs (a) to (c) against the person.

FEMALE GENITAL MUTILATION

All procedures involving partial or total removal of the external female genitalia, or other injury to the female genital organs for non-therapeutic reasons.

MANDATORY REPORTER

All teachers, doctors, nurses, midwives, police and boarding supervisors who form a belief of child sexual abuse during the course of their work, either voluntary or paid, are mandatory reporters. For the purposes of the legislation, 'teacher' is defined as any person registered with the Teacher Registration Board of Western Australia or with Provisional Registration or Limited Registration and is working as a teacher.

TAFE lecturers who are registered with the Teacher Registration Board of WA or who have Limited Registration and are working on school grounds are mandatory reporters.

Staff who have teacher registration but are not working as teachers; are not mandatory reporters but are required under this policy to report child sexual abuse to the line manager or principal. Non-teaching staff are not mandatory reporters.

MANDATORY REPORTING LEGISLATION

Legislation requiring teachers, doctors, nurses, midwives, police and boarding supervisors to report beliefs of child sexual abuse to the Mandatory Reporting Service of Child Protection and Family Support. Legislation covering mandatory reporting of child sexual abuse is the *Children and Community Services Act 2004*.

Mandatory reporting only applies when a teacher, registered with the Teacher Registration Board of WA, or boarding supervisor is working in their role as a teacher or boarding supervisor either in a paid or voluntary capacity.

If a belief of child sexual abuse is formed outside of working hours, when not working as a teacher or boarding supervisor, then there is no legal requirement to report. However, a report to the local Department for Child Protection and Family Support office can be made voluntarily.

NEGLECT

When a child is not provided with adequate food or shelter; effective medical, therapeutic or remedial treatment, and/or care, nurturance or supervision to a severe and/or persistent extent where the health or development of the child is significantly impaired or placed at serious risk.

NON-MANDATORY REPORTER

All staff who are not working in the role of a teacher or boarding supervisor, including school support staff and school psychologists. Even if the staff member is registered with the Teacher Registration Board of WA, if the staff member is not working in the role of a teacher, they are not a mandatory reporter. When reporting child sexual abuse, non-mandatory reporters are required to follow the procedures for non-teaching staff or school psychologists.

NOTIFIER

A person who makes a referral to the Department for Child Protection and Family Support about concerns for the wellbeing of a child and/or who provides information to a mandatory reporter that leads to a mandatory report.

PARENT

In relation to a child, is a person who at law has responsibility for the long-term care, welfare and development of the child; or the day-to-day care, welfare and development of the child.

PHYSICAL ABUSE

Occurs when a child is severely and/or persistently hurt or injured by an adult or a child's caregiver. It may also be the result of putting a child at risk of being injured. Some examples are: hitting, shaking, punching; burning and scolding; excessive physical punishment or discipline; attempted suffocation; or shaking a baby.

PREVENTION

Strategies that promote self-management, emotional awareness and interpersonal problem-solving skills that reduce risk factors and promote protective factors to ensure the wellbeing of children and young people.

PROTECTIVE BEHAVIOURS

A personal safety program designed to equip children with the knowledge and skills to act in ways that reduce the likelihood of abuse occurring and help them to report abuse and to seek help if abuse occurs.

QUALIFIED PRIVILEGE

The protection from incurring civil or criminal liability or professional misconduct when providing confidential information concerning suspected child abuse in good faith to Child Protection and Family Support or WA Police and prescribed authorities and/or authorised entities. Refer to *section 28B of Children and Community Services Act*.

SCHOOL ACTIVITY

An activity that is organised or managed by a teacher as part of his or her duties.

SEXUAL HARASSMENT

An unwelcome sexual advance, an unwelcome request for sexual favours or other unwelcome conduct of a sexual nature. It includes:

- spoken or written harassment (for example, sexualised jokes or obscene remarks);
- non-verbal harassment (for example, glaring/staring/gesturing in a sexual way), presence of suggestive or sexual magazines/pictures/posters/etc on display or contained in a person's belongings; and
- electronic harassment (for example, sending sexually suggestive comments, obscene messages or jokes).

STAFF

All employees of the Director General of the Department of Education.

6 RELATED DOCUMENTS

RELEVANT LEGISLATION OR AUTHORITY

Australian Psychological Society Code of Ethics 2007

Children and Community Services Act 2004 (WA)

Corruption and Crime Commission Act 2003 (WA)

Criminal Code (Acts Amendment: Sexual Offences' Act 1992) (WA)

Criminal Code Act 1995 (Commonwealth)

Disability Discrimination Act 1992 (Cth)

Disability Discrimination Act: Standards for Education 2004 (Cth)

Equal Opportunity Act 1984 (WA)

Public Sector Management Act 1994 (WA)

Public Interest Disclosure Act 2003 (WA)
Restraining Orders Act 1997 (WA)
School Education Act 1999 (WA)
School Education Regulations 2000 (WA)
Sex Discrimination Act 1984 (Cth)
State Records Act 2000 (WA)
Working With Children (Criminal Record Checking) Act 2004 (WA)
Working with Children (Criminal Record Checking) Regulations 2005 (WA)
Teacher Registration Act 2012 (WA)

RELATED DEPARTMENT POLICIES

Court Appearances and Production of Documents
Disputes and Complaints
Duty of Care for Students
Duty of Care – VET for School Students Attending TAFEWA Colleges
Emergency and Critical Incident Management
Enrolment
Excursions
Public Interest Disclosure
Records Management
Staff Conduct and Discipline
Student Attendance
Student Behaviour
Visitors and Intruders on School Premises

OTHER DOCUMENTS

Department for Child Protection and Family Support MOU with the Department of Education 2013 – 2018
MOU between the Department of Education and the Department of Health 2013-2016

7 CONTACT INFORMATION

Policy manager: Manager, Complex Learning and Wellbeing
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8 REVIEW DATE

25 July 2020

9 HISTORY OF CHANGES

Effective date	Last update date	Policy version no.	Ref no.	Notes
25 July 2017		3.0	D17/0217874	The Child Protection policy has undergone a major review. The structure has been recast as an overarching policy with five supporting procedures. Endorsed out-of-session by the Director General at Corporate Executive and ratified on 30 June 2017.
25 July 2017	25 July 2017	3.1	D17/0304342	Minor corrective changes as requested by Corporate Executive out-of-session and ratified on 30 June 2017.



Department of
Education

CHILD PROTECTION PROCEDURES FOR PRINCIPALS

EFFECTIVE: 25 JULY 2017

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1 POLICY SUPPORTED

Child Protection Policy

2 SCOPE

These procedures apply to principals.

3 PROCEDURES

3.1 CHILD PROTECTION AND ABUSE PREVENTION PROFESSIONAL LEARNING

Principals must:

- confirm that staff complete the online Child Protection and Abuse Prevention course within 6 months of enrolment in the course;
- confirm that staff repeat the online Child Protection and Abuse Prevention program every three years from the date of completion; and
- inform all contract staff of their child protection responsibilities.

Guidance

Enrolment occurs automatically for staff who have an E number.

Note that any reference to staff includes casual and relief staff.

For further information refer to Appendix A.

3.2 CHILD ABUSE PREVENTION EDUCATION

Principals must implement protective behaviours education that aligns with the Western Australian Curriculum across all phases of schooling.

Guidance

For further information refer to the Department's [Child Protection website](#).

The Department's protective behaviours teaching and learning resources are available on [Connect](#).

3.2.1 INFORMING STUDENTS ABOUT THE CHILD PROTECTION POLICY

Principals must inform students:

- that all staff are required to follow the procedures set out in the Department's *Child Protection Policy*; and
- how they can make a disclosure.

Guidance

Principals may use their discretion in the amount and detail of information provided to students concerning the policy and procedures for staff for identifying and reporting of child abuse.

Students should be made aware of the options available for making a disclosure about the behaviour of a member of staff or other adult or child towards them.

3.3 MANDATORY REPORTING CHILD SEXUAL ABUSE

3.3.1 BELIEF OF CHILD SEXUAL ABUSE FORMED

If a belief is formed on reasonable grounds that child sexual abuse has occurred or is occurring, or a mandatory report of child sexual abuse has been received from a teacher or boarding supervisor, principals must:

- make a mandatory report, or accept a written mandatory report from a teacher, and forward it to the Mandatory Reporting Service (MRS);
- contact the MRS by phone when there is a concern for the immediate safety of the child prior to making a written or online report (refer to procedures 3.7);
- provide information to the Department for Child Protection and Family Support (CPFS) and/or WA Police as requested;
- make an Online Incident Notification and quote the Mandatory Report receipt number;
- seek advice from MRS prior to communication with parents (refer to procedures 3.11.1);
- provide secure storage for documentation (excluding mandatory reports, copies of which are not kept) in a confidential file, separate from the child's school records;
- also make a mandatory report:
 - if a belief on reasonable grounds of child sexual abuse is formed for a child enrolled at another school;
 - when sexual penetration of a child under 13 years of age occurs and report to the MRS;
 - even if another agency has previously submitted a report on the same child and the same alleged incident;
- if a staff member provides information that results in a mandatory report being made, advise the staff member of actions taken; and
- follow mandatory reporting procedures if a belief was formed that a child was sexually abused before 1 January 2009 and the abuse is not ongoing.

Principals must not:

- write a mandatory report on behalf of a teacher or boarding supervisor;
- alter a mandatory report in any way;
- keep a copy of a mandatory report made by another mandatory reporter;
- name the mandatory reporter in any Department documentation;
- identify the mandatory reporter or children involved when making an Online Incident Notification;
- authorise or request the collection of photographic evidence by staff; or
- delegate the receiving of a mandatory report for forwarding to the MRS to a deputy or other staff member.

Guidance

Prior to 1 January 2009 there was no legal requirement for teachers to report child abuse in Western Australia.

Mandatory reporting requirements apply when working in the role of a teacher, whether at their own school or another school, in either a paid or unpaid capacity. Mandatory reporting does not apply to a registered teacher who is working in another role such as when employed as a school psychologist.

If a belief of child sexual abuse is formed when not working in their role as a teacher, either paid or voluntary, there is no legal requirement to report. However, the Department strongly recommends a report be made to the local Child Protection and Family Support office voluntarily.

Where there are concerns for the immediate safety of the child, contact the Mandatory Reporting Service (1800 708 704) before making a written or online report.

TAFE lecturers who are registered with the Teachers Registration Board or who have Limited Registration and are working on school grounds are mandatory reporters and follow procedure 3.3.

The legal penalties in accordance with the Children and Community Services Act 2004 for a principal as a mandatory reporter who fails to report a belief on reasonable grounds of child sexual abuse can be a fine of up to \$6,000. A person can be prosecuted within three years after failing to make a report. Failure to report child sexual abuse may also be considered a breach of the Department's Staff Conduct and Discipline policy. Failure to follow up a verbal report of child sexual abuse with a written report could result in a fine of \$3,000.

A mandatory report cannot be made anonymously.

The principal is not required to make their own mandatory report if a report has already been made by a mandatory reporter for a belief based on the same reasonable grounds.

School nurses are mandatory reporters and are required to follow reporting procedures in accordance with Department of Health guidelines. They should also inform the principal of the mandatory report.

School chaplains are not mandatory reporters.

Where teachers form a belief based on different information, multiple mandatory reports can be made for the same child.

When there is concern for the safety of a mandatory reporter, the principal may contact the relevant Regional Education Office, WA Police and/or CPFS office to develop a support plan.

Following submission of a report, principals may contact CPFS to request information on the progress or current status of a referral or mandatory report. Under the Memorandum of Understanding between CPFS and the Department, CPFS are obliged to share relevant information relating to the wellbeing of a child with the principal.

For further information refer to Appendix B and the Department's Child Protection website.

3.3.2 CONCERN OF POSSIBLE SEXUAL ABUSE

If a belief on reasonable grounds is not formed, but a child protection concern of possible child sexual abuse is held, principals must:

- document and refer all concerns to the local CPFS District Office using the CPFS Child Protection Concern Referral Form;
- where appropriate, if information is received from teachers and non-teaching staff, advise them to continue to document concerns and update information as necessary;
- advise the staff member of further actions taken; and
- make an Online Incident Notification once a referral to CPFS is made.

Guidance

If the principal forms a belief on reasonable grounds of child sexual abuse, mandatory reporting requirements apply even if the staff member providing the information has not formed the same belief.

3.4 REFERRAL OF PHYSICAL, EMOTIONAL ABUSE, FAMILY AND DOMESTIC VIOLENCE OR NEGLECT

Principals must:

- refer all child protection concerns received which relate to physical abuse, emotional abuse, family and domestic violence, or neglect to the local CPFS District Office using the CPFS Child Protection Concern Referral Form;
- refer child protection concerns where there is a concern for the immediate physical safety of the child to WA Police on 13 14 44 prior to making a CPFS referral (refer to procedures 3.7);
- conduct all consultations in a confidential manner and document concerns in a confidential file separate from the child's school records;
- make an Online Incident Notification; and
- follow the requirements in procedure 3.11 for communications with parents.

Principals must not:

- interview the child or children involved or investigate the report; or
- authorise or request the collection of photographic evidence by staff.

Guidance

Principals may:

- *seek advice from CPFS staff and/or Department support staff;*
- *contact CPFS by phone prior to lodging a written referral, where there is a significant concern for the wellbeing of the child; and*
- *request acknowledgement that the referral has been received.*

If a principal holds a child protection concern involving a child or children enrolled at another school or college, principals may report their concern to the CPFS District Office as a private citizen.

A child witnessing, hearing or being involved in family and domestic violence is considered to be emotional abuse and may also be physical abuse. Observing the injuries resulting from the violence is also considered to be emotional abuse.

In cases of family and domestic violence, the police may interview the students, teachers, boarding supervisor, parents and any other parties involved (refer to procedures 3.11.4).

Principals can request from or provide information to the school nurse relating to a child protection referral in accordance with the Memorandum of Understanding between the Department of Education and the Department of Health.

3.5 REPORTING OF ALLEGATIONS OF SEXUAL ABUSE PERPETRATED BY STAFF

Principals, in addition to the mandatory reporting procedures in 3.3, must:

- report all allegations made by students, employees or non-employees regarding staff misconduct in accordance with the Staff Conduct and Discipline policy;

- seek instructions in relation to management of allegations from Standards and Integrity Directorate (SID);
- obtain the permission from SID or CPFS as appropriate prior to informing the parent/carer (refer to procedures 3.11); and
- make an Online Incident Notification.

Principals must not:

- interview the child;
- investigate the allegation; or
- inform the alleged offender that an allegation has been made.

Where the student is 18 years of age and over, the principal must also follow procedures in 3.8.

Guidance

An allegation may concern behaviour of a staff member towards a student who is enrolled at the reporter's school, another school or residential college.

The allegation may concern the behaviour of a staff member towards a child during or outside of school or college hours.

The content of electronic communication between a staff member and student may also constitute child sexual abuse.

Any concerns regarding an inappropriate relationship between a staff member and a student should be referred to the Standards and Integrity Directorate.

Sexual harassment of students is dealt with in the Equal Opportunity, Discrimination and Harassment policy. In some cases sexual harassment may also be child sexual abuse.

Certain behaviour towards students, while not illegal, may not be within appropriate professional boundaries be considered as unsafe practice. Refer to How to comply with our code of conduct guideline.

3.6 SEXUAL ABUSE PERPETRATED BY A STUDENT DURING SUPERVISED SCHOOL OR RESIDENTIAL COLLEGE ACTIVITIES

Principals must:

- arrange for the safety and supervision of the alleged victim and the student alleged to have perpetrated the abuse;
- follow the mandatory reporting procedures in 3.3;
- seek advice from the MRS before informing the alleged victim's parent;
- seek advice from the MRS before informing the alleged perpetrator's parents;
- if medical attention is required, take reasonable steps to contact the parent prior to contacting emergency services;
- arrange support for others affected by the incident;
- make an Online Incident Notification, quoting the receipt number of the mandatory report or local CPFS Incident Report number; and
- support the students involved and affected by the incident as required.

Principals must not:

- interview the students involved;
- disclose the identity of the person alleged to have perpetrated the abuse to the alleged victim's parent; or
- disclose the identity of the staff member who may have made a mandatory report of child sexual abuse to the parents of the students involved.

Guidance

The MRS will automatically notify WA Police who will assess the need for criminal charges.

Referral to the police does not preclude the principal from considering taking action in accordance with the Student Behaviour Policy and Procedures.

Sexual behaviour that is within the normal range is not necessarily child sexual abuse. Behaviour outside of the normal developmental range may be an indicator that child sexual abuse has occurred. For more information refer to Guidelines for Responding to Sexual Behaviours in Children.

3.7 RESPONDING WHEN A STUDENT IS AT IMMEDIATE RISK OF HARM

Principals must:

- call the WA Police on 13 14 44 and note the Incident Report number; and
- call the duty officer at the local CPFS District Office; or
- call the CPFS District Office responsible if the child is in care of CPFS; or
- call the MRS if a belief on reasonable grounds is formed that child sexual abuse has occurred; and
- lodge an Online Incident Notification.

Guidance

If CPFS identify an immediate risk of harm to the child, the WA Police and CPFS Child Assessment and Investigation Team may be involved.

If schools do not receive a response at all from the police, do not receive a response within a reasonable timeframe or are concerned about the response received at duty officer level then they can request to speak with the Team Leader.

If schools still do not receive a response from CPFS or remain concerned about the response received, they can request to speak with the CPFS Assistant District Director or District Director to discuss the need for immediate assistance.

If the student is in care, contact the CPFS Case Manager or Team Leader. Form 587 provided by CPFS will include the contact details.

Local CPFS District Offices.

*After hours contact Crisis Care 92231111 (1800 199 008 Country Free Call)
Mandatory Reporting Service (1800 708 704 available 24 hours)*

3.8 STUDENTS 18 YEARS OF AGE AND OVER SUBJECTED TO PHYSICAL OR SEXUAL ASSAULT

Principals must:

- advise and assist students to make a report to WA Police; and
- inform the parent or carer when the student:
 - has an intellectual disability; and
 - is incapable of understanding that they have been subjected to sexual exploitation.

Guidance

Students over 18 years of age are adults and concerns for their safety are reported to the WA Police by the student themselves. The principal's duty of care responsibilities require assistance be provided to the student in making a WA Police report.

Students over 18 years who have an intellectual disability are viewed under the Criminal Code as being an incapable person (Section 330). The principal may make a police report themselves when the student is incapable of doing so.

Although mandatory reporting does not apply to students 18 years of age or over, principals may consult with CPFS for further assistance.

Any concerns regarding an inappropriate relationship between a staff member and a student should be referred to the Standards and Integrity Directorate.

3.8.1 RESPONDING TO STUDENTS IN POSSESSION OF CHILD EXPLOITATION MATERIAL

When sexually explicit material has been located on a student's mobile phone or other electronic device, or if sexually explicit material has been distributed to others, principals must:

- secure the electronic device (if circumstances permit);
- report all concerns about issues involving child exploitation material allegations to WA Police;
- store devices securely until police advise of the course of action;
- request confirmation that the report has been received through the provision of a Police Incident Report number;
- seek advice from the WA Police prior to informing parents/caregivers;
- make an Online Incident Notification;
- if a belief is formed on reasonable grounds that child sexual abuse has occurred, make a mandatory report as outlined in procedures 3.3.1;
- follow the requirements in procedure 3.10 on supporting the children involved; and
- follow the requirements in procedure 3.11 on informing the parents.

Principals must not:

- formally investigate the allegation;
- search through a student's electronic device for evidence;
- download, transmit or distribute the images or text;
- authorise or request the collection of photographic evidence by staff;
- delete images or text; or
- inform the alleged offender that an allegation has been made.

Guidance

Sexting is the practice of sending sexually explicit messages or photographs to another via portable electronic device, usually a mobile phone. It may include pornography or sexual activity.

Members of the teaching staff have the authority to confiscate student's property on school premises under reg 71 of the School Education Regulations 2000.

A staff member may view an image to determine if it is reportable and should consider and document whether the:

- *image is sexually explicit;*
- *identity of the person is known; or*
- *image appears to be of a person under 18 years old.*

Once the device is secured, it is recommended that it is switched to flight mode (where possible).

If known, document the distributor and recipient/s of the images.

The process for the confiscation of mobile phones should be stated in the school's policy for the management of mobile phones and other electronic devices on school grounds.

The police will identify whether or not a child has been exploited and may interview the students, teachers, boarding supervisors, parents and any other parties involved (refer to procedure 3.11.4).

Possession and/or distribution of child exploitation material is a criminal matter and likely but not always a child protection issue. Principals should use their professional judgement or seek advice.

If principals have any concerns regarding the student and suicidal ideation please refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.9 RESPONDING TO SPECIFIC CHILD PROTECTION ISSUES

3.9.1 MAKING A REFERRAL OF FEMALE GENITAL MUTILATION

When a concern is formed that a student may be subjected to Female Genital Mutilation (FGM), or arrangements are being made to carry out the procedure, principals must follow the requirements in procedure 3.4.

Principals must not inform the parent of the concern or referral.

Guidance

CPFS has confirmed that all forms of FGM are physical abuse and mandatory reports of child sexual abuse for FGM will not be accepted.

For further information refer to Section 306 of the Criminal Code.

3.9.2 MAKING A REFERRAL OF FORCED MARRIAGE

If a concern is formed that a student under 18 years of age is being or has been forced or deceived into a marriage or is in an existing marriage, principals must:

- follow procedures 3.3.1 where a belief of child sexual abuse is formed; or
- follow procedures 3.3.2 where there is a concern of possible sexual abuse.

Principals must not inform the parent of the concern.

Guidance

For further information refer to sections 270.7A and 270.7B of the Commonwealth Criminal Code Act (1995).

3.10 SUPPORTING STUDENTS AFFECTED BY ABUSE

Principals must:

- support students affected by abuse, including students who are alleged to have committed the abuse; and
- in cases where the parties remain on school grounds, where practicable, remove the alleged offender/s from contact with the alleged victim.

Guidance

In cases where criminal conduct has been reported, the support of regional office staff, the lead school psychologist, and student services staff should be accessed by the principal.

In circumstances where the alleged perpetrator attends the same school, a plan should be developed in collaboration with the student affected.

Where appropriate, the student should be informed about who will be involved in supporting them, involved in decisions that directly affect them and provided with relevant information.

The principal may request a staff member to undertake the support role but it remains the responsibility of the principal.

3.11 COMMUNICATION TO PARENTS

3.11.1 WHEN A MANDATORY REPORT OR CHILD ABUSE REFERRAL HAS BEEN MADE

Principals must inform parents of a mandatory report or child abuse referral:

- when permission has been given by CPFS or WA Police; and
- when it is considered to be in the best interests of the child and consultation has been conducted with appropriate staff and this is documented.

Principals must not inform parents of a mandatory report or child abuse referral:

- without prior permission from CPFS or WA Police; and
- when it is considered to be not in the best interests of the child and consultation has been conducted with appropriate staff and that this is documented.

When informing the parents, principals must:

- conduct the meeting in private and document the discussion;
- tell the parents why the meeting is taking place;
- inform parents that the meeting is confidential;
- advise of reports that have been made to other agencies and explain the action to be taken by the Department if an allegation has been made against a staff member; and
- inform the parents of the support available to them and their child.

Principals must not:

- disclose the identity or personal information relating to the person alleged to have committed the abuse;
- disclose the identity of the person who made the mandatory report or child abuse referral;
- offer personal opinions; and
- question the family about matters that are unrelated to the situation.

Guidance

Obtaining permission from CPFS or WA Police before informing parents is required because the parent/carer may be responsible for the abuse and advising them that the school has made a mandatory report or child abuse referral may compromise an investigation.

3.11.2 WHEN A CONCERN IS HELD BUT A MANDATORY REPORT OR CHILD ABUSE REFERRAL HAS NOT BEEN MADE

Principals must not inform parents:

- that physical or behavioural indicators have been observed in their child which have led to a concern of possible child abuse;
- of a suspicion of family and domestic violence; or
- of an intention to make a referral concerning their child to CPFS, WA Police and/or SID.

Guidance

This procedure relates to circumstances where a belief of child sexual abuse is not formed, but a child protection concern of possible child sexual abuse is held. For more information refer to 3.3.2.

A parent may be the perpetrator of abuse. To inform the parent of a concern of possible child abuse may alert them and pose a further risk to the child.

If a parent makes a disclosure of possible extrafamilial child abuse, principals should obtain permission from CPFS or WA Police before informing the parent about an intention to make a report.

Observations can be discussed with parents in order to seek further information without alerting them to concerns of child abuse.

3.11.3 THE DEPARTMENT FOR CHILD PROTECTION AND FAMILY SUPPORT ON SCHOOL GROUNDS

When CPFS is on school grounds to interview a student, principals must sight the authority of the CPFS worker to interview the child before access to the child is given.

Principals must not inform the parents that CPFS have interviewed the student as this is the responsibility of CPFS.

When CPFS removes a student from the school, principals must:

- confirm with CPFS whether or not they have parental permission to remove the student;

- if CPFS does not have parental permission to remove the student, confirm that CPFS is exercising their authority under section 33 of the *Children and Community Services Act 2004*; and
- document this information.

Guidance

CPFS have the statutory authority to access a child for purposes of investigation without parental consent. Refer to Section 33 of the Children and Community Services Act 2004.

The CPFS officer is required to notify the principal of the intention to access a child and the reasons for it before access is given.

As soon as practicable after accessing the child, the CPFS officer is required to inform at least one of the parents that the child has been seen and the reasons for it unless:

- *they believe that the parent may be charged,*
- *the investigation may be compromised,*
- *the child's safety may be put at risk, or*
- *the child has requested that the parents are not informed and the CPFS Officer believes on reasonable grounds that this is in the best interests of the child.*

In some cases CPFS determines if a school staff member is present during the interview to support the child.

CPFS officers may remove a child from the school for an interview if they have the permission of the parent.

If parental permission is not given, CPFS will apprehend the child or take them into provisional care. Principals should check that these conditions have been met before allowing the removal of a child from school. Verbal communication is adequate but it must be documented.

CPFS have the statutory authority to take a child into provisional protection and care without parental permission. Refer to Section 32 and Section 35 of the Children and Community Services Act 2004 (see Memorandum of Understanding between CPFS and the Department).

3.11.4 WA POLICE ON SCHOOL GROUNDS

When WA Police request permission to interview a student on school grounds, principals must:

- sight the police officer's identification;
- establish the purpose of the interview; and
- confirm that parental consent has been obtained.

When parental consent has not been obtained, the principal or deputy principal can grant or refuse permission to WA Police to interview or remove a student from the school grounds. The principal or deputy principal must document the details of the request and the reasons for their decision.

Guidance

WA Police rely on the cooperation of the principal to grant access to a student for the purposes of carrying out a child interview on the school site.

When making a decision concerning WA Police requests to interview a student or remove them from the school grounds, principals should take into account the best interests of the child and the child safe principles that apply to this policy.

WA Police can remove a child without parental permission if they have a warrant or if the child is under arrest. All other situations require the child to be accompanied by CPFS.

3.11.5 WHEN A STUDENT UNDER THE AGE OF CONSENT DISCLOSES A SEXUAL RELATIONSHIP

Principals must:

- inform parents of the disclosure unless:
 - it is not in the best interests of the child; or
 - a mandatory report of child sexual abuse is made; or
 - where a child protection referral has been made; and
- follow procedures 3.3 and 3.7.

Principals must not inform the parents where the disclosure is viewed as possible child abuse without seeking prior permission from CPFS or WA Police.

Guidance

These procedures only apply when a disclosure has been made by the student themselves. Sexual behaviour involving students aged 13 to under 16 years of age may not necessarily constitute sexual abuse unless a belief on reasonable grounds of child sexual abuse is formed.

When a sexual relationship is consensual and both parties are aged between 13-16, consideration should be given to the age of the child, developmental level, any disability or the influence of drugs or alcohol.

Students under 13 years of age are incapable of consenting to a sexual relationship. Sexual behaviour may constitute a child safety concern that should be addressed through protective behaviours education (see [Protective Behaviours Resources](#)).

School psychologists may be consulted on determining the best interests of the child and the availability of appropriate support options.

3.12 RECORDKEEPING AND DOCUMENTATION

3.12.1 RECORDKEEPING

Principals must store all confidential child protection information securely and separately from the student's school records. Confidential information includes:

- child protection referrals to CPFS;
- written and electronic records of all communication with CPFS, WA Police, SID or other authorities and subsequent actions;
- Mandatory Report receipt numbers; and
- Online Incident Notification numbers.

Principals must not:

- keep or store copies of mandatory reports; or
- record or disclose information that may identify the mandatory reporter other than to CPFS or WA Police involved in the investigation.

Guidance

It is strongly advised that a copy of the mandatory report is not stored by the mandatory reporter. It is not necessary to keep a mandatory report. The receipt number issued by the MRS is proof that a report has been made. The report can be accessed or additional information added by the reporter at a later date by quoting the receipt number or the name of the child to the MRS.

Documentation kept by staff, excluding mandatory reports, may be required by CPFS, WA Police and SID in their investigations. For further information refer to the Court Appearances and Production of Documents policy.

Refer to Appendix C for more information on completing documentation.

3.12.2 TRANSFER OF CHILD PROTECTION DOCUMENTS TO A NEW SCHOOL

Principals must:

- forward copies of child protection documents directly to the principal of the new school clearly marked 'CONFIDENTIAL';
- delete information that may lead to the identification of the mandatory reporter; and
- retain original documentation in a secure file separate to the student's records.

Guidance

Original child protection records must remain at the school.

Copies of child protection documents are provided to the student's next school to assist with education planning and the provision of support.

3.13 CONFIDENTIALITY

Principals must protect the identity of the staff member who reports a child protection concern or the mandatory reporter if a mandatory report of child sexual abuse has been made.

When a student discloses abuse or family and domestic violence, principals must not promise confidentiality.

Guidance

The Children and Community Services Act 2004 overrides other policies, codes of conduct professional confidentiality requirements and legislation that governs the exchange of information between agencies when it is in the best interests of the child.

All staff are protected from civil, criminal and disciplinary liability by providing information in good faith to CPFS, WA Police or SID.

Staff may consult with each other provided this is carried out in a confidential manner.

The identity of the person making the mandatory report is protected. In prescribed circumstances the identity of the reporter may be disclosed. The penalty for disclosing a mandatory reporter's identity outside of these circumstances can be up to two years imprisonment and/or \$24,000 fine (Children and Community Services Act 2004).

For assistance regarding appropriate responses to students disclosing abuse, please refer to Child Protection: A Guide to Responding to Disclosures.

For further information refer to Appendix D.

3.14 PROTECTION AND SUPPORT FOR EMPLOYEES WHO REPORT CHILD ABUSE

Where there are concerns for the safety of a staff member, principals must:

- advise the CPFS District Office and/or the WA Police;
- contact the Regional Education Office for further advice if required; and
- provide information on counselling support through the Employee Assistance Program if requested.

Guidance

The Children and Community Services Act 2004 protects the identity of the reporter and protects against any breach of conduct or professional standards. For further information, refer to Appendix B.

3.15 DOCUMENTED EDUCATION PLANNING FOR CHILDREN IN THE CARE OF THE CEO OF THE DEPARTMENT FOR CHILD PROTECTION AND FAMILY SUPPORT

Principals must:

- verify that a Documented Education Plan (DEP) is developed within 30 working days of receiving Form 587 from CPFS stating that a child is in care;
- provide a copy of the completed DEP to the CPFS child protection worker and other key stakeholders;
- record on Integris the date when the DEP was forwarded to CPFS and the date it is due for review;
- review the DEP at the commencement of each school year once advised by CPFS via Form 587 that the child is still in care;
- review the DEP at least twice yearly; and
- review details for a child in care monthly in Integris as required in Reporting Requirements of Schools.

Guidance

For further information on the requirement to develop a DEP refer to the Child Protection website Memorandum of Understanding between CPFS and the Department, Section 30 of the Children and Community Services Act 2004.

Templates are available for DEP planning. The Special Educational Needs (SEN) planning function allows teachers and school administrators to create education plans for students with special education needs.

3.16 INFORMATION SHARING

Principals must:

- share relevant information for the wellbeing of the child where it is the best interests of the child with teachers, boarding supervisors and school psychologists; and
- provide information to and may request information from prescribed public authorities or authorised entities subject to the information being relevant to the wellbeing of a child.

Guidance

The school principal, in consultation with the lead school psychologist, may provide information in response to a request from a CPFS officer. In these circumstances, section 28 of the Children and Community Services Act 2004 provides that the school principal, lead school psychologist and school psychologist have statutory protection from:

- *civil or criminal liability;*
- *breach of duties of confidentiality or secrecy; or*
- *breach of applicable professional ethics, standards or codes of conduct.*

Section 28B enables principals, lead school psychologists, school psychologists and other delegated staff to disclose information relevant for the wellbeing of a child, or a class or group of children or request this information from non-government service providers and non-government and Catholic schools. This includes relevant information:

- *in cases where CPFS is not involved;*
- *where there is a concern for the safety of a child who is subject to family and domestic violence; or*
- *in school settings when school health service staff consider a student to be at significant risk, relevant information for the wellbeing of a child may be exchanged between the school nurse and the school principal for the child's safety or welfare.*

For more information on information sharing between prescribed public authorities or authorised entities, refer to the CPFS website.

3.16.1 RESPONDING TO CHILD PROTECTION AND FAMILY SUPPORT REQUESTS FOR SCHOOL PSYCHOLOGY INFORMATION

Principals must:

- inform the lead school psychologist that all requests for school psychology information are to be directed to the principal;
- liaise with the lead school psychologist to determine what information is relevant to the request; and
- verify that original documents are not provided.

Guidance

School psychology information may be provided in compliance with a request from a prescribed authority (section 28B of the Children and Community Services Act 2004). For further information refer to Appendix D.

4 DEFINITIONS

BELIEF ON REASONABLE GROUNDS

A belief formed on reasonable grounds that a child has been sexually abused may be based on but is not limited to:

- disclosure of information provided by a child or parent/carer;
- disclosure of child sexual abuse by a third party; and/or
- observed evidence of physical and/or behavioural indicators.

The belief may be based on a number of child protection concerns that form the 'reasonable grounds' and may have been documented over time. There is no requirement to provide proof of child sexual abuse.

Refer to Indicators of Abuse.

CHILD

A person who has not reached the age of 18 years of age and, in the absence of positive evidence as to age, means a person who is apparently under 18 years of age.

CHILD ABUSE

Occurs when a child has been subjected to physical, sexual or emotional abuse and/or neglect which has resulted or is likely to result in harm to the child's wellbeing. It may involve ongoing, repeated or persistent abuse, or arise from a single incident.

CHILD EXPLOITATION MATERIAL

Child pornography or material that involves the depiction of a child in a sexual context, or engaging in sexual activity and at a basic level can include material involving a child in an offensive or demeaning context or being subjected to abuse, cruelty or torture such as posing without clothes, and exposure of genitals, anus region, or breasts. It includes a wide range of formats such as texts, pictures, film, printed or written material.

CHILD PROTECTION CONCERN

A concern about the wellbeing of a child based on the observation of indicators or information that may lead to a concern for:

- the care of the child;
- the physical, emotional, psychological and educational health and/or sexual development of the child; and
- the safety of the child (s3 *Children and Community Services Act 2004*).

CHILD SAFE ORGANISATION

The Australian Children's Commissioners and Guardians (ACCG) define a child safe organisation as one that consciously and systematically:

- creates conditions that reduce the likelihood of harm occurring to children and young people;
- creates conditions that increase the likelihood of any harm being discovered; and
- responds appropriately to any disclosures, allegations or suspicions of harm.

Refer to [Responding to disclosures](#).

CHILD SEXUAL ABUSE

Occurs when a child is exposed to, or involved in, sexual activity that is inappropriate to the child's age and developmental level. It includes circumstances where the child has less power than another person involved, is exploited or where the child has been bribed, threatened or coerced. It also includes situations where there is a significant difference between the developmental or maturity level of the child and another person involved.

Some examples are: letting a child watch or read pornography; allowing a child to watch sexual acts; fondling a child's genitals; having oral sex with a child; sexual assault (including sexual touching or vaginal or anal penetration that is non-consensual); and using the internet to find a child for sexual exploitation.

CONFIDENTIALITY

The protection of personal, private and sensitive information. Professional codes of conduct and the Department's *Staff Conduct and Discipline policy* reinforce the importance of protecting an individual's privacy.

DOCUMENTED EDUCATION PLAN

A support document for schools and teachers as they plan, monitor, assess and evaluate teaching and learning programs that address individual needs such as individual education plans and individual behaviour plans.

DUTY OF CARE

A duty imposed by law to take care to minimise the foreseeable risk of harm to another.

EMOTIONAL ABUSE

Occurs when an adult harms a child's development by repeatedly treating and speaking to a child in ways that damage the child's ability to feel and express their feelings. Emotional abuse includes psychological abuse and being exposed to an act of family and domestic violence.

Some examples are: constantly putting a child down; humiliating or shaming a child; not showing love, support or guidance; continually ignoring or rejecting the child; exposing a child to family and domestic violence; threatening abuse or bullying a child; threats to harm loved ones, property or pets.

FAMILY AND DOMESTIC VIOLENCE

Under the *Restraining Orders Act 1997 s.6*, an act of family and domestic violence means one of the following acts that a person commits against another person with whom he or she is in a family and domestic relationship:

- (a) assaulting or causing personal injury to the person;
- (b) kidnapping or depriving the person of his or her liberty;
- (c) damaging the person's property, including the injury or death of an animal that is the person's property;
- (d) behaving in an ongoing manner that is intimidating, offensive or emotionally abusive towards the person;
- (e) pursuing the person or a third person, or causing the person or a third person to be pursued:
 - (i) with intent to intimidate the person; or
 - (ii) in a manner that could reasonably be expected to intimidate, and that does in fact intimidate, the person;
- (f) threatening to commit any act described in paragraphs (a) to (c) against the person.

FEMALE GENITAL MUTILATION

All procedures involving partial or total removal of the external female genitalia, or other injury to the female genital organs for non-therapeutic reasons.

MANAGER RESIDENTIAL COLLEGE

The College Manager is responsible for the management and operations of a residential college.

MANDATORY REPORTER

All teachers, doctors, nurses, midwives, police and boarding supervisors who form a belief of child sexual abuse during the course of their work, either voluntary or paid, are mandatory reporters. For the purposes of the legislation, 'teacher' is defined as any person registered with the Teacher Registration Board of Western Australia or with Provisional Registration or Limited Registration and is working as a teacher.

TAFE lecturers who are registered with the Teacher Registration Board of WA or who have Limited Registration and are working on school grounds are mandatory reporters.

Staff who have teacher registration but are not working as teachers; are not mandatory reporters but are required under this policy to report child sexual abuse to the line manager or principal. Non-teaching staff are not mandatory reporters.

MANDATORY REPORTING LEGISLATION

Legislation requiring teachers, doctors, nurses, midwives, police and boarding supervisors to report beliefs of child sexual abuse to the Mandatory Reporting Service of Child Protection and Family Support. Legislation covering mandatory reporting of child sexual abuse is the *Children and Community Services Act 2004*.

Mandatory reporting only applies when a teacher, registered with the Teacher Registration Board of WA, or boarding supervisor is working in their role as a teacher or boarding supervisor either in a paid or voluntary capacity.

If a belief of child sexual abuse is formed outside of working hours, when not working as a teacher or boarding supervisor, then there is no legal requirement to report. However, a report to the local Department for Child Protection and Family Support office can be made voluntarily.

NEGLECT

When a child is not provided with adequate food or shelter; effective medical, therapeutic or remedial treatment, and/or care, nurturance or supervision to a severe and/or persistent extent where the health or development of the child is significantly impaired or placed at serious risk.

NON-MANDATORY REPORTER

All staff who are not working in the role of a teacher or boarding supervisor, including school support staff and school psychologists.

Even if the staff member is registered with the Teacher Registration Board of WA, if the staff member is not working in the role of a teacher, they are not a mandatory reporter. When reporting child sexual abuse, non-mandatory reporters are required to follow the procedures for non-teaching staff or school psychologists.

NOTIFIER

A person who makes a referral to the Department for Child Protection and Family Support about concerns for the well-being of a child and/or who provides information to a mandatory reporter that leads to a mandatory report.

PARENT

In relation to a child, is a person who at law has responsibility for the long-term care, welfare and development of the child; or the day-to-day care, welfare and development of the child.

PHYSICAL ABUSE

Occurs when a child is severely and/or persistently hurt or injured by an adult or a child's caregiver. It may also be the result of putting a child at risk of being injured. Some examples are: hitting, shaking, punching; burning and scolding; excessive physical punishment or discipline; attempted suffocation; or shaking a baby.

PREVENTION

Strategies that promote self-management, emotional awareness and interpersonal problem-solving skills that reduce risk factors and promote protective factors to ensure the wellbeing of children and young people.

PROTECTIVE BEHAVIOURS

A personal safety program designed to equip children with the knowledge and skills to act in ways that reduce the likelihood of abuse occurring and help them to report abuse and to seek help if abuse occurs.

QUALIFIED PRIVILEGE

The protection from incurring civil or criminal liability or professional misconduct when providing confidential information concerning suspected child abuse in good faith to Child Protection and Family Support or WA Police and prescribed authorities and/or authorised entities. Refer to section 28B of Children and Community Services Act.

SCHOOL ACTIVITY

An activity that is organised or managed by a teacher as part of his or her duties.

SEXUAL HARASSMENT

An unwelcome sexual advance, an unwelcome request for sexual favours or other unwelcome conduct of a sexual nature. It includes:

- spoken or written harassment, (for example, sexualised jokes or obscene remarks;
- non-verbal harassment (for example, glaring/staring/gesturing in a sexual way), presence of suggestive or sexual magazines/pictures/posters/etc. on display or contained in a person's belongings; and
- electronic harassment (for example, sending sexually suggestive comments, obscene messages or jokes).

STAFF

All employees of the Director General of the Department of Education.

5 RELATED DOCUMENTS**RELEVANT LEGISLATION OR AUTHORITY**

Australian Psychological Society Code of Ethics 2007
Children and Community Services Act 2004 (WA)
Corruption and Crime Commission Act 2003 (WA)
Criminal Code (Acts Amendment: Sexual Offences' Act 1992) (WA)
Criminal Code Act 1995 (Commonwealth)
Disability Discrimination Act 1992 (Cth)
Disability Discrimination Act: Standards for Education 2004 (Cth)
Equal Opportunity Act 1984 (WA)
Public Sector Management Act 1994 (WA)
Public Interest Disclosure Act 2003 (WA)
Restraining Orders Act 1997 (WA)
School Education Act 1999 (WA)
School Education Regulations 2000 (WA)
Sex Discrimination Act 1984 (Cth)
State Records Act 2000 (WA)
Working With Children (Criminal Record Checking) Act 2004 (WA)
Working with Children (Criminal Record Checking) Regulations 2005 (WA)
Teacher Registration Act 2012 (WA)

RELATED DEPARTMENT POLICIES

Court Appearances and Production of Documents
Disputes and Complaints
Duty of Care for Students
Duty of Care – VET for School Students Attending TAFEWA Colleges
Emergency and Critical Incident Management
Enrolment
Excursions
Public Interest Disclosure
Records Management
Staff Conduct and Discipline
Student Attendance
Student Behaviour
Visitors and Intruders on School Premises

OTHER DOCUMENTS

Department for Child Protection and Family Support MOU with the Department of Education 2013 – 2018
MOU between the Department of Education and the Department of Health 2013-2016

6 CONTACT INFORMATION

Policy manager: Complex Learning and Wellbeing
 Policy contact officer: Principal Consultant (Child Protection)
 T: (08) 9402 6124

7 REVIEW DATE

25 July 2020

8 HISTORY OF CHANGES

Effective date	Last update date	Policy version no.	Ref no.	Notes
25 July 2017		3.0	D17/0217875	This new procedure supports the Child Protection Policy. Endorsed out-of-session by the Director General at Corporate Executive and ratified on 30 June 2017.
25 July 2017	25 July 2017	3.1	D17/0304343	Minor corrective changes as requested by Corporate Executive out-of-session and ratified on 30 June 2017.

APPENDIX A. CHILD PROTECTION AND ABUSE PREVENTION EDUCATION PROFESSIONAL LEARNING

All teaching and support staff and line managers of staff who have contact with children must complete the online Child Protection and Abuse Prevention course within 6 months of enrolment in the online course.

On satisfactory completion of the course, the completion status is recorded in a central database and staff are issued with a certificate of completion. The database and certificates assist principals in managing and monitoring compliance requirements.

Staff are required to update professional learning in Child Protection and Abuse Prevention every three years from the date of completion. Once this date has elapsed, their status will revert to Not Attempted.

The school nurse will complete the Department of Health training.

Alternative professional learning formats will be provided for staff who cannot access the online professional learning.

For a list of staff required to complete the Child Protection and Abuse Prevention course, refer to the *School Education Act 1999* (section 237) and *School Education Regulations 2000* (r.127)

APPENDIX B. PROTECTION AND SUPPORT FOR EMPLOYEES WHO REPORT CHILD ABUSE

All staff are protected from civil, criminal and disciplinary liability by providing information to CPFS, WA Police or SID for the purpose of investigating child abuse.

If acting in good faith, staff are deemed not to have breached a duty of confidentiality, professional ethics or standards; or to have engaged in unprofessional conduct by providing information under s129 of the *Children and Community Services Act 2004*.

Under Sections 124F and 240 of the *Children and Community Services Act 2004*, the identity of the person making a report to CPFS is protected and can only be released for investigative purposes, or with the written permission of the reporter or the court, or by an application under the Freedom of Information Act 1992.

When there is concern for the safety of the reporter, it is important that the school has a risk management plan in place and the principal should contact the regional education office for support.

An employee who attempts to threaten, intimidate, coerce or take reprisal against an employee who has disclosed or intends to disclose unethical or unlawful behaviour may face disciplinary action (refer to the *Staff Conduct and Discipline* policy).

APPENDIX C. COMPLETING DOCUMENTATION

When documenting child protection concerns staff should be aware that records can be subpoenaed by the court as evidence. If in doubt, you can consult with the principal, student services staff, the Department's Complex Learning and Wellbeing (Child Protection) branch or CPFS.

The principal may complete documentation on behalf of the staff member who reports physical, psychological, emotional abuse or neglect.

The principal may complete documentation for concerns of school support staff regarding sexual abuse.

The teacher or boarding supervisor reporting child sexual abuse must complete documentation. The principal must not do this on their behalf.

When recording information, the mandatory reporter should refer to the Department's Fact Sheet: Indicators of Abuse. The Mandatory Reporter should record observations and factual information about what they have seen such as:

- the identity of the source of information;
- statements made by the child or parent, verbatim and in quotation (“ ”) marks;
- professional judgments within teaching training and experience; and
- information from a third party that is clearly identified as third party information.

Do not record irrelevant information such as:

- opinions, for example, “the parent used excessive discipline”;
- personal conclusions about the type of abuse suspected; and
- unreliable reports that have not been directly witnessed.

Use simple language:

- include clear, direct, precise, non-emotive, objective language;
- avoid jargon; and
- use the first person singular, for example, “I saw...”.

Avoid language that includes:

- pronouns, for example, he, she, it, etc. – use the names of people; and
- ‘probably’ or ‘possibly’ – only use these terms if there is a reasonable degree of certainty.

APPENDIX D. CONFIDENTIALITY AND LEGAL PROTECTION

The *Children and Community Services Act 2004* (the Act) protects the identity of the reporter and protects against legal prosecution or professional misconduct.

The legislative requirements of the Act override the Department's policies, professional codes of conduct and professional confidentiality requirements.

If reports are made in good faith and with the best interests of the child in mind, the Act protects staff from:

- civil or criminal liability in respect of the disclosure;
- a breach of any duty of confidentiality or secrecy imposed by law; and
- a breach of professional ethics or any principles of conduct applicable to the person's employment, or
- a breach of professional conduct.

Professional confidentiality is protected when staff provide information in the best interests of the child regarding possible child abuse to the Department for Child Protection and Family Support (CPFS) or other prescribed authorities who are directly involved in responding, investigating or supporting the child. This protection does not extend to discussion or disclosure of information to other parties who are not directly involved.

While the Act protects the identity of the reporter, there are some circumstances where the identity of the reporter may be released. These are:

- for the purpose of CPFS assessment;
- for investigative purposes by WA Police or to prosecute an offence;
- for court processes such as child protection, family law or adoption proceedings;
- with the written permission of the reporter; or
- by an application under the Freedom of Information Act 1992.

Disclosure of a reporter's identity carries a maximum fine of \$24,000 and 2 years imprisonment.

The identity of a person who makes a mandatory report of child sexual abuse will always be known to the police because the Mandatory Reporting Service must send a copy of every mandatory report to the WA Police for assessment.



Department of
Education

CHILD PROTECTION PROCEDURES FOR TEACHERS

EFFECTIVE: 25 JULY 2017

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1 POLICY SUPPORTED

Child Protection Policy

2 SCOPE

These procedures apply to teachers.

Guidance

These procedures apply to staff who are registered with the Teacher Registration Board of Western Australia and are currently working in the role of a teacher.

3 PROCEDURES

3.1 CHILD PROTECTION AND ABUSE PREVENTION PROFESSIONAL LEARNING

Teachers must:

- complete the online Child Protection and Abuse Prevention professional learning program within six months of enrolment in the online course; and
- repeat the online Child Protection and Abuse Prevention program every three years from the date of completion.

Guidance

Enrolment occurs automatically for staff who have an E number.

Note that any reference to staff includes casual and relief staff.

Compliance is monitored by the manager/principal and Statewide Services.

A certificate of completion is provided on satisfactory completion of the course.

Alternative professional learning formats are available for staff who cannot access the online professional learning due to a disability or special circumstances.

Refer to the [Child Protection website](#) for further information

3.2 CHILD ABUSE PREVENTION EDUCATION

Teachers must implement protective behaviours education that aligns with the Western Australian Curriculum across all phases of schooling.

Guidance

For further information refer to the Department's [Child Protection website](#).

The Department's protective behaviours teaching and learning resources are available on [connect](#).

3.3 MANDATORY REPORTING CHILD SEXUAL ABUSE

3.3.1 BELIEF OF CHILD SEXUAL ABUSE FORMED

If a belief is formed on reasonable grounds, during the course of paid or unpaid work as a teacher, that child sex abuse has occurred or is occurring, and where the principal is not the alleged perpetrator, teachers must:

- choose one of the following reporting processes:
 - make an online mandatory report at Mandatory Reporting Service (MRS);
 - make a verbal report to the MRS which must be followed up with an online or written mandatory report; or
 - write a report and provide it to the principal for lodgement with MRS;
- inform the principal that a mandatory report has been lodged and provide the principal with the receipt number of the mandatory report;
- follow procedures in 3.3.2 if a belief is formed that a child was sexually abused before 1 January 2009 and the abuse is not ongoing;
- if a decision to make a mandatory report has not been made, document all observations and consultations and follow procedures 3.3.2;
- inform the principal of the advice contained in the feedback letter received from MRS following the mandatory report; and
- not provide a copy of their mandatory report to the principal for storage or store their own copy of the report in Department of Education files.

If a belief is formed on reasonable grounds, during the course of paid or unpaid work as a teacher, that child sex abuse has occurred or is occurring, where the principal is is the alleged perpetrator or may be biased towards the alleged perpetrator, teachers must:

- make a report to Regional Executive Director or Standards and Integrity Directorate (SID) and choose one of the following reporting processes:
 - make an online mandatory report at Mandatory Reporting Service (MRS);
 - or
 - make a verbal report to the MRS which must be followed up with an online or written mandatory report; and
- not provide a copy of their mandatory report to the principal for storage or store their own copy of the report in Department of Education files.

Guidance

Prior to 1 January 2009 there was no legal requirement for teachers to report child abuse in Western Australia.

Mandatory reporting requirements apply when working in the role of a teacher, whether at their own school or another school. Mandatory reporting does not apply to a registered teacher who is working in another role such as when employed as a school psychologist.

If a belief of child sexual abuse is formed when not working in their role as a teacher, either paid or voluntary, there is no legal requirement to report. However, the Department strongly recommends a report be made to the local Child Protection and Family Support office voluntarily.

Where there are concerns for the immediate safety of the child, inform the principal and/or contact the Mandatory Reporting Service (1800 708 704) before making a written or online report.

The legal penalties in accordance with the Children and Community Services Act (2004) for a teacher as a mandatory reporter who fails to report child sexual abuse can be a fine of up to \$6,000. A person can be prosecuted within three years after failing to make a report. Failure to report child sexual abuse may also be considered a breach of the Department's Staff Conduct and Discipline policy. Failure to follow up a verbal report of child sexual abuse with a written report could result in a fine of \$3,000.

A mandatory report cannot be made anonymously.

Principals must not write the mandatory report on behalf of the teacher.

Prior to making a mandatory report the teacher may seek advice from CPFS or Department support staff.

A teacher may consult with the SID if the alleged child sexual abuse concerns a staff member.

A belief may be based on a number of child protection concerns that form the 'reasonable grounds' and may have been documented over time. This includes:

- disclosure of information provided by a child or parent/carer;*
- disclosure of child sexual abuse by a third party; and/or*
- observed evidence of physical and/or behavioural indicators.*

There is no requirement to provide proof of child sexual abuse.

Multiple reports can be made for the same child if that child is subjected to abuse over a period of time.

The teacher can add information to the mandatory report by quoting the receipt number or the child's name to MRS.

The teacher is not required to make their own mandatory report if a report has already been made by a mandatory reporter for a belief based on the same reasonable grounds.

Mandatory reporting does not apply to students who are over 18 years of age. Students over 18 years of age who have concerns for their own safety should make a report to WA Police.

Mandatory reporting applies to TAFE lecturers who are registered with the Teachers Registration Board or who have Limited Registration and are working on school grounds.

For further information refer to Appendix A and the Department's Child Protection website.

3.3.2 CONCERN OF POSSIBLE SEXUAL ABUSE

If a belief on reasonable grounds is not formed, but a child protection concern of possible child sexual abuse is held, teachers must:

- report to the principal;*
- document all observations, relevant information and concerns; and*
- provide this documentation to the principal.*

Guidance

Teachers may discuss concerns with the principal, colleagues or Department support staff.

If the principal forms a belief on reasonable grounds of child sexual abuse, mandatory reporting requirements apply even if the teacher providing the information has not formed the same belief.

3.4 REFERRAL OF PHYSICAL OR EMOTIONAL ABUSE, FAMILY AND DOMESTIC VIOLENCE OR NEGLECT

Teachers must:

- document and refer all child protection concerns relating to physical abuse, emotional abuse, family and domestic violence or neglect to the principal; and
- inform the Regional Executive Director or SID if the principal is the alleged perpetrator or may be biased towards the alleged perpetrator.

Teachers must not:

- inform parents that a referral has been made;
- interview the child or children involved;
- investigate the concern; or
- collect photographic evidence.

Guidance

A child witnessing, hearing or being involved in family and domestic violence is considered to be emotional abuse and may also be physical abuse. Observing the injuries resulting from the violence is also considered to be emotional abuse.

If a teacher holds a child protection concern involving a child or children enrolled at another school or college, teachers may report their concern to the CPFS District Office as a private citizen.

Refer to Appendix A for more information on completing documentation.

3.5 REPORTING OF ALLEGATIONS OF SEXUAL ABUSE PERPETRATED BY STAFF

Teachers must:

- report all allegations of abuse perpetrated by staff to the principal;
- if the principal is the alleged perpetrator or may be biased towards the staff member alleged to be responsible, inform the Regional Executive Director or SID; and
- follow reporting procedures in 3.3.

Teachers must not:

- interview the child;
- investigate the allegation; or
- inform the alleged offender that an allegation has been made.

Guidance

An allegation may concern behaviour of a staff member towards a child who is enrolled at the reporter's school, or another school.

The allegation may concern the behaviour of a staff member towards a child during or outside of school hours.

Any concerns regarding an inappropriate relationship between a staff member and a student should be referred to the Standards and Integrity Directorate.

Teachers should be aware that certain behaviour towards students, while not illegal, may not be within professional boundaries. Refer to [How to comply with our code of conduct guideline](#).

3.6 SEXUAL ABUSE PERPETRATED BY A STUDENT DURING SUPERVISED SCHOOL ACTIVITIES

Teachers must:

- report all incidents of sexual abuse perpetrated by a student during supervised school activities to the principal; and
- follow reporting procedures in 3.3.

Teachers must not:

- interview the children involved; or
- disclose the identity of the person alleged to have committed the abuse to the alleged victim's parent.

Guidance

Sexual abuse may take the form of inappropriate touching, exposure to sexual acts, exposure to pornographic materials and sexual penetration of the genitals or mouth.

Child sexual abuse perpetrated by another child relates to any sexual behaviour that involves the use of bribery, coercion, a threat, exploitation or violence.

Indicators of child sexual abuse include when one child has less power or there is significant disparity in the developmental function or maturity of the children involved.

Sexual behaviour that is within the normal developmental range is not child sexual abuse. Behaviour that is outside of the normal developmental range may be an indicator that child sexual abuse has occurred. For more information, refer to [Guidelines for Responding to Sexual Behaviours in Children](#).

3.7 RESPONDING WHEN A STUDENT IS AT IMMEDIATE RISK OF HARM

Where there is a concern that the student will be exposed to the immediate risk of harm during or after school hours, teachers must inform the principal.

3.8 STUDENTS 18 YEARS OF AGE AND OVER SUBJECTED TO PHYSICAL OR SEXUAL ASSAULT

Teachers must inform the principal of a concern for a student 18 years or over who discloses possible physical or sexual assault.

Guidance

Students over 18 years of age are adults and concerns for their safety are reported to the WA Police by the student themselves. The principal may advise and assist the student who has been subjected to physical or sexual assault to make a police report.

Students over 18 years who have an intellectual disability are viewed under the Criminal Code as being an incapable person ([Section 330](#)). The principal may make a WA Police report themselves when the student is incapable of doing so.

Any concerns regarding an inappropriate relationship between a staff member and a student should be referred to the Standards and Integrity Directorate.

3.9 RESPONDING TO STUDENTS IN POSSESSION OF CHILD EXPLOITATION MATERIAL

When sexually explicit material has been located on a student's mobile phone or other electronic device, or if sexually explicit material has been distributed to others, teachers must:

- secure the electronic device (if circumstances permit);
- report to the principal; and
- follow reporting procedures in 3.3.

Teachers must not:

- search through a student's portable electronic device for evidence;
- download, transmit or distribute the images or text;
- delete images or text; or
- inform the alleged offender that an allegation has been made.

Guidance

Teachers have the authority to confiscate student's property on school premises under reg 71 of the School Education Regulations 2000.

Sexting is the practice of sending sexually explicit messages or photographs to another via portable electronic device, usually a mobile phone. It may include pornography or sexual activity.

A staff member may view an image to determine if it is reportable and should consider and document whether the:

- *image is sexually explicit;*
- *identity of the person is known; or*
- *image appears to be of a person under 18 years old.*

Once the device is secured, it is recommended that it is switched to flight mode (where possible).

If known, document the distributor and recipient/s of the images.

The process for the confiscation of mobile phones should be stated in the school's policy for the management of mobile phones and other electronic devices on school grounds.

If teachers have any concerns regarding the student and suicidal ideation please refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

The police will identify whether or not a child has been exploited and may interview the students, teachers, boarding supervisors, parents and any other parties involved.

3.10 RESPONDING TO SPECIFIC CHILD PROTECTION ISSUES

3.10.1 FEMALE GENITAL MUTILATION (FGM)

Teachers must refer all concerns that a student may be subjected to female genital mutilation or arrangements are being made to carry out the procedure to the principal.

Teachers must not inform the parent of the concern or the referral.

Guidance

CPFS has confirmed that all forms of FGM are physical abuse and mandatory reports of child sexual abuse for FGM will not be accepted.

For further information refer to Section 306 of the Criminal Code.

3.10.2 FORCED MARRIAGE

Teachers must:

- refer to the principal any concerns for a student under 18 years of age who is being forced or deceived into a marriage, or is in an existing marriage; and
- follow reporting procedures in 3.3.

Teachers must not inform the parent of the concern.

Guidance

For further information refer to the Commonwealth Criminal Code Act 1995.

3.11 SUPPORTING STUDENTS AFFECTED BY ABUSE

Teachers must:

- support students affected by abuse, including students who are alleged to have perpetrated abuse; and
- document and inform the principal of any further information or observations.

Guidance

Staff involved in a supportive role should take into account factors such as culture, religion, age, disability and level of maturity of the student.

Staff should consult with relevant staff to gain information and develop strategies to support the student.

The impact on the student's behaviour of trauma stemming from abuse should also be considered.

Where appropriate, the student should be informed about who will be involved in supporting them, involved in decisions that directly affect them and provided with relevant information.

3.12 COMMUNICATION TO PARENTS

3.12.1 WHEN A MANDATORY REPORT OR CHILD ABUSE REFERRAL HAS BEEN MADE

Teachers must not:

- inform parents unless instructed by the principal; or

- disclose the identity of the mandatory reporter (if known) or the alleged perpetrator.

Guidance

The parent/carer may be responsible for the abuse and advising them that a mandatory report or child abuse referral has been made may compromise an investigation.

3.12.2 WHEN A CONCERN IS HELD BUT A MANDATORY REPORT OR CHILD ABUSE REFERRAL HAS NOT BEEN MADE

Teachers must not inform parents:

- that physical or behavioural indicators have been observed in their child which have led to a concern of possible child abuse;
- of a suspicion of family and domestic violence; or
- of an intention to make a referral concerning their child to CPFS, WA Police and/or SID.

Guidance

A parent/carer may be responsible for the abuse. To inform the parent of a concern of possible child abuse may alert them and pose a further risk to the child.

If a parent makes a disclosure of possible extrafamilial child abuse, teachers should discuss this with the principal.

Observations can be discussed with parents in order to seek further information without alerting them to concerns of child abuse.

3.13 WHEN A STUDENT UNDER THE AGE OF CONSENT DISCLOSES A SEXUAL RELATIONSHIP

Teachers must:

- inform the principal; and
- follow reporting procedures in 3.3.

Guidance

These procedures only apply when a disclosure has been made by the student themselves.

Sexual activity involving students under 16 years of age may or may not be sexual abuse unless a belief on reasonable grounds of child sexual abuse is formed.

The principal will determine if parents are to be informed about a child under the age of consent being in a sexual relationship unless:

- *it is not in the best interests of the child; or*
- *a mandatory report or referral of child sexual abuse is made; or*
- *where a child protection referral or has been made.*

3.14 RECORDKEEPING AND DOCUMENTATION

Teachers must:

- document all child protection concerns;
- provide copies to the principal; and
- securely store all confidential records and information separately from the student's school records.

Guidance

It is strongly advised that a copy of the mandatory report is not stored by the mandatory reporter. It is not necessary to keep a mandatory report. The receipt number issued by the MRS is proof that a report has been made. The report can be accessed or additional information added by the reporter at a later date by quoting the receipt number or the name of the child to the MRS.

Additional information may be added at a later date by quoting the receipt number or the name of the child to the MRS.

Documentation kept by staff, excluding mandatory reports, may be required by the CPFS, WA Police and/or the SID in their investigations. For further information refer to the Court Appearances and Production of Documents policy.

Refer to Appendix C for more information on completing documentation.

3.15 CONFIDENTIALITY

Teachers must protect the identity of a staff member who reports a child protection concern or the mandatory reporter if a mandatory report of child sexual abuse has been made.

When a student discloses abuse or family and domestic violence, teachers must not promise confidentiality.

Guidance

Staff may consult with each other provided this is carried out in a confidential manner. All staff are protected by the Children and Community Services Act 2004 from civil, criminal and disciplinary liability by providing information in good faith to CPFS, WA Police or SID. The identity of the person making the report is protected. In prescribed circumstance the identity of the reporter may be disclosed. The penalty for disclosing a mandatory reporter's identity outside of these circumstances can be up to two year's imprisonment and/or \$24,000 fine. (Children and Community Services Act 2004).

For assistance regarding appropriate responses to students disclosing abuse, please refer to Child Protection: A Guide to Responding to Disclosures.

For further information, refer to Appendix C.

3.16 PROTECTION AND SUPPORT FOR STAFF WHO REPORT CHILD ABUSE

Teachers who have a concern for their own safety following a referral or mandatory report must inform the principal.

Guidance

Where there is concern for the safety of the teacher following a report, the principal may consult with the regional education office to implement a risk management plan. This may include informing WA Police and CPFS.

Staff who require support as a result of reporting child abuse can access the Employee Assistance Program for counselling.

For further information refer to Appendix B.

3.17 DOCUMENTED EDUCATION PLANNING FOR CHILDREN IN THE CARE OF THE CEO OF THE DEPARTMENT FOR CHILD PROTECTION AND FAMILY SUPPORT

Teachers must:

- develop a Documented Education Plan (DEP) within 30 working days of being advised that a child is in care;
- provide a copy of the completed DEP to principal who forwards it to the CPFS child protection worker and other key stakeholders; and
- review the DEP at least twice per year.

Guidance

For further information on the requirement to develop a DEP refer to the Child Protection website [Memorandum of Understanding between CPFS and the Department](#). Section 30 of the [Children and Community Services Act 2004](#).

Templates are available for DEP planning. The [Special Educational Needs \(SEN\) planning function](#) allows teachers and school administrators to create education plans for students with special education needs.

4 DEFINITIONS

BELIEF ON REASONABLE GROUNDS

A belief formed on reasonable grounds that a child has been sexually abused may be based on but is not limited to:

- disclosure of information provided by a child or parent/carer;
- disclosure of child sexual abuse by a third party; and/or
- observed evidence of physical and/or behavioural indicators.

The belief may be based on a number of child protection concerns that form the 'reasonable grounds' and may have been documented over time. There is no requirement to provide proof of child sexual abuse.

Refer to [Indicators of Abuse](#).

CHILD

A person who has not reached the age of 18 years of age and, in the absence of positive evidence as to age, means a person who is apparently under 18 years of age.

CHILD ABUSE

Occurs when a child has been subjected to physical, sexual or emotional abuse and/or neglect which has resulted or is likely to result in harm to the child's wellbeing. It may involve ongoing, repeated or persistent abuse, or arise from a single incident.

CHILD EXPLOITATION MATERIAL

Child pornography or material that involves the depiction of a child in a sexual context, or engaging in sexual activity and at a basic level can include material involving a child in an offensive or demeaning context or being subjected to abuse, cruelty or torture such as posing without clothes, and exposure of genitals, anus region, or breasts. It includes a wide range of formats such as texts, pictures, film, printed or written material. Teachers must refer students subjected to physical or sexual assault to the principal.

CHILD PROTECTION CONCERN

A concern about the wellbeing of a child based on the observation of indicators or information that may lead to a concern for:

- the care of the child;
- the physical, emotional, psychological and educational health and/or sexual development of the child; and
- the safety of the child (s3 *Children and Community Services Act 2004*).

CHILD SAFE ORGANISATION

The Australian Children's Commissioners and Guardians (ACCG) define a child safe organisation as one that consciously and systematically:

- creates conditions that reduce the likelihood of harm occurring to children and young people;
- creates conditions that increase the likelihood of any harm being discovered; and
- responds appropriately to any disclosures, allegations or suspicions of harm.

Refer to [Responding to disclosures](#).

CHILD SEXUAL ABUSE

Occurs when a child is exposed to, or involved in, sexual activity that is inappropriate to the child's age and developmental level. It includes circumstances where the child has less power than another person involved, is exploited or where the child has been bribed, threatened or coerced. It also includes situations where there is a significant difference between the developmental or maturity level of the child and another person involved.

Some examples are: letting a child watch or read pornography; allowing a child to watch sexual acts; fondling a child's genitals; having oral sex with a child; sexual assault (including sexual touching or vaginal or anal penetration that is non-consensual); and using the internet to find a child for sexual exploitation.

CONFIDENTIALITY

The protection of personal, private and sensitive information. Professional codes of conduct and the Department's [Staff Conduct and Discipline policy](#) reinforce the importance of protecting an individual's privacy.

DOCUMENTED EDUCATION PLAN

A support document for schools and teachers as they plan, monitor, assess and evaluate teaching and learning programs that address individual needs such as individual education plans and individual behaviour plans.

DUTY OF CARE

A duty imposed by law to take care to minimise the foreseeable risk of harm to another.

EMOTIONAL ABUSE

Occurs when an adult harms a child's development by repeatedly treating and speaking to a child in ways that damage the child's ability to feel and express their feelings. Emotional abuse includes psychological abuse and being exposed to an act of family and domestic violence.

Some examples are: constantly putting a child down; humiliating or shaming a child; not showing love, support or guidance; continually ignoring or rejecting the child; exposing a child to family and domestic violence; threatening abuse or bullying a child; threats to harm loved ones, property or pets.

FAMILY AND DOMESTIC VIOLENCE

Under the *Restraining Orders Act 1997* s.6, an act of family and domestic violence means one of the following acts that a person commits against another person with whom he or she is in a family and domestic relationship:

- (a) assaulting or causing personal injury to the person;
- (b) kidnapping or depriving the person of his or her liberty;
- (c) damaging the person's property, including the injury or death of an animal that is the person's property;
- (d) behaving in an ongoing manner that is intimidating, offensive or emotionally abusive towards the person;
- (e) pursuing the person or a third person, or causing the person or a third person to be pursued:
 - (i) with intent to intimidate the person; or
 - (ii) in a manner that could reasonably be expected to intimidate, and that does in fact intimidate, the person;
- (f) threatening to commit any act described in paragraphs (a) to (c) against the person.

FEMALE GENITAL MUTILATION

All procedures involving partial or total removal of the external female genitalia, or other injury to the female genital organs for non-therapeutic reasons.

MANDATORY REPORTER

All teachers, doctors, nurses, midwives, police and boarding supervisors who form a belief of child sexual abuse during the course of their work, either voluntary or paid, are mandatory reporters. For the purposes of the legislation, 'teacher' is defined as any person registered with the Teacher Registration Board of WA or with provisional registration, or limited registration and is working as a teacher.

TAFE lecturers who are registered with the Teachers Registration Board or who have Limited Registration and are working on school grounds are mandatory reporters

Staff who have teacher registration but are not working as teachers; are not mandatory reporters but are required under this policy to report child sexual abuse to the line manager or principal. Non-teaching staff are not mandatory reporters.

MANDATORY REPORTING LEGISLATION

Legislation requiring teachers, doctors, nurses, midwives, police and boarding supervisors to report beliefs of child sexual abuse to the Mandatory Reporting Service of Child Protection and Family Support. Legislation covering mandatory reporting of child sexual abuse is the *Children and Community Services Act 2004*.

Mandatory reporting only applies when a teacher, registered with the Teacher Registration Board of WA or boarding supervisor is working in their role as a teacher or boarding supervisor either in a paid or voluntary capacity.

If a belief of child sexual abuse is formed outside of working hours, when not working as a teacher or boarding supervisor, then there is no legal requirement to report. However, a report to the local Department for Child Protection and Family Support office can be made voluntarily.

NEGLECT

When a child is not provided with adequate food or shelter; effective medical, therapeutic or remedial treatment; and/or care, nurturance or supervision to a severe and/or persistent extent where the health or development of the child is significantly impaired or placed at serious risk.

NON-MANDATORY REPORTER

All staff who are not working in the role of a teacher or boarding supervisor, including school support staff and school psychologists. Even if the staff member is registered with the Teacher Registration Board of WA, if the staff member is not working in the role of a teacher, they are not a mandatory reporter. When reporting child sexual abuse, non-mandatory reporters are required to follow the procedures for non-teaching staff or school psychologists.

NOTIFIER

A person who makes a referral to the Department for Child Protection and Family Support about concerns for the well-being of a child and/or who provides information to a mandatory reporter that leads to a mandatory report.

PARENT

In relation to a child, is a person who at law has responsibility for the long-term care, welfare and development of the child; or the day-to-day care, welfare and development of the child.

PHYSICAL ABUSE

Occurs when a child is severely and/or persistently hurt or injured by an adult or a child's caregiver. It may also be the result of putting a child at risk of being injured.

Some examples are: hitting, shaking, punching; burning and scolding; excessive physical punishment or discipline; attempted suffocation; or shaking a baby.

PREVENTION

Strategies that promote self-management, emotional awareness and interpersonal problem-solving skills that reduce risk factors and promote protective factors to ensure the wellbeing of children and young people.

PROTECTIVE BEHAVIOURS

A personal safety program designed to equip children with the knowledge and skills to act in ways that reduce the likelihood of abuse occurring and help them to report abuse and to seek help if abuse occurs.

QUALIFIED PRIVILEGE

The protection from incurring civil or criminal liability or professional misconduct when providing confidential information concerning suspected child abuse in good faith to Child Protection and Family Support or WA Police and prescribed authorities and/or authorised entities. Refer to section 28B of Children and Community Services Act.

SCHOOL ACTIVITY

An activity that is organised or managed by a teacher as part of his or her duties.

SEXUAL HARASSMENT

An unwelcome sexual advance, an unwelcome request for sexual favours or other unwelcome conduct of a sexual nature. It includes:

- spoken or written harassment, for example, sexualised jokes or obscene remarks;
- non-verbal harassment (for example, glaring/staring/gesturing in a sexual way), presence of suggestive or sexual magazines/pictures/posters/etc on display or contained in a person's belongings; and
- electronic harassment (for example, sending sexually suggestive comments, obscene messages or jokes).

STAFF

All employees of the Director General of the Department of Education.

5 RELATED DOCUMENTS

RELEVANT LEGISLATION OR AUTHORITY

Australian Psychological Society Code of Ethics 2007

Children and Community Services Act 2004 (WA)

Corruption and Crime Commission Act 2003 (WA)

Criminal Code (Acts Amendment: Sexual Offences' Act 1992) (WA)

Criminal Code Act 1995 (Commonwealth)

Disability Discrimination Act 1992 (Cth)

Disability Discrimination Act: Standards for Education 2004 (Cth)

Equal Opportunity Act 1984 (WA)
Public Sector Management Act 1994 (WA)
Public Interest Disclosure Act 2003 (WA)
Restraining Orders Act 1997 (WA)
School Education Act 1999 (WA)
School Education Regulations 2000 (WA)
Sex Discrimination Act 1984 (Cth)
State Records Act 2000 (WA)
Working With Children (Criminal Record Checking) Act 2004 (WA)
Working with Children (Criminal Record Checking) Regulations 2005 (WA)
Teacher Registration Act 2012 (WA)

RELATED DEPARTMENT POLICIES

Court Appearances and Production of Documents
Disputes and Complaints
Duty of Care for Students
Duty of Care – VET for School Students Attending TAFEWA Colleges
Emergency and Critical Incident Management
Enrolment
Excursions
Public Interest Disclosure
Records Management
Staff Conduct and Discipline
Student Attendance
Student Behaviour
Visitors and Intruders on School Premises

OTHER DOCUMENTS

Department for Child Protection and Family Support MOU with the Department of Education 2013 – 2018
MOU between the Department of Education and the Department of Health 2013-2016

6 CONTACT INFORMATION

Policy manager: Manager, Complex Learning and Wellbeing
Policy contact officer: Principal Consultant (Child Protection)
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7 REVIEW DATE

25 July 2020

8 HISTORY OF CHANGES

Effective date	Last update date	Policy version no.	Ref no.	Notes
25 July 2017		3.0	D17/0217877	This new procedure supports the Child Protection Policy. Endorsed out-of-session by the Director General at Corporate Executive and ratified on 30 June 2017.
25 July 2017	25 July 2017	3.1	D17/0304350	Minor corrective changes as requested by Corporate Executive out-of-session and ratified on 30 June 2017.

APPENDIX A. PROTECTION AND SUPPORT OF EMPLOYEES WHO REPORT CHILD ABUSE

All staff are protected from civil, criminal and disciplinary liability by providing information to CPFS, WA Police or SID for the purpose of investigating child abuse.

If acting in good faith, staff are deemed not to have breached a duty of confidentiality, professional ethics or standards; or to have engaged in unprofessional conduct by providing information under s129 of the *Children and Community Services Act (2004)*.

Under Sections 124F and 240 of the *Children and Community Services Act 2004*, the identity of the person making a report to CPFS is protected and can only be released with the permission of the reporter or the court, for investigative purposes or by an application under the Freedom of Information Act 1992.

When there is concern for the safety of the reporter, it is important that the school has a risk management plan in place and the principal should contact the Regional Education Office for support.

An employee who attempts to threaten, intimidate, coerce or take reprisal against an employee who has disclosed or intends to disclose unethical or unlawful behaviour may face disciplinary action as outlined in the *Staff Conduct and Discipline policy*.

Staff are entitled to seek counselling through the *Employee Assistance Program*.

APPENDIX B. COMPLETING DOCUMENTATION

When documenting child protection concerns staff should be aware that records can be subpoenaed by the court as evidence. If in doubt, you can consult with the principal, student services, the Department's Complex Learning and Wellbeing (Child Protection) branch or the Department for Child Protection and Family Support.

The principal may complete documentation on behalf of the staff member who reports physical, psychological, emotional abuse or neglect.

The principal may complete documentation for concerns of non-teaching staff regarding sexual abuse.

The teacher reporting child sexual abuse must complete documentation. The principal must not do this on their behalf.

When recording information, staff should refer to the Department's Fact Sheet: Indicators of Abuse. The Mandatory Reporter should record observations and factual information about what they have seen such as:

- the identity of the source of information;
- statements made by the child or parent, verbatim and in quotation (“ ”) marks;
- professional judgments within teaching training and experience; and
- information from a third party that is clearly identified as third party information.

Do not record irrelevant information such as:

- opinions, for example, “the parent used excessive discipline”;
- personal conclusions about the type of abuse suspected; and
- unreliable reports that have not been directly witnessed.

Use simple language:

- include clear, direct, precise, non emotive, objective language;
- avoid jargon; and
- use the first person singular, for example, “I saw...”.

Avoid language that includes:

- pronouns, for example, he, she, it, etc. – use the names of people; and
- ‘probably’ or ‘possibly’ – only use these terms if there is a reasonable degree of certainty.

APPENDIX C. CONFIDENTIALITY AND LEGAL PROTECTION

The identity of the person making a referral or report to the Department for Child Protection and Family Support (CPFS) is protected and can only be released:

- for the purpose of CPFS assessment;
- for investigative purposes by a police officer;
- with the written permission of the reporter;
- purposes of court protection proceedings; and/or
- by an application under the Freedom of Information Act 1992.

Where there is suspected or alleged abuse or misconduct, staff must not disclose or make use of the information in a manner that breaches confidentiality under Sections 23 and 129 of the *Children and Community Services Act 2004* and s242 of the *School Education Act 1999*.

Professional confidentiality is protected when staff provide information in the best interests of the child regarding possible child abuse to Department staff or agencies who are directly involved in responding, investigating or supporting the child.

If reports are made in good faith and with the best interests of the child in mind, staff are protected from a breach of professional confidentiality by 'qualified privilege'. However, qualified privilege does not extend to general discussion or disclosure of information in the staffroom, or with other parents or members of the general community.

If information is disclosed, in good faith:

- no civil or criminal liability is incurred in respect of the disclosure;
- the disclosure is not to be regarded as a breach of any duty of confidentiality or secrecy imposed by law; and
- the disclosure is not to be regarded as a breach of professional ethics, standards or any principles of conduct applicable to the person's employment, or as unprofessional conduct.



Department of
Education

CHILD PROTECTION PROCEDURES FOR SCHOOL PSYCHOLOGISTS

EFFECTIVE: 25 JULY 2017

VERSION: 3.1 FINAL

Last update date: 25 July 2017

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1 POLICY SUPPORTED

Child Protection Policy

2 SCOPE

These procedures apply to school psychologists.

3 PROCEDURES

3.1 CHILD PROTECTION AND ABUSE PREVENTION PROFESSIONAL LEARNING

School psychologists must:

- complete the online Child Protection and Abuse Prevention professional learning program within six months of enrolment in the online course; and
- repeat the online Child Protection and Abuse Prevention program every three years from the date of completion.

Guidance

Enrolment occurs automatically for staff who have an E number.

Note that any reference to staff includes casual and relief staff.

Compliance is monitored by the principal and Statewide Services.

A certificate of completion is provided on satisfactory completion of the course.

Alternative professional learning formats are available for staff who cannot access the online professional learning due to a disability or special circumstances.

For further information refer to the refer to Appendix A or the [Child Protection website](#).

3.2 REFERRAL OF CHILD ABUSE

3.2.1 REFERRAL OF SEXUAL ABUSE, PHYSICAL, EMOTIONAL ABUSE, FAMILY AND DOMESTIC VIOLENCE OR NEGLECT

School psychologists must:

- document observations, information and disclosures received or discussed with staff and log these records as a Student Service Request on the Student Services Support System (SSSS);
- refer all child protection concerns to the principal/manager; and
- make a referral to the Manager School Psychology Service or Standards and Integrity Directorate (SID) if the principal/manager is the alleged perpetrator or may be biased towards the staff member alleged to be responsible for the abuse.

School psychologists must not:

- inform parents that a referral has been made;
- interview the child or children involved;

- investigate the concern; or
- collect photographic evidence.

Guidance

A concern that a child has been subject to child abuse may be based on but is not limited to:

- *disclosure by a child or parent;*
- *disclosure by a third party; and/or*
- *observed evidence of physical and/or behavioural indicators.*

The concern may be based on a number of child protection issues documented over time.

Multiple referrals can be made for the same child if that child is subjected to abuse over a period of time.

If a School Psychologist holds a child protection concern involving a child or children enrolled at another school or college, they may report their concern to the CPFS District Office as a private citizen.

There is no requirement to provide proof of child abuse.

A child witnessing, hearing or being involved in family and domestic violence is considered to be emotional abuse and may also be physical abuse. Observing the injuries resulting from the violence is also considered to be emotional abuse.

If a principal/manager or teacher forms a belief on reasonable grounds based on information received from the school psychologist, mandatory reporting of child sexual abuse requirements apply even if the school psychologist has not formed a belief. The school psychologist will be named in the mandatory report.

School psychologists are protected from civil, criminal liability or professional misconduct-allegations by providing information in good faith to the Department for Child Protection and Family Support (CPFS), WA Police and/or the Standards and Integrity Directorate (SID) for the purpose of investigating child abuse. Refer to procedure 3.10 on Confidentiality and procedure 3.11 on Information Sharing.

3.2.2 REFERRING ALLEGATIONS OF ABUSE PERPETRATED BY STAFF

School psychologists must follow procedures in 3.2.1.

Guidance

Any concerns regarding an inappropriate relationship between a staff member and a student should be referred to the Standards and Integrity Directorate.

An allegation may concern the behaviour of a staff member towards a child who is enrolled at the referrer's school or another school.

The allegation may concern the behaviour of a staff member towards a child during or outside of school hours.

Sexual harassment of students is dealt with in the Equal Opportunity, Discrimination and Harassment policy. In some cases sexual harassment may also be child sexual abuse.

Certain behaviour towards students, while not illegal, may not be within appropriate professional boundaries. Refer to How to comply with our code of conduct guideline.

3.2.3 SEXUAL ABUSE PERPETRATED BY STUDENT DURING SUPERVISED SCHOOL OR RESIDENTIAL COLLEGE ACTIVITIES

School psychologists must refer all incidents of sexual abuse perpetrated by a student during supervised school or college activities to the principal/manager.

School psychologists must not:

- interview the children involved; or
- disclose the identity of the person alleged to have perpetrated the abuse to the alleged victim's parent.

Guidance

Sexual abuse may take the form of inappropriate touching, exposure to sexual acts, exposure to pornographic materials and sexual or digital penetration of the genitals or mouth.

Child sexual abuse committed by another child relates to any sexual behaviour that involves the use of bribery, coercion, a threat, exploitation or violence. It includes sexual behaviour when one child has less power or there is significant disparity in the developmental function or maturity of the children involved.

Sexual behaviour within the normal developmental range is not child sexual abuse. Sexual behaviour outside of the normal developmental range may be an indicator that child sexual abuse has occurred. For further information refer to Guidelines for responding to sexual behaviours in children.

3.3 RESPONDING WHEN A STUDENT IS AT IMMEDIATE RISK OF HARM

Where there is a concern that the student will be exposed to the immediate risk of harm during or after school hours, school psychologists must:

- report to the principal/manager and;
- assist in developing a support plan for the student.

Guidance

A support plan may involve a risk assessment, collaboration with staff to develop a safety plan, liaison with other agencies to alert them of the risk and counselling the student concerned.

3.4 STUDENTS 18 YEARS OF AGE AND OVER SUBJECTED TO PHYSICAL OR SEXUAL ASSAULT

School psychologists must inform the principal of a concern for a student 18 years or over who discloses possible physical or sexual assault.

Guidance

Students over 18 years of age are adults and concerns for their safety are reported to the WA Police by the student themselves. The principal/manager may advise and assist the student who has been subjected to physical or sexual assault to make a WA Police report.

Students over 18 years who have an intellectual disability are viewed under the Criminal Code as being an incapable person (Section 330). The principal/manager may make a police report themselves when the student is incapable of doing so.

Any concerns regarding an inappropriate relationship between a staff member and a student should be referred to the Standards and Integrity Directorate.

3.5 RESPONDING TO STUDENTS IN POSSESSION OF CHILD EXPLOITATION MATERIAL

School psychologists must refer the misuse of electronic media by members of staff or students for the purposes of distributing sexually explicit material or text to the principal/manager.

School psychologists must not:

- investigate the allegation;
- search through a student's portable electronic device for evidence;
- download, transmit or distribute the images;
- delete images or text; or
- inform the alleged offender that an allegation has been made.

Guidance

Sexting is the practice of sending sexually explicit messages or photographs to another via portable electronic device, usually a mobile phone. It may include pornography or sexual activity.

If known, document the distributor and recipient/s of the images and provide this to the principal/manager.

The police will identify whether or not a child has been exploited and may interview the students, teachers, parents and any other parties involved.

Members of the teaching staff have the authority to confiscate student's property on school premises under reg 71 of the School Education Regulations 2000.

The process for the confiscation of mobile phones should be stated in the school's policy for the management of mobile phones and other electronic devices on school grounds.

If School Psychologists have any concerns regarding the student and suicidal ideation please refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.6 RESPONDING TO SPECIFIC CHILD PROTECTION CONCERNS

3.6.1 FEMALE GENITAL MUTILATION

School psychologists must refer all concerns that a student may be subjected to female genital mutilation or arrangements are being made to carry out the procedure to the principal/manager.

School psychologists must not inform the parent of the referral.

Guidance

For further information refer to Section 306 of the Criminal Code.

3.6.2 FORCED MARRIAGE

School psychologists must:

- refer concerns for a student under 18 years of age who is being forced or deceived into a marriage, or is in an existing marriage to the principal/manager; and
- follow procedures 3.2.1.

School psychologists must not inform the parent of the concern.

Guidance

For further information refer to sections 270.7A and 270.7B of the Commonwealth Criminal Code Act (1995).

3.7 SUPPORTING STUDENTS AFFECTED BY ABUSE

School psychologists must implement trauma informed frameworks and practices when supporting schools in their response to the needs of students affected by abuse.

Guidance

The principal/manager may seek advice from the school psychologist on determining what actions, adjustments and supports are in the best interests of the child. Refer to the Children and Community Services Act 2004.

The principal/manager may request the school psychologist to provide support to plan for the engagement and wellbeing of students affected by abuse, including students who are alleged to have perpetrated abuse.

Where a WA Police investigation into child abuse is occurring, the school psychologist should consult with the lead school psychologist about the provision of counselling by the school psychologist to the student concerned. Counselling may impact on the reliability of the student's disclosure and/or contaminate evidence. (Refer to Responding to disclosures)

When providing direct psychological services to a student, consider the impact of possible trauma stemming from abuse and apply evidence based support and interventions. Refer to the Connect community for information and resources on trauma informed frameworks and practices.

Where appropriate, the student should be informed about who will be involved in supporting them, be involved in decisions that directly affect them and be provided with relevant information.

3.8 COMMUNICATION TO PARENTS

3.8.1 WHEN A CHILD ABUSE REFERRAL HAS BEEN MADE

School psychologists must not inform parents of child abuse referrals made to WA Police or the Department for Child Protection and Family Support (CPFS).

Guidance

No member of staff apart from the principal/manager is permitted to inform parents of child abuse reports or referrals. A parent may be responsible for the abuse and advising them that the school has made a child abuse report or referral may compromise an investigation by CPFS or WA Police.

3.8.2 WHEN A CHILD ABUSE REFERRAL HAS NOT BEEN MADE

School psychologists must not inform parents:

- that physical or behavioural indicators have been observed in their child which have led to a concern of possible child abuse;
- of a suspicion of family and domestic violence; or
- of an intention to make a referral concerning their child to CPFS, WA Police and/or SID.

Guidance

A parent may be the perpetrator of abuse. To inform the parent of a concern of possible child abuse may alert them and pose a further risk to the child.

School psychologists should use their professional judgement when deciding to discuss observations with parents. It is permissible to seek clarification from parents in order to determine if a child protection referral is required. Document questions and responses verbatim. The WA Police may use this information in their investigations.

3.8.3 WHEN A STUDENT UNDER THE AGE OF CONSENT DISCLOSES A SEXUAL RELATIONSHIP

School psychologists must:

- inform the principal/manager;
- follow documentation procedures in Recordkeeping for School Psychologists;
- document advice to the principal/manager on the grounds for or against informing parents based on the best interests of the child concerned; and
- log this as a Student Service Request in the SSSS.

Guidance

Concern for a student regardless of age, who is engaged in sexual activity is referred according to procedures 3.2.1.

Sexual activity involving students under 16 years of age may or may not be sexual abuse. Please refer to Responding to sexual behaviours in children for further information.

The principal/manager will inform the parents about the disclosure except in circumstances where informing the parents is

- *considered to be not in the best interests of the child; or*
- *a mandatory report or referral of child sexual abuse has been made.*

The school psychologist may be consulted on determining the best interests of the child. Refer to Child Protection Policy statement for the principle of the best interests of the child

3.9 RECORDKEEPING AND DOCUMENTATION

School psychologists must:

- document all information relating to a child protection matter;
- securely store all confidential records; and
- comply with record-management procedures that meet the Australian Psychological Society Code of Ethics.

School psychologists must not store copies of child protection referrals to CPFS in school psychology files.

Guidance

Information relevant to a child protection referral to CPFS is recorded in school psychology files.

Where the principal/manager is the alleged perpetrator, child protection referrals are stored by the Regional Executive Director.

Documentation kept by staff may be required by the Department for Child Protection and Family Support (CPFS), WA Police and the Standards and Integrity Directorate in their investigations (refer to the Court Appearances and Production of Documents Policy).

Refer to Recordkeeping for School Psychologists.

School Psychology records should include the identity of the staff member who has consulted about possible child abuse and making a child protection referral or mandatory report. This information may be required by CPFS or WA Police during the course of an investigation.

Records of school psychologist support relating to child abuse stored in student psychology files may be considered exempt material in relation to requests by parents to access the information under the Freedom of Information Act 1992. This is because the records may include information that identifies or leads to the identification of the staff member who made a child protection referral or mandatory reporter which is protected under the Children and Community Services Act section 240(1).

3.10 CONFIDENTIALITY

School psychologists must treat the identity of a staff member who makes a child protection referral or mandatory report as confidential.

When a student discloses information that leads to a concern of child abuse, school psychologists must not promise confidentiality.

Guidance

The Children and Community Services Act 2004 overrides other policies, codes of conduct professional confidentiality requirements and legislation that governs the exchange of information between agencies when it is in the best interests of the child.

School psychologists may provide confidential information as part of a child protection referral or in response to a request from a prescribed authority or authorised entity when it is considered to be in the best interests of the child.

In these situations:

- *no civil or criminal liability is incurred in respect of the disclosure;*
- *the disclosure is not to be regarded as a breach of any duty of confidentiality or secrecy imposed by law, and*
- *the disclosure is not to be regarded as a breach of professional ethics, standards or any principles of conduct applicable to the person's employment, or as unprofessional conduct.*

(Children and Community Services Act 2004) Refer to procedure 3.11.

Professional confidentiality is protected when school psychologists provide information in the best interests of the child regarding possible child abuse to the Department for Child Protection and Family Support (CPFS) or other prescribed authorities who are directly involved in responding, investigating or supporting the child. This protection does not extend to discussion or disclosure of information to other parties who are not directly involved.

While the Act protects the identity of the reporter, there are some circumstances where the identity of the reporter may be released. These are:

- *for the purpose of CPFS assessment;*
- *for investigative purposes by WA Police or to prosecute an offence;*
- *for court processes such as child protection, family law or adoption proceedings;*
- *with the written permission of the reporter; or*
- *by an application under the Freedom of Information Act 1992.*

The penalty for disclosing a mandatory reporter's identity outside of these circumstances can be up to two years imprisonment and/or \$24,000 fine.

For assistance regarding appropriate responses to students disclosing abuse, please refer to Child Protection: A Guide to Responding to Disclosures.

Staff may consult with each other in a confidential manner and subject to the information being relevant to the wellbeing of the child.

3.11 INFORMATION SHARING

School psychologists must:

- direct requests for information from prescribed authorities to the principal/manager and the lead school psychologist; and
- assist principals/managers in providing relevant information to and requesting information from prescribed public authorities, non-government service providers, non-government and Catholic schools subject to the information being relevant to the wellbeing of a child.

Guidance

Information that may lead to the identification of a mandatory reporter can only be provided under the Freedom of Information Act 1992 with the written permission of the author.

The principal/manager, in consultation with the lead school psychologist, may provide information relevant to the wellbeing of a child or request this information from prescribed public authorities, non-government service providers and non-government and Catholic schools (Children and Community Services Act 2004). This includes relevant information:

- *in cases where the Department for Child Protection and Family Support is not involved; or*
- *where there is a concern for the safety of a child subject to family and domestic violence.*

Relevant information relates to the wellbeing of a child or the safety of a person who has been exposed to or subjected to family and domestic violence.

The wellbeing of a child includes but is not limited to:

- *the care of child;*
- *the physical, emotional, psychological and educational development of the child;*
- *the physical, emotional and psychological health of the child; and*
- *the safety of the child, section 3 of the Children and Community Services Act (CCSA) 2004.*

In these circumstances, the CCSA provides statutory protection for School Psychologists from:

- *civil or criminal liability;*
- *breach of duties of confidentiality or secrecy; or*

- *breach of applicable professional ethics, standards or codes of conduct.
(Section 28B Children and Community Services Act 2004)*

If acting in good faith, staff are deemed not to have breached a duty of confidentiality, professional ethics or standards; or to have engaged in unprofessional conduct by providing information under s129 of the Children and Community Services Act (2004).

Exchange of information does not breach confidentiality requirements as stated in the School Education Act (1999).

3.11.1 RESPONDING TO CHILD PROTECTION AND FAMILY SUPPORT REQUESTS FOR SCHOOL PSYCHOLOGY INFORMATION

School Psychologists must:

- direct all requests for school psychology information to the principal/manager;
- inform the lead school psychologist who will consult with the principal/manager to determine what information is relevant to the request; and
- assist the principal/manager and verify that original documents are not sent to other key stakeholders.

Guidance

School psychology information may be provided in compliance with a request from a prescribed authority (section 28B of the Children and Community Services Act 2004).

4 DEFINITIONS

BELIEF ON REASONABLE GROUNDS

A belief formed on reasonable grounds that a child has been sexually abused may be based on but is not limited to:

- disclosure of information provided by a child or parent/carer;
- disclosure of child sexual abuse by a third party; and/or
- observed evidence of physical and/or behavioural indicators.

The belief may be based on a number of child protection concerns that form the 'reasonable grounds' and may have been documented over time. There is no requirement to provide proof of child sexual abuse.

Refer to [Indicators of abuse](#).

CHILD

A person who has not reached the age of 18 years of age and, in the absence of positive evidence as to age, means a person who is apparently under 18 years of age.

CHILD ABUSE

Occurs when a child has been subjected to physical, sexual or emotional abuse and/or neglect which has resulted or is likely to result in harm to the child's wellbeing. It may involve ongoing, repeated or persistent abuse, or arise from a single incident.

CHILD EXPLOITATION MATERIAL

Child pornography or material that involves the depiction of a child in a sexual context, or engaging in sexual activity and at a basic level can include material involving a child in an offensive or demeaning context or being subjected to abuse, cruelty or torture such as posing without clothes, and exposure of genitals, anus region, or breasts. It includes a wide range of formats such as texts, pictures, film, printed or written material.

CHILD PROTECTION CONCERN

A concern about the wellbeing of a child based on the observation of indicators or information that may lead to a concern for:

- the care of the child;
- the physical, emotional, psychological and educational health and/or sexual development of the child; and
- the safety of the child (s 3 *Children and Community Services Act 2004*)

CHILD SAFE ORGANISATION

The Australian Children's Commissioners and Guardians (ACCG) define a child safe organisation as one that consciously and systematically:

- creates conditions that reduce the likelihood of harm occurring to children and young people;
- creates conditions that increase the likelihood of any harm being discovered; and
- responds appropriately to any disclosures, allegations or suspicions of harm.

Refer to [Responding to disclosures](#).

CHILD SEXUAL ABUSE

Occurs when a child is exposed to, or involved in, sexual activity that is inappropriate to the child's age and developmental level. It includes circumstances where the child has less power than another person involved, is exploited or where the child has been bribed, threatened or coerced. It also includes situations where there is a significant difference between the developmental or maturity level of the child and another person involved.

Some examples are: letting a child watch or read pornography; allowing a child to watch sexual acts; fondling a child's genitals; having oral sex with a child; sexual assault (including sexual touching or vaginal or anal penetration that is non-consensual); and using the internet to find a child for sexual exploitation.

CONFIDENTIALITY

The protection of personal, private and sensitive information. Professional codes of conduct and the Department's [Staff Conduct and Discipline policy](#) reinforce the importance of protecting an individual's privacy.

DOCUMENTED EDUCATION PLAN

A support document for schools and teachers as they plan, monitor, assess and evaluate teaching and learning programs that address individual needs such as individual education plans and individual behaviour plans.

DUTY OF CARE

A duty imposed by law to take care to minimise the foreseeable risk of harm to another.

EMOTIONAL ABUSE

Occurs when an adult harms a child's development by repeatedly treating and speaking to a child in ways that damage the child's ability to feel and express their feelings. Emotional abuse includes psychological abuse and being exposed to an act of family and domestic violence.

Some examples are: constantly putting a child down; humiliating or shaming a child; not showing love, support or guidance; continually ignoring or rejecting the child; exposing a child to family and domestic violence; threatening abuse or bullying a child; threats to harm loved ones, property or pets.

FAMILY AND DOMESTIC VIOLENCE

Under the *Restraining Orders Act 1997* s.6, an act of family and domestic violence means one of the following acts that a person commits against another person with whom he or she is in a family and domestic relationship:

- (a) assaulting or causing personal injury to the person;
- (b) kidnapping or depriving the person of his or her liberty;
- (c) damaging the person's property, including the injury or death of an animal that is the person's property;
- (d) behaving in an ongoing manner that is intimidating, offensive or emotionally abusive towards the person;
- (e) pursuing the person or a third person, or causing the person or a third person to be pursued:
 - (i) with intent to intimidate the person; or
 - (ii) in a manner that could reasonably be expected to intimidate, and that does in fact intimidate, the person;
- (f) threatening to commit any act described in paragraphs (a) to (c) against the person.

FEMALE GENITAL MUTILATION

All procedures involving partial or total removal of the external female genitalia, or other injury to the female genital organs for non-therapeutic reasons.

MANDATORY REPORTER

All teachers, doctors, nurses, midwives, police and boarding supervisors who form a belief of child sexual abuse during the course of their work, either voluntary or paid, are mandatory reporters. For the purposes of the legislation, 'teacher' is defined as any person registered with the Teacher Registration Board of Western Australia or with Provisional Registration or Limited Registration and is working as a teacher.

TAFE lecturers who are registered with the Teacher Registration Board of WA or who have Limited Registration and are working on school grounds are mandatory reporters.

Staff who have teacher registration but are not working as teachers; are not mandatory reporters but are required under this policy to report child sexual abuse to the line manager or principal/manager. Non-teaching staff are not mandatory reporters.

MANDATORY REPORTING LEGISLATION

Legislation requiring teachers, doctors, nurses, midwives, police and boarding supervisors to report beliefs of child sexual abuse to the Mandatory Reporting Service of Child Protection and Family Support. Legislation covering mandatory reporting of child sexual abuse is the *Children and Community Services Act 2004*.

Mandatory reporting only applies when a teacher, registered with the Teacher Registration Board of WA or boarding supervisor is working in their role as a teacher or boarding supervisor either in a paid or voluntary capacity.

If a belief of child sexual abuse is formed outside of working hours, when not working as a teacher or boarding supervisor, then there is no legal requirement to report. However, a report to the local Department for Child Protection and Family Support office can be made voluntarily.

NEGLECT

When child is not provided with adequate food or shelter; effective medical, therapeutic or remedial treatment; and/or care, nurturance or supervision to a severe and/or persistent extent where the health or development of the child is significantly impaired or placed at serious risk.

NON-MANDATORY REPORTER

All staff who are not working in the role of a teacher or boarding supervisor, including school support staff and school psychologists. Even if the staff member is registered with the Teacher Registration Board of WA, if the staff member is not working in the role of a teacher, they are not a mandatory reporter. When reporting child sexual abuse, non-mandatory reporters are required to follow the procedures for non-teaching staff or school psychologists.

NOTIFIER

A person who makes a referral to the Department for Child Protection and Family Support about concerns for the well-being of a child and/or who provides information to a mandatory reporter that leads to a mandatory report.

PARENT

In relation to a child, is a person who at law has responsibility for the long-term care, welfare and development of the child; or the day-to-day care, welfare and development of the child.

PHYSICAL ABUSE

Occurs when a child is severely and/or persistently hurt or injured by an adult or a child's caregiver. It may also be the result of putting a child at risk of being injured. Some examples are: hitting, shaking, punching; burning and scolding; excessive physical punishment or discipline; attempted suffocation; or shaking a baby.

PREVENTION

Strategies that promote self-management, emotional awareness and interpersonal problem-solving skills that reduce risk factors and promote protective factors to ensure the wellbeing of children and young people.

PROTECTIVE BEHAVIOURS

A personal safety program designed to equip children with the knowledge and skills to act in ways that reduce the likelihood of abuse occurring and help them to report abuse and to seek help if abuse occurs.

QUALIFIED PRIVILEGE

The protection from incurring civil or criminal liability or professional misconduct when providing confidential information concerning suspected child abuse in good faith to Child Protection and Family Support or WA Police and prescribed authorities and/or authorised entities. Refer to section 28B of the Children and Community Services Act 2004.

SCHOOL ACTIVITY

An activity that is organised or managed by a teacher as part of his or her duties.

SEXUAL HARASSMENT

An unwelcome sexual advance, an unwelcome request for sexual favours or other unwelcome conduct of a sexual nature. It includes:

- spoken or written harassment (for example, sexualised jokes or obscene remarks);
- non-verbal harassment (for example, glaring/staring/gesturing in a sexual way), presence of suggestive or sexual magazines/pictures/posters/etc. on display or contained in a person's belongings; and
- electronic harassment (for example, sending sexually suggestive comments, obscene messages or jokes).

STAFF

All employees of the Director General of the Department of Education.

5 RELATED DOCUMENTS

RELEVANT LEGISLATION OR AUTHORITY

Australian Psychological Society Code of Ethics 2007

Children and Community Services Act 2004 (WA)

Corruption and Crime Commission Act 2003 (WA)

Criminal Code (Acts Amendment: Sexual Offences' Act 1992) (WA)
Criminal Code Act 1995 (Commonwealth)
Disability Discrimination Act 1992 (Cth)
Disability Discrimination Act: Standards for Education 2004 (Cth)
Equal Opportunity Act 1984 (WA)
Public Sector Management Act 1994 (WA)
Public Interest Disclosure Act 2003 (WA)
Restraining Orders Act 1997 (WA)
School Education Act 1999 (WA)
School Education Regulations 2000 (WA)
Sex Discrimination Act 1984 (Cth)
State Records Act 2000 (WA)
Working With Children (Criminal Record Checking) Act 2004 (WA)
Working with Children (Criminal Record Checking) Regulations 2005 (WA)
Teacher Registration Act 2012 (WA)

RELATED DEPARTMENT POLICIES

Court Appearances and Production of Documents
Disputes and Complaints
Duty of Care for Students
Duty of Care – VET for School Students Attending TAFEWA Colleges
Emergency and Critical Incident Management
Enrolment
Excursions
Public Interest Disclosure
Records Management
Staff Conduct and Discipline
Student Attendance
Student Behaviour
Visitors and Intruders on School Premises

OTHER DOCUMENTS

Department for Child Protection and Family Support MOU with the Department of Education 2013 – 2018
MOU between the Department of Education and the Department of Health 2013-2016

6 CONTACT INFORMATION

Policy manager: Manager, Specialist Services
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7 REVIEW DATE

25 July 2020

8 HISTORY OF CHANGES

Effective date	Last update date	Policy version no.	Ref no.	Notes
25 July 2017		3.0	D17/0217882	This new procedure supports the Child Protection Policy. Endorsed out-of-session by the Director General at Corporate Executive and ratified on 30 June 2017.
25 July 2017	25 July 2017	3.1	D17/0304351	Minor corrective changes as requested by Corporate Executive out-of-session and ratified on 30 June 2017.



Department of
Education

CHILD PROTECTION PROCEDURES FOR BOARDING SUPERVISORS

EFFECTIVE: 25 JULY 2017

VERSION: 3.1 FINAL

Last update date: 25 July 2017

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1 POLICY SUPPORTED

Child Protection Policy

2 SCOPE

These procedures apply to boarding supervisors at residential colleges and Western Australian Colleges of Agriculture.

Guidance

These procedures apply to staff who hold an office or position at a boarding facility; the duties of which include the supervision of children living at the facility while they attend school.

3 PROCEDURES

3.1 CHILD PROTECTION AND ABUSE PREVENTION PROFESSIONAL LEARNING

Boarding supervisors must:

- complete the online Child Protection and Abuse Prevention professional learning program within six months of enrolment in the online course; and
- repeat the online Child Protection and Abuse Prevention program every three years from the date of completion.

Guidance

Enrolment occurs automatically for staff who have an E number.

Note that any reference to staff includes casual and relief staff.

A certificate of completion is provided on satisfactory completion of the course. Compliance is monitored by the manager/principal and Statewide Services.

Alternative professional learning formats are available for staff who cannot access the online professional learning due to a disability or special circumstances.

For further information refer to the Department's [Child Protection website](#).

3.2 CHILD ABUSE PREVENTION EDUCATION

Boarding Supervisors of Residential Colleges and Western Australian Colleges of Agriculture must implement protective behaviours education for all students.

Guidance

For further information refer to the Department's [Child Protection website](#).

The Department's protective behaviours teaching and learning resources are available on [Connect](#).

3.3 MANDATORY REPORTING CHILD SEXUAL ABUSE

3.3.1 BELIEF OF CHILD SEXUAL ABUSE FORMED

If a belief is formed on reasonable grounds, during the course of paid or unpaid work as a boarding supervisor, that child sex abuse has occurred or is occurring, and where the manager/principal is not the alleged perpetrator, boarding supervisors must:

- choose one of the following reporting processes:
 - make an online mandatory report at Mandatory Reporting Service (MRS);
 - make a written mandatory report and forward it to the MRS; or
 - make a verbal report to the MRS which must be followed up with an online or written mandatory report.
- inform the manager/principal that a mandatory report has been lodged and provide the receipt number of the report;
- inform the manager/principal of the advice contained in the feedback letter received from MRS following the mandatory report;
- if there is a belief or concern that a child was sexually abused before 1 January 2016 and the abuse is not ongoing, follow procedures in 3.3.2; and
- if a decision to make a mandatory report has not been made but a concern is held, follow procedures in 3.3.2.

If the manager/principal is the alleged perpetrator or may be biased towards the person alleged to be responsible for the child sexual abuse, boarding supervisors must report to the Manager Residential Colleges or Director Agricultural Education who will advise Standards and Integrity Directorate (SID).

Boarding supervisors must not provide a copy of their mandatory report to the manager/principal for storage or store their own copy of the report in Department of Education files.

Guidance

Prior to 1 January 2016 there was no legal requirement for boarding supervisors to report child sexual abuse in Western Australia.

Refer to the following documents on the Child Protection website for steps in making a mandatory report:

- Mandatory Reporting of Child Sexual Abuse; and
- Mandatory reporting form for staff opting to make a written rather than online report.

Where there are concerns for the immediate safety of the child, inform the manager/principal and contact the MRS before making the mandatory report (1800 708 704).

The legal penalties in accordance with the Children and Community Services Act (2004) for a boarding supervisor as a mandatory reporter who fails to report child sexual abuse can be a fine of up to \$6,000.

A person can be prosecuted within three years after failing to make a report. Failure to report child sexual abuse may also be considered a breach of the Department's Staff Conduct and Discipline policy. Failure to follow up a verbal mandatory report of child sexual abuse with a written report could result in a fine of \$3,000.

If a Boarding Supervisor holds a child protection concern involving a child or children enrolled at another school or college, they may report their concern to the CPFS District Office as a private citizen.

There is no requirement to provide proof of child sexual abuse.

Managers/principals may assist a boarding supervisor to make a verbal mandatory report to the MRS of the Department for Child Protection and Family Support (CPFS) but must not write the mandatory report on behalf of the boarding supervisor.

Prior to lodging a mandatory report, the boarding supervisor may consult with their manager/principal, local CPFS office or the MRS duty officer or Department support staff.

A boarding supervisor may consult with the Director, Residential Colleges and Agricultural Education or SID, if the alleged child sexual abuse concerns a college manager/principal.

Where a supervisor forms a belief based on different information, multiple mandatory reports can be made for the same child.

A mandatory report cannot be made anonymously.

The boarding supervisor can add information to the mandatory report by quoting the receipt number or the child's name to MRS.

All staff are protected from civil, criminal and disciplinary liability by providing information in good faith to CPFS, WA Police or SID.

A boarding supervisor who is not working in their role is not a mandatory reporter for the purposes of the Act, but are required to report all concerns to the manager/principal.

When there is a concern for the safety of a mandatory reporter, the manager/principal may contact the relevant Regional Education Office, WA Police and/or CPFS.

Mandatory reporting does not apply to students who are over 18 years of age. Refer to section 3.7.

3.3.2 CONCERN OF POSSIBLE SEXUAL ABUSE

If a belief on reasonable grounds is not formed, but a child protection concern of possible sexual abuse is held, boarding supervisors must:

- report concerns that a child may be subject to sexual abuse to the manager/principal; and
- document all observations and consultations, and provide to the manager/principal.

Guidance

Based on the information provided by the boarding supervisor, the manager/principal may make a mandatory report or a referral to CPFS. The boarding supervisor will be named in the mandatory report or referral as a 'notifier'.

3.4 REPORTING OF PHYSICAL OR EMOTIONAL ABUSE, FAMILY AND DOMESTIC VIOLENCE OR NEGLECT

Boarding supervisors must:

- document and report all child protection concerns relating to physical abuse, emotional abuse, family and domestic violence or neglect to the manager/principal; and

- inform the Manager Residential Colleges or Director Agricultural Education if the manager/principal is the alleged perpetrator.

Boarding supervisors must not:

- inform parents that a referral has been made;
- interview the child or children involved;
- investigate the concern; or
- collect photographic evidence.

Guidance

A child witnessing, hearing or being involved in family and domestic violence is emotional abuse and may also be physical abuse. Observing the injuries resulting from the violence is also considered to be emotional abuse.

If a Boarding Supervisor holds a child protection concern involving a child or children enrolled at another college, Boarding Supervisors may report their concern to the CPFS District Office as a private citizen.

Refer to Appendix A for more information on completing documentation.

3.5 REPORTING OF ALLEGATIONS OF SEXUAL ABUSE PERPETRATED BY STAFF

Boarding supervisors must:

- report all allegations of abuse perpetrated by staff to the manager/principal; or
- if the manager/principal is the alleged perpetrator or may be biased towards a staff member alleged to be responsible for the abuse, make a referral to the Manager Residential Colleges or Director Agricultural Education; and
- follow the mandatory reporting procedures in 3.3.1 if a belief on reasonable grounds of child sexual abuse has been formed.

Boarding supervisors must not:

- interview the child;
- investigate the allegation; or
- inform the alleged offender that an allegation has been made.

Guidance

An allegation may concern behaviour of a staff member towards a child who does or does not reside at the college.

Standards and Integrity may be consulted prior to reporting.

Any concerns regarding an inappropriate relationship between a staff member and a student should be referred to the Standards and Integrity Directorate.

Refer to the guidelines for appropriate staff-student behaviour on the Department's Child Protection website and the Staff Conduct and Discipline policy.

Certain behaviour towards students, while not illegal, may not be within appropriate professional boundaries. Refer to How to comply with our code of conduct guideline.

3.5.1 REPORTING ALLEGATIONS OF PHYSICAL OR EMOTIONAL ABUSE PERPETRATED BY STAFF

Boarding supervisors must:

- refer all allegations of physical or emotional abuse by staff to the manager/principal; or
- if the manager/principal is the alleged perpetrator or may be biased towards the staff member alleged to be responsible for the abuse, refer the allegations to the Manager Residential Colleges or Director Agricultural Education.

Guidance

An allegation may concern behaviour of a staff member towards a child who is not directly under the supervision of the reporter, i.e. resides at another college.

The allegation may concern the behaviour of a staff member towards a child during or outside of college hours.

Refer to the Staff Conduct and Discipline policy and How to Comply with our Code of Conduct guidelines for further information.

3.6 SEXUAL ABUSE PERPETRATED BY A STUDENT DURING SUPERVISED COLLEGE ACTIVITIES

Boarding supervisors must report all incidents of sexual abuse perpetrated by a student during supervised college activities to the manager/principal.

Boarding supervisors must not:

- interview the students involved; or
- disclose the identity of the person alleged to have committed the abuse to the alleged victim's parent.

Guidance

- *Sexual abuse may take the form of inappropriate touching, exposure to sexual acts, exposure to pornographic materials and sexual penetration of the genitals or mouth.*
- *Child sexual abuse committed by another student relates to any sexual behaviour that involves the use of bribery, coercion, a threat, exploitation or violence.*
- *Sexual behaviour that is within the normal developmental range is not child sexual abuse.*
- *Sexual behaviour that is outside of the normal developmental range may be an indicator that child sexual abuse has occurred.*
- *Indicators of child sexual abuse include when one child has less power or there is significant disparity in the developmental function or maturity of the children involved.*

For more information, refer to Guidelines for Responding to Sexual Behaviours in Children.

3.7 STUDENTS 18 YEARS OF AGE AND OVER SUBJECTED TO PHYSICAL OR SEXUAL ASSAULT

Boarding supervisors must inform the manager or principal of a concern for a student 18 years or over who discloses possible physical or sexual assault.

Guidance

Students 18 years of age or older are adults and CPFS do not have a role.

The manager/principal may advise and assist the student who has been subjected to physical or sexual assault to make a police report.

Students over 18 years who have an intellectual disability are viewed under Section 330 of the Criminal Code as being an incapable person. The manager/principal may make a WA Police report themselves when the student is incapable of doing so or make a referral to CPFS.

Any concerns regarding an inappropriate relationship between a staff member and a student should be referred to the Standards and Integrity Directorate.

3.8 RESPONDING TO STUDENTS IN POSSESSION OF CHILD EXPLOITATION MATERIAL

When sexually explicit material has been located on a student's mobile phone or other electronic device or if sexually explicit material has been distributed to others, boarding supervisors must:

- secure the device (if circumstances permit); and
- report the incident to the manager/principal who then makes a report to the WA Police.

Boarding supervisors must not:

- investigate the allegation;
- search through a student's portable electronic device for evidence;
- download, transmit or distribute the images or text;
- delete images or text; or
- inform the alleged offender that an allegation has been made.

Guidance

Sexting is the practice of sending sexually explicit messages or photographs to another via portable electronic device, usually a mobile phone.

A boarding supervisor may view an image to determine if it is reportable and should consider and document whether the:

- *image is sexually explicit;*
- *identity of the person is known; and/or*
- *image appears to be of a person under 18 years old.*

Once the device is secured, it is recommended that it is switched to flight mode (where possible).

If known, document the distributor and recipient/s of the images and inform the manager/principal.

If Boarding Supervisors have any concerns regarding the student and suicidal ideation please refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

The manager/principal should include in the college's mobile phone policy, procedures that permit confiscation of mobiles under these circumstances. The police will identify whether or not a child has been exploited and if criminal charges will be made.

3.9 RESPONDING TO SPECIFIC CHILD PROTECTION ISSUES

3.9.1 FEMALE GENITAL MUTILATION (FGM)

Boarding supervisors must refer all concerns that a student may be subjected to female genital mutilation or arrangements are being made to carry out the procedure to the manager/principal.

Boarding supervisors must not inform the parent of the concern.

Guidance

CPFS has confirmed that all forms of FGM are physical abuse and mandatory reports of child sexual abuse for FGM will not be accepted.

For further information refer to Section 306 of the Criminal Code.

3.9.2 FORCED MARRIAGE

Boarding supervisors must:

- refer to the manager/principal any concerns for a child under 18 years of age who has been forced or deceived into a marriage or is in an existing marriage; and
- follow procedures 3.3 to submit a mandatory report of child sexual abuse if information is received that a child is married without legal permission and a belief is formed on reasonable grounds that child sexual abuse has occurred or is occurring.

Guidance

For further information on making a mandatory report, refer to section 3.3.

For further information refer to sections 270.7A and 270.7B of the Commonwealth Criminal Code Act (1995).

3.10 SUPPORTING CHILDREN AFFECTED BY ABUSE

Boarding supervisors must support children affected by abuse, including children who are alleged to have perpetrated the abuse.

Guidance

Staff involved in a supportive role should take into account culture, religion, disability and maturity of the child.

Where appropriate, the student should be informed about who will be involved in helping them, involved in decisions that directly affect them and provided with information about what will happen.

In circumstances where the alleged perpetrator resides at the college, a safety plan should be developed in collaboration with the student affected.

The impact on the student's behaviour from trauma stemming from abuse should also be considered.

For further information refer to the Department's Child Protection website.

3.11 COMMUNICATION TO PARENTS

3.11.1 WHEN A MANDATORY REPORT OR CHILD ABUSE REFERRAL HAS BEEN MADE

Boarding supervisors must not inform parents of a mandatory report or referrals made to CPFS.

Guidance

The parent/carer may be responsible for the abuse and advising them that the college has made a child abuse report may compromise an investigation.

3.11.2 WHEN THERE IS A CONCERN OF POSSIBLE CHILD ABUSE AND A MANDATORY REPORT OR REFERRAL HAS NOT BEEN MADE

Boarding supervisors must not inform parents that their child has made a disclosure, or physical or behavioural indicators have been observed in their child which has led to a concern of possible child abuse if there is:

- a suspicion of family and domestic violence; or
- an intention to make a mandatory report or referral concerning their child to CPFS, WA Police or SID.

Boarding supervisors must not inform parents:

- that their child has made a disclosure of possible child abuse;
- that physical or behavioural indicators have been observed in their child which have led to a concern of possible child abuse;
- of a suspicion of family and domestic violence; or
- of an intention to make a referral concerning their child to CPFS, WA Police and/or SID.

Guidance

This procedure relates to circumstances where a belief of child sexual abuse is not formed, but a child protection concern of possible child sexual abuse is held. For more information refer to 3.3.2.

A parent/carer may be responsible for the abuse. To inform the parent of a concern of possible child abuse may alert them and pose a further risk to the child.

Observations can be discussed with parents in order to seek further information without alerting them to concerns of child abuse.

3.11.3 WHEN A CHILD UNDER THE AGE OF CONSENT DISCLOSES A SEXUAL RELATIONSHIP

Boarding supervisors must:

- refer a disclosure made by a child under the 16 years of age that they are in a sexual relationship to the manager/principal; and
- make a mandatory report if appropriate, following procedures in 3.3.

Guidance

These procedures only apply when a disclosure has been made by the student themselves.

Sexual activity involving students under 16 years of age may or may not be sexual abuse unless a belief on reasonable grounds of child sexual abuse is formed.

The manager/principal will inform parents about a child under the age of consent disclosing that they are in a sexual relationship unless:

- *it is not in the best interests of the child; or*
- *a mandatory report or referral of child sexual abuse is made; or*
- *where a child protection referral has been made.*

3.12 RECORDKEEPING AND DOCUMENTATION

Boarding supervisors must:

- document all child protection concerns; and
- provide documentation to the manager/principal who will securely store all confidential records and information.

Guidance

It is strongly advised that a copy of the mandatory report is not stored by the mandatory reporter. It is not necessary to keep a mandatory report. The receipt number issued by the Mandatory Reporting Service (MRS) is proof that a report has been made.

Additional information may be added at a later date by quoting the receipt number or the name of the child to the MRS.

Documentation may be required by the CPFS, WA Police and/or SID in their investigations. For further information refer to the Court Appearances and Production of Documents policy.

Refer to Appendix A for more information on completing documentation.

3.13 CONFIDENTIALITY

Boarding supervisors must protect the identity of a staff member who makes a mandatory report of child sexual abuse or referral of child abuse.

Where a student discloses information that leads to a concern of child abuse. Boarding Supervisors must not promise confidentiality.

Guidance

All staff are protected from civil, criminal and disciplinary liability by providing information in good faith and with the best interests of the child in mind.

Staff may consult with each other provided this is carried out in a confidential manner.

The identity of the person making the report is protected. In prescribed circumstance the identity of the reporter may be disclosed. The penalty for disclosing a mandatory reporter's identity outside of these circumstances can be up to two year's imprisonment and/or \$24,000 fine. (Children and Community Services Act 2004).

For assistance regarding appropriate responses to students disclosing abuse, please refer to Child Protection: A Guide to Responding to Disclosures.

Refer to Appendix B Confidentiality and Information Sharing on the Department's Child Protection website.

3.14 PROTECTION AND SUPPORT FOR EMPLOYEES WHO REPORT CHILD ABUSE

Boarding supervisors who have a concern for their own safety following a referral or mandatory report must inform the manager/principal.

Where there is concern for the safety of the boarding supervisor following a report, the manager/principal may consult with the regional education office to implement a risk management plan. This may include informing WA Police and CPFS.

Staff who require support as a result of reporting child abuse can access the Employee Assistance Program for counselling.

For further information refer to Appendix C

4 DEFINITIONS

BELIEF ON REASONABLE GROUNDS

A belief formed on reasonable grounds that a child has been sexually abused may be based on but is not limited to:

- disclosure of information provided by a child or parent/carer;
- disclosure of child sexual abuse by a third party; and/or
- observed evidence of physical and/or behavioural indicators.

The belief may be based on a number of child protection concerns that form the 'reasonable grounds' and may have been documented over time. There is no requirement to provide proof of child sexual abuse.

Refer to Indicators of Abuse.

CHILD

A person who has not reached the age of 18 years of age and in the absence of positive evidence as to age, means a person who is apparently under 18 years of age.

CHILD ABUSE

Occurs when a child has been subjected to physical, sexual or emotional abuse and/or neglect which has resulted or is likely to result in harm to the child's wellbeing. It may involve ongoing, repeated or persistent abuse, or arise from a single incident.

CHILD EXPLOITATION MATERIAL

Child pornography or material that involves the depiction of a child in a sexual context, or engaging in sexual activity and at a basic level can include material involving a child in an offensive or demeaning context or being subjected to abuse, cruelty or torture such as posing without clothes, and exposure of genitals, anus region, or breasts. It includes a wide range of formats such as texts, pictures, film, printed or written material.

CHILD PROTECTION CONCERN

A concern about the wellbeing of a child based on the observation of indicators or information that may lead to a concern for:

- the care of the child;
- the physical, emotional, psychological and educational health and/or sexual development of the child; and
- the safety of the child (s 3 *Children and Community Services Act 2004*)

CHILD SAFE ORGANISATION

The Australian Children's Commissioners and Guardians (ACCG) define a child safe organisation as one that consciously and systematically:

- creates conditions that reduce the likelihood of harm occurring to children and young people;
- creates conditions that increase the likelihood of any harm being discovered; and
- responds appropriately to any disclosures, allegations or suspicions of harm. Refer to [Responding to disclosures](#).

CHILD SEXUAL ABUSE

Occurs when a child is exposed to, or involved in, sexual activity that is inappropriate to the child's age and developmental level. It includes circumstances where the child has less power than another person involved, is exploited or where the child has been bribed, threatened or coerced. It also includes situations where there is a significant difference between the developmental or maturity level of the child and another person involved.

Some examples are: letting a child watch or read pornography; allowing a child to watch sexual acts; fondling a child's genitals; having oral sex with a child; sexual assault (including sexual touching or vaginal or anal penetration that is non-consensual); and using the internet to find a child for sexual exploitation.

CONFIDENTIALITY

The protection of personal, private and sensitive information. Professional codes of conduct and the Department's Staff Conduct policy reinforce the importance of protecting an individual's privacy.

DOCUMENTED EDUCATION PLAN

A support document for schools and teachers as they plan, monitor, assess and evaluate teaching and learning programs that address individual needs such as individual education plans and individual behaviour plans.

DUTY OF CARE

A duty imposed by law to take care to minimise the foreseeable risk of harm to another.

EMOTIONAL ABUSE

Occurs when an adult harms a child's development by repeatedly treating and speaking to a child in ways that damage the child's ability to feel and express their feelings. Emotional abuse includes psychological abuse and being exposed to an act of family and domestic violence.

Some examples are: constantly putting a child down; humiliating or shaming a child; not showing love, support or guidance; continually ignoring or rejecting the child; exposing a child to family and domestic violence; threatening abuse or bullying a child; threats to harm loved ones, property or pets.

FAMILY AND DOMESTIC VIOLENCE

Under the *Restraining Orders Act 1997 s.6*, an act of family and domestic violence means one of the following acts that a person commits against another person with whom he or she is in a family and domestic relationship —

- (a) assaulting or causing personal injury to the person;
- (b) kidnapping or depriving the person of his or her liberty;
- (c) damaging the person's property, including the injury or death of an animal that is the person's property;
- (d) behaving in an ongoing manner that is intimidating, offensive or emotionally abusive towards the person;
- (e) pursuing the person or a third person, or causing the person or a third person to be pursued:
 - (i) with intent to intimidate the person; or
 - (ii) in a manner that could reasonably be expected to intimidate, and that does in fact intimidate, the person;
- (f) threatening to commit any act described in paragraphs (a) to (c) against the person.

FEMALE GENITAL MUTILATION

All procedures involving partial or total removal of the external female genitalia, or other injury to the female genital organs for non-therapeutic reasons.

MANAGER RESIDENTIAL COLLEGE

The College Manager is responsible for the management and operations of a residential college.

MANDATORY REPORTER

All teachers, doctors, nurses, midwives, police and boarding supervisors who form a belief of child sexual abuse during the course of their work, either voluntary or paid, are mandatory reporters. For the purposes of the legislation, 'teacher' is defined as any person registered with the Teacher Registration Board of WA or with provisional registration, or limited registration and is working as a teacher.

TAFE lecturers who are registered with the Teachers Registration Board or who have Limited Registration and are working on school grounds are mandatory reporters.

Staff who have teacher registration but are not working as teachers; are not mandatory reporters but are required under this policy to report child sexual abuse to the principal. Non-teaching staff are not mandatory reporters.

MANDATORY REPORTING LEGISLATION

Legislation requiring teachers, doctors, midwives, nurses police and boarding supervisors to report beliefs of child sexual abuse to the Mandatory Reporting Service of Child Protection and Family Support. Legislation covering mandatory reporting of child sexual abuse is the *Children and Community Services Act 2004*.

Mandatory reporting only applies when a teacher, registered with the Teacher Registration Board of WA or boarding supervisor is working in their role as a teacher or boarding supervisor either in a paid or voluntary capacity.

If a belief of child sexual abuse is formed outside of working hours, when not working as a teacher or boarding supervisor, then there is no legal requirement to report. However, a report to the local Department for Child Protection and Family Support office can be made voluntarily.

NEGLECT

When a child is not provided with adequate food or shelter; effective medical, therapeutic or remedial treatment, and/or care, nurturance or supervision to a severe and/or persistent extent where the health or development of the child is significantly impaired or placed at serious risk.

NON-MANDATORY REPORTER

All staff who are not working in the role of a teacher or boarding supervisor, including school support staff and school psychologists. Even if the staff member is registered with the Teacher Registration Board of WA, if the staff member is not working in the role of a teacher, they are not a mandatory reporter. When reporting child sexual abuse, non-mandatory reporters are required to follow the procedures for non-teaching staff or school psychologists.

NOTIFIER

A person who makes a referral to the Department for Child Protection and Family Support about concerns for the well-being of a child and/or who provides information to a mandatory reporter that leads to a mandatory report.

PARENT

In relation to a child, is a person who at law has responsibility for the long-term care, welfare and development of the child; or the day-to-day care, welfare and development of the child.

PHYSICAL ABUSE

Occurs when a child is severely and/or persistently hurt or injured by an adult or a child's caregiver. It may also be the result of putting a child at risk of being injured. Some examples are: hitting, shaking, punching; burning and scolding; excessive physical punishment or discipline; attempted suffocation; or shaking a baby.

PROTECTIVE BEHAVIOURS

A personal safety program designed to equip children with the knowledge and skills to act in ways that reduce the likelihood of abuse occurring and help them to report abuse and to seek help if abuse occurs.

PREVENTION

Strategies that promote self-management, emotional awareness and interpersonal problem-solving skills that reduce risk factors and promote protective factors to ensure the wellbeing of children and young people.

QUALIFIED PRIVILEGE

The protection from incurring civil or criminal liability or professional misconduct when providing confidential information concerning suspected child abuse in good faith to Child Protection and Family Support or WA Police and prescribed authorities and/or authorised entities. Refer to section 28B of Children and Community Services Act.

SCHOOL ACTIVITY

An activity that is organised or managed by a teacher as part of his or her duties.

SEXUAL HARASSMENT

An unwelcome sexual advance, an unwelcome request for sexual favours or other unwelcome conduct of a sexual nature. It includes:

- spoken or written harassment (for example, sexualised jokes or obscene remarks);
- non-verbal harassment (for example, glaring/staring/gesturing in a sexual way), presence of suggestive or sexual magazines/pictures/posters/etc. on display or contained in a person's belongings; and
- electronic harassment (for example, sending sexually suggestive comments, obscene messages or jokes).

STAFF

All employees of the Director General of the Department of Education.

5 RELATED DOCUMENTS

RELEVANT LEGISLATION OR AUTHORITY

Australian Psychological Society Code of Ethics 2007

Children and Community Services Act 2004 (WA)

Corruption and Crime Commission Act 2003 (WA)

Criminal Code (Acts Amendment: Sexual Offences' Act 1992) (WA)

Criminal Code Act 1995 (Commonwealth)

Disability Discrimination Act 1992 (Cth)

Disability Discrimination Act: Standards for Education 2004 (Cth)

Equal Opportunity Act 1984 (WA)

Public Sector Management Act 1994 (WA)

Public Interest Disclosure Act 2003 (WA)

Restraining Orders Act 1997 (WA)

School Education Act 1999 (WA)

School Education Regulations 2000 (WA)

Sex Discrimination Act 1984 (Cth)

State Records Act 2000 (WA)

Working With Children (Criminal Record Checking) Act 2004 (WA)

Working with Children (Criminal Record Checking) Regulations 2005 (WA)

Teacher Registration Act 2012 (WA)

RELATED DEPARTMENT POLICIES

Court Appearances and Production of Documents

Disputes and Complaints

Duty of Care for Students

Duty of Care – VET for School Students Attending TAFEWA Colleges

Emergency and Critical Incident Management

Enrolment

Excursions

Public Interest Disclosure

Records Management

Staff Conduct and Discipline

Student Attendance

Student Behaviour

Visitors and Intruders on School Premises

OTHER DOCUMENTS

Department for Child Protection and Family Support MOU with the Department of Education 2013 – 2018

MOU between the Department of Education and the Department of Health 2013-2016

6 CONTACT INFORMATION

Policy manager: Manager, Complex Learning and Wellbeing

Policy contact officer: Principal Consultant (Child Protection)

T: (08) 9402 6124

7 REVIEW DATE

25 July 2020

8 HISTORY OF CHANGES

Effective date	Last update date	Policy version no.	Ref no.	Notes
25 July 2017		3.0	D17/0217875	This new procedure supports the Child Protection Policy. Endorsed out-of-session by the Director General at Corporate Executive and ratified on 30 June 2017.
25 July 2017	25 July 2017	3.1	D17/0304353	Minor corrective changes as requested by Corporate Executive out-of-session and ratified on 30 June 2017.

APPENDIX A. COMPLETING DOCUMENTATION

When documenting child protection concerns staff should be aware that records can be subpoenaed by the court as evidence. If in doubt, you can consult with the principal/manager, student services, Student Support Service (Child Protection) or the Department for Child Protection and Family Support (CPFS)

The principal may complete documentation on behalf of the staff member who reports physical, psychological, emotional abuse or neglect.

The principal may complete documentation for concerns of non-teaching staff regarding sexual abuse.

The boarding supervisor reporting a belief on reasonable grounds of child sexual abuse must complete the mandatory report. The principal must not do this on their behalf.

When recording information, the mandatory reporter should refer to the Department's Fact Sheet: Indicators of Abuse. The Mandatory Reporter should record observations and factual information about what they have seen such as:

- the identity of the source of information;
- statements made by the child or parent, verbatim and in quotation (“ ”) marks;
- professional judgments within teaching training and experience; and
- information from a third party that is clearly identified as third party information.

Do not record irrelevant information such as:

- opinions, for example, “the parent used excessive discipline”;
- personal conclusions about the type of abuse suspected; and
- unreliable reports that have not been directly witnessed.

Use simple language:

- include clear, direct, precise, non-emotive, objective language;
- avoid jargon; and
- use the first person singular, for example, “I saw...”.

Avoid language that includes:

- pronouns, for example, he, she, it, etc. – use the names of people; and
- ‘probably’ or ‘possibly’ – only use these terms if there is a reasonable degree of certainty.

APPENDIX B. CONFIDENTIALITY AND LEGAL PROTECTION

The identity of the person making a referral or report to the Department for Child Protection and Family Support (CPFS) is protected and can only be released:

- for the purpose of CPFS assessment;
- for investigative purposes by a police officer;
- with the written permission of the reporter;
- purposes of court protection proceedings; and/or
- by an application under the Freedom of Information Act 1992.

Where there is suspected or alleged abuse or misconduct, staff must not disclose or make use of the information in a manner that breaches confidentiality under Sections 23 and 129 of the *Children and Community Services Act 2004* and s242 of the *School Education Act 1999*.

Professional confidentiality is protected when staff provide information in the best interests of the child regarding possible child abuse to Department staff or agencies who are directly involved in responding, investigating or supporting the child.

If reports are made in good faith and with the best interests of the child in mind, staff are protected from a breach of professional confidentiality by 'qualified privilege'. However, qualified privilege does not extend to general discussion or disclosure of information in the staffroom, or with other parents or members of the general community.

If information is disclosed, in good faith:

- no civil or criminal liability is incurred in respect of the disclosure;
- the disclosure is not to be regarded as a breach of any duty of confidentiality or secrecy imposed by law; and
- the disclosure is not to be regarded as a breach of professional ethics, standards or any principles of conduct applicable to the person's employment, or as unprofessional conduct.

APPENDIX C. PROTECTION AND SUPPORT OF EMPLOYEES WHO REPORT CHILD ABUSE

All staff are protected from civil, criminal and disciplinary liability by providing information to CPFS, WA Police or SID for the purpose of investigating child abuse.

If acting in good faith, staff are deemed not to have breached a duty of confidentiality, professional ethics or standards; or to have engaged in unprofessional conduct by providing information under s129 of the *Children and Community Services Act (2004)*.

Under Sections 124F and 240 of the *Children and Community Services Act 2004*, the identity of the person making a report to CPFS is protected and can only be released with the permission of the reporter or the court, for investigative purposes or by an application under the Freedom of Information Act 1992.

When there is concern for the safety of the reporter, it is important that the school has a risk management plan in place and the principal should contact the Regional Education Office for support.

An employee who attempts to threaten, intimidate, coerce or take reprisal against an employee who has disclosed or intends to disclose unethical or unlawful behaviour may face disciplinary action as outlined in the *Staff Conduct and Discipline policy*.

Staff are entitled to seek counselling through the Employee Assistance Program.



Department of
Education

CHILD PROTECTION PROCEDURES FOR NON-TEACHING STAFF

EFFECTIVE: 25 JULY 2017

Last update date: 25 July 2017

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1 POLICY SUPPORTED

Child Protection Policy

2 SCOPE

These procedures apply to non-teaching staff.

Guidance

The procedures for non-teaching staff include but are not limited to the following positions: Aboriginal and Torres Strait Islander education officers, corporate services managers school officers, education assistants, library assistants, laboratory assistants, home economics assistants, participation coordinators, attendance officers, youth support officers, social trainers, school based community liaison officers, public service officers, other officers and wages staff.

3 PROCEDURES

3.1 CHILD PROTECTION AND ABUSE PREVENTION PROFESSIONAL LEARNING

Non-teaching staff and their line managers must:

- complete the online Child Protection and Abuse Prevention professional learning program within six months of enrolment in the online course; and
- repeat the online Child Protection and Abuse Prevention program every three years from the date of completion.

Guidance

Enrolment occurs automatically for staff who have an E number.

Note that any reference to staff includes casual and relief staff.

A certificate of completion is provided on completion of the course.

Alternative professional learning formats are available for staff who cannot access the online professional learning due to a disability or special circumstances.

For further information refer to Appendix A or the Department's [Child Protection website](#).

3.2 CHILD ABUSE PREVENTION EDUCATION

Non-teaching staff must assist principals and teachers to implement protective behaviours education that aligns with the Western Australian Curriculum across all phases of schooling.

Guidance

For further information refer to the Department's [Child Protection website](#).

The Department's protective behaviours teaching and learning resources are available on [Connect](#).

3.3 REFERRAL OF CHILD ABUSE

3.3.1 REFERRAL OF SEXUAL, PHYSICAL OR EMOTIONAL ABUSE, FAMILY AND DOMESTIC VIOLENCE OR NEGLECT

Non-teaching staff must:

- document observations, information and disclosures;
- inform the line manager or principal; and
- report to the Regional Executive Director if the principal is the alleged perpetrator or may be biased towards the alleged perpetrator.

Non-teaching staff must not:

- inform parents that a report has been made;
- interview the child or children involved;
- investigate the concern; or
- collect photographic evidence.

Guidance

A concern that a child has been abused may be based on but is not limited to:

- disclosure of information provided by a child or parent;
- disclosure of abuse by a third party; or
- observed physical and/or behavioural indicators.

The concern may be based on a number of observations over time.

A child witnessing, hearing or being involved in family and domestic violence is considered to be emotional abuse and may also be physical abuse. Observing the injuries resulting from the violence is also considered to be emotional abuse.

Where information received from non-teaching staff leads a principal or teacher to form a belief on reasonable grounds that child sexual abuse has occurred, mandatory reporting requirements apply even if the non-teaching staff member has not formed the same belief.

Non-teaching staff who provide information are known as 'notifiers' and will be named in a referral or mandatory report.

Making a child protection referral does not apply to students who are 18 years of age or over.

All staff are protected from civil, criminal and disciplinary liability by providing information in good faith to the Department for Child Protection and Family Support (CPFS), WA Police and/or the Standards and Integrity Directorate (SID) for the purpose of investigating child abuse.

Refer to section 3.11 on Confidentiality

3.3.2 REFERRING ALLEGATIONS OF PHYSICAL OR EMOTIONAL ABUSE OR SEXUAL ABUSE PERPETRATED BY STAFF

Non-teaching staff must:

- document observations, information and disclosures; and
- inform line manager and principal.

Non-teaching staff must not:

- interview the child;

- investigate the allegation; or
- inform the alleged offender that an allegation has been made.

Guidance

An allegation may concern behaviour of a staff member towards a child who is enrolled at the staff member's school or another school.

The allegation may concern the behaviour of a staff member towards a child during or outside of school hours.

Any concerns regarding an inappropriate relationship between a staff member and a student should be referred to the Standards and Integrity Directorate.

Non-teaching staff should be aware that certain behaviour towards students, while not illegal, may not be within professional boundaries. Refer to the [Staff Conduct and Discipline policy](#) and [How to comply with our code of conduct guideline](#).

3.3.3 SEXUAL ABUSE PERPETRATED BY A STUDENT DURING SUPERVISED SCHOOL OR RESIDENTIAL COLLEGE ACTIVITIES

Non-teaching staff must refer all incidents of possible sexual abuse committed by a student during supervised school or residential college activities to the line manager and principal.

Non-teaching staff must not:

- interview the children involved; or
- disclose the identity of the person alleged to have committed the abuse to the alleged victim's parent.

Guidance

Sexual abuse may take the form of inappropriate touching, exposure to sexual acts, exposure to pornographic materials and sexual penetration of the genitals or mouth.

Child sexual abuse perpetrated by another child relates to any sexual behaviour that involves the use of bribery, coercion, a threat, exploitation or violence.

Indicators of child sexual abuse include when one child has less power or there is significant disparity in the developmental function or maturity of the children involved.

Sexual behaviour that is within the normal developmental range is not child sexual abuse. Behaviour that is outside of the normal developmental range may be an indicator that child sexual abuse has occurred. For more information, refer to [Guidelines for Responding to Sexual Behaviours in Children](#).

3.4 RESPONDING WHEN A STUDENT IS AT IMMEDIATE RISK OF HARM

Where there is a concern that the student will be exposed to the immediate risk of harm during or after school hours, non-teaching staff must inform their line manager and principal.

3.5 STUDENTS 18 YEARS OF AGE AND OVER SUBJECTED TO PHYSICAL OR SEXUAL ASSAULT

Non-teaching staff must inform the principal of a concern for a student 18 years or over who discloses possible physical or sexual assault.

Guidance

Students over 18 years of age are adults and concerns for their safety are reported to the WA Police by the student themselves. The principal may advise and assist the student who has been subjected to physical or sexual assault to make a WA Police report.

Students over 18 years who have an intellectual disability are viewed under Section 330 of the Criminal Code as being an incapable person. The principal may make a WA Police report themselves when the student is incapable of doing so.

Any concerns regarding an inappropriate relationship between a staff member and a student should be referred to the Standards and Integrity Directorate.

3.6 RESPONDING TO STUDENTS IN POSSESSION OF CHILD EXPLOITATION MATERIAL

Non-teaching staff must refer the misuse of electronic media by members of staff or students for the purposes of producing or distributing sexually explicit material, solicitation to the line manager and principal.

Non-teaching staff must not:

- search through a student's portable electronic device for evidence;
- download, transmit or distribute the images or text;
- delete images or text; or
- inform the alleged offender that an allegation has been made.

Guidance

Sexting is the practice of sending sexually explicit messages or photographs to another via portable electronic device, usually a mobile phone.

A staff member may view an image to determine if it is reportable and should consider and document whether the:

- *image is sexually explicit;*
- *identity of the person is known; or*
- *image appears to be of a person under 18 years old.*

3.7 RESPONDING TO SPECIFIC CHILD PROTECTION CONCERNS

3.7.1 FEMALE GENITAL MUTILATION

Non-teaching staff must refer all concerns that a student may be subjected to female genital mutilation or arrangements are being made to carry out the procedure to the line manager and principal.

Non-teaching staff must not inform the parent of the concern or referral.

3.7.2 FORCED MARRIAGE

Non-teaching staff must refer to the line manager and principal any concerns for a child under 18 years of age who has been forced or deceived into a marriage or is in an existing marriage.

Non-teaching staff must not inform the parent of the concern.

3.8 SUPPORTING STUDENTS AFFECTED BY ABUSE

Non-teaching staff must support students affected by abuse, including students who are alleged to have perpetrated abuse.

Guidance

Staff involved in a supportive role should take into account factors such as culture, religion, age, disability and level of maturity of the student.

Staff should consult with relevant staff to gain information and develop strategies to support the student.

The impact on the student's behaviour of trauma stemming from abuse should also be considered.

Where appropriate, the student should be informed about who will be involved in supporting them, involved in decisions that directly affect them and provided with relevant information.

3.9 COMMUNICATION TO PARENTS

3.9.1 WHEN A CHILD ABUSE REPORT OR REFERRAL HAS BEEN MADE

Non-teaching staff must not inform parents.

Guidance

The parent/carer may be responsible for the abuse and advising them that a mandatory report or child abuse referral has been made may compromise an investigation.

3.9.2 WHEN A CHILD ABUSE REFERRAL HAS NOT BEEN MADE

Non-teaching staff must not inform parents:

- that physical or behavioural indicators have been observed in their child which have led to a concern of possible child abuse;
- of a suspicion of family and domestic violence; or
- of an intention to make a report.

Guidance

A parent may be the perpetrator of abuse. To inform the parent of a concern of possible child abuse may alert them and pose a further risk to the child.

The teacher or principal may discuss observations with parents in order to seek further information without alerting them to concerns of child abuse.

3.9.3 WHEN A CHILD UNDER THE AGE OF CONSENT DISCLOSES A SEXUAL RELATIONSHIP

Non-teaching staff must refer a concern that a child under the 16 years of age is in a sexual relationship to the principal.

Guidance

The principal will determine if parents are to be informed about a child under the age of consent being in a sexual relationship unless:

- *It is not in the best interests of the child; or*
- *a mandatory report or referral of child sexual abuse is made.*

3.10 RECORDKEEPING AND DOCUMENTATION

Non-teaching staff must

- document all observations and information; and
- provide copies to the line manager or principal for secure storage.

Guidance

Documentation kept by staff may be required by CPFS, WA Police and the SID in their investigations.

For further information refer to Appendix A.

3.11 CONFIDENTIALITY

Non-teaching staff must not:

- disclose the identity of a staff member who makes a child protection referral or a teacher who makes a mandatory report; or
- promise confidentiality when a child discloses information that leads to a concern of child abuse or family and domestic violence.

Guidance

Staff may consult with each other provided this is carried out in a confidential manner.

The identity of the person making the mandatory report or referral is protected. The penalty for disclosing a mandatory reporter's identity can be up to two year's imprisonment and/or \$24,000 fine (Children and Community Services Act 2004).

For further information refer to Appendix B.

3.12 PROTECTION AND SUPPORT FOR EMPLOYEES WHO REPORT CHILD ABUSE

Non-teaching staff who have a concern for their own safety following a report of child abuse must inform the principal.

Guidance

Where there is concern for the safety of the staff member following a report, the principal may consult with the regional education office to implement a risk management plan. This may include informing WA Police and CPFS.

Staff who require support as a result of reporting child abuse can access the Employee Assistance Program for counselling.

For further information refer to Appendix B.

4 DEFINITIONS

BELIEF ON REASONABLE GROUNDS

A belief formed on reasonable grounds that a child has been sexually abused may be based on but is not limited to:

- disclosure of information provided by a child or parent/carer;
- disclosure of child sexual abuse by a third party; and/or
- observed evidence of physical and/or behavioural indicators.

The belief may be based on a number of child protection concerns that form the 'reasonable grounds' and may have been documented over time. There is no requirement to provide proof of child sexual abuse.

Refer to [Indicators of Abuse](#).

CHILD

A person who has not reached the age of 18 years of age and, in the absence of positive evidence as to age, means a person who is apparently under 18 years of age.

CHILD ABUSE

Occurs when a child has been subjected to physical, sexual or emotional abuse and/or neglect which has resulted or is likely to result in harm to the child's wellbeing. It may involve ongoing, repeated or persistent abuse, or arise from a single incident.

CHILD EXPLOITATION MATERIAL

Child pornography or material that involves the depiction of a child in a sexual context, or engaging in sexual activity and at a basic level can include material involving a child in an offensive or demeaning context or being subjected to abuse, cruelty or torture such as posing without clothes, and exposure of genitals, anus region, or breasts. It includes a wide range of formats such as texts, pictures, film, printed or written material.

CHILD PROTECTION CONCERN

A concern about the wellbeing of a child based on the observation of indicators or information that may lead to a concern for:

- the care of the child;
- the physical, emotional, psychological and educational health and/or sexual development of the child; and
- the safety of the child (s 3 *Children and Community Services Act 2004*)

CHILD SAFE ORGANISATION

The Australian Children's Commissioners and Guardians (ACCG) define a child safe organisation as one that consciously and systematically:

- creates conditions that reduce the likelihood of harm occurring to children and young people;
- creates conditions that increase the likelihood of any harm being discovered; and
- responds appropriately to any disclosures, allegations or suspicions of harm.

Refer to [Responding to disclosures](#).

CHILD SEXUAL ABUSE

Occurs when a child is exposed to, or involved in, sexual activity that is inappropriate to the child's age and developmental level. It includes circumstances where the child has less power than another person involved, is exploited or where the child has been bribed, threatened, or coerced. It also includes situations where there is a significant difference between the developmental or maturity level of the child and another person involved.

Some examples are: letting a child watch or read pornography; allowing a child to watch sexual acts; fondling a child's genitals; having oral sex with a child; sexual assault (including sexual touching or vaginal or anal penetration that is non-consensual); and using the internet to find a child for sexual exploitation.

CONFIDENTIALITY

The protection of personal, private and sensitive information. Professional codes of conduct and the Department's *Staff Conduct and Discipline policy* reinforce the importance of protecting an individual's privacy.

DOCUMENTED EDUCATION PLAN

A support document for schools and teachers as they plan, monitor, assess and evaluate teaching and learning programs that address individual needs such as individual education plans and individual behaviour plans.

DUTY OF CARE

A duty imposed by law to take care to minimise the foreseeable risk of harm to another.

EMOTIONAL ABUSE

Occurs when an adult harms a child's development by repeatedly treating and speaking to a child in ways that damage the child's ability to feel and express their feelings. Emotional abuse includes psychological abuse and being exposed to an act of family and domestic violence.

Some examples are: constantly putting a child down; humiliating or shaming a child; not showing love, support or guidance; continually ignoring or rejecting the child; exposing a child to family and domestic violence; threatening abuse or bullying a child; threats to harm loved ones, property or pets.

FAMILY AND DOMESTIC VIOLENCE

Under Section 6 the *Restraining Orders Act 1997*, an act of family and domestic violence means one of the following acts that a person commits against another person with whom he or she is in a family and domestic relationship:

- (a) assaulting or causing personal injury to the person;
- (b) kidnapping or depriving the person of his or her liberty;
- (c) damaging the person's property, including the injury or death of an animal that is the person's property;
- (d) behaving in an ongoing manner that is intimidating, offensive or emotionally abusive towards the person;
- (e) pursuing the person or a third person, or causing the person or a third person to be pursued:

- (i) with intent to intimidate the person; or
- (ii) in a manner that could reasonably be expected to intimidate, and that does in fact intimidate, the person;
- (f) threatening to commit any act described in paragraphs (a) to (c) against the person.

FEMALE GENITAL MUTILATION

All procedures involving partial or total removal of the external female genitalia, or other injury to the female genital organs for non-therapeutic reasons.

MANDATORY REPORTER

All teachers, doctors, nurses, midwives, police and boarding supervisors who form a belief of child sexual abuse during the course of their work, either voluntary or paid, are mandatory reporters. For the purposes of the legislation, 'teacher' is defined as any person registered with the Teacher Registration Board of Western Australia or with Provisional Registration or Limited Registration and is working as a teacher.

TAFE lecturers who are registered with the Teacher Registration Board of WA or who have Limited Registration and are working on school grounds are mandatory reporters.

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Strategies that promote self-management, emotional awareness and interpersonal problem-solving skills that reduce risk factors and promote protective factors to ensure the wellbeing of children and young people.

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A personal safety program designed to equip children with the knowledge and skills to act in ways that reduce the likelihood of abuse occurring and help them to report abuse and to seek help if abuse occurs.

QUALIFIED PRIVILEGE

The protection from incurring civil or criminal liability or professional misconduct when providing confidential information concerning suspected child abuse in good faith to Child Protection and Family Support or WA Police and prescribed authorities and/or authorised entities. Refer to section 28B of the *Children and Community Services Act 2004*.

RESIDENTIAL COLLEGE

A place used to provide residential accommodation for children while they attend a school as defined in the *School Education Act 1999* section 4.

Also referred to as a boarding facility and does not include private arrangements.

SCHOOL ACTIVITY

An activity that is organised or managed by a teacher as part of his or her duties.

SEXUAL HARASSMENT

An unwelcome sexual advance, an unwelcome request for sexual favours or other unwelcome conduct of a sexual nature. It includes:

- spoken or written harassment (for example, sexualised jokes or obscene remarks);
- non-verbal harassment (for example, glaring/staring/gesturing in a sexual way), presence of suggestive or sexual magazines/pictures/posters/etc. on display or contained in a person's belongings; and
- electronic harassment (for example, sending sexually suggestive comments, obscene messages or jokes).

STAFF

All employees of the Director General of the Department of Education.

5 **RELATED DOCUMENTS****RELEVANT LEGISLATION OR AUTHORITY**

Australian Psychological Society Code of Ethics 2007

Children and Community Services Act 2004 (WA)

Corruption and Crime Commission Act 2003 (WA)

Criminal Code (Acts Amendment: Sexual Offences' Act 1992) (WA)

Criminal Code Act 1995 (Commonwealth)

Disability Discrimination Act 1992 (Cth)

Disability Discrimination Act: Standards for Education 2004 (Cth)

Equal Opportunity Act 1984 (WA)

Public Sector Management Act 1994 (WA)

Public Interest Disclosure Act 2003 (WA)

Restraining Orders Act 1997 (WA)

School Education Act 1999 (WA)

School Education Regulations 2000 (WA)

Sex Discrimination Act 1984 (Cth)

State Records Act 2000 (WA)

Working With Children (Criminal Record Checking) Act 2004 (WA)

Working with Children (Criminal Record Checking) Regulations 2005 (WA)

Teacher Registration Act 2012 (WA)

RELATED DEPARTMENT POLICIES

Court Appearances and Production of Documents

Disputes and Complaints

Duty of Care for Students

Duty of Care – VET for School Students Attending TAFEWA Colleges

Emergency and Critical Incident Management

EnrolmentExcursionsPublic Interest DisclosureRecords ManagementStaff Conduct and DisciplineStudent AttendanceStudent BehaviourVisitors and Intruders on School Premises**OTHER DOCUMENTS**Department for Child Protection and Family Support MOU with the Department of Education 2013 – 2018MOU between the Department of Education and the Department of Health 2013-2016**6 CONTACT INFORMATION**

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7 REVIEW DATE

25 July 2020

8 HISTORY OF CHANGES

Effective date	Last update date	Policy version no.	Ref no.	Notes
25 July 2017		3.0	D17/0217879	This new procedure supports the Child Protection Policy. Endorsed out-of-session by the Director General at Corporate Executive and ratified on 30 June 2017.
25 July 2017	25 July 2017	3.1	D17/0304349	Minor corrective changes as requested by Corporate Executive out-of-session and ratified on 30 June 2017.

APPENDIX A. COMPLETING DOCUMENTATION

When documenting child protection concerns staff should be aware that records can be subpoenaed by the court as evidence. If in doubt, you can consult with the principal, student services, Student Support Service (Child Protection) or the Department for Child Protection and Family Support.

The principal may complete documentation on behalf of the staff member who reports physical, psychological, emotional abuse or neglect.

The principal may complete documentation for concerns of non-teaching regarding sexual abuse.

The non-teaching staff-reporting child sexual abuse must complete documentation. The principal must not do this on their behalf.

When recording information, non-teaching staff should refer to the Department's Fact Sheet: Indicators of Abuse. Record observations and factual information about what they have seen such as:

- the identity of the source of information;
- statements made by the child or parent, verbatim and in quotation (“ ”) marks;
- professional judgments within teaching training and experience; and
- information from a third party that is clearly identified as third party information.

Do not record irrelevant information such as:

- opinions, for example, “the parent used excessive discipline”;
- personal conclusions about the type of abuse suspected; and
- unreliable reports that have not been directly witnessed.

Use simple language:

- include clear, direct, precise, non emotive, objective language;
- avoid jargon; and
- use the first person singular, for example, “I saw...”.

Avoid language that includes:

- pronouns, for example, he, she, it, etc. – use the names of people; and
- ‘probably’ or ‘possibly’ – only use these terms if there is a reasonable degree of certainty.

APPENDIX B. CONFIDENTIALITY AND LEGAL PROTECTION

The identity of the person making a report to the Department for Child Protection and Family Support (CPFS) is protected and can only be released:

- for the purpose of CPFS assessment;
- for investigative purposes by a police officer;
- with the written permission of the reporter;
- purposes of court protection proceedings; or
- by an application under the Freedom of Information Act 1992.

Where there is suspected or alleged abuse or misconduct, non-teaching staff must not disclose or make use of the information in a manner that breaches confidentiality under Sections 23 and 129 of the Children and Community Services Act 2004 and s242 of the School Education Act 1999.

Professional confidentiality is protected when non-teaching staff provide information in the best interests of the child regarding possible child abuse to Department staff or agencies who are directly involved in responding, investigating or supporting the child.

If reports are made in good faith and with the best interests of the child in mind, non-teaching staff are protected from a breach of professional confidentiality by 'qualified privilege'. However, qualified privilege does not extend to general discussion or disclosure of information in the staffroom, or with other parents or members of the general community.

If information is disclosed, in good faith:

- no civil or criminal liability is incurred in respect of the disclosure;
- the disclosure is not to be regarded as a breach of any duty of confidentiality or secrecy imposed by law; and
- the disclosure is not to be regarded as a breach of professional ethics, standards or any principles of conduct applicable to the person's employment, or as unprofessional conduct.