

 BERWICK COLLEGE POLICY	TITLE	<b>MANDATORY REPORTING</b>		
	VERSION/YEAR	3/2016		
	PUBLISHED LOCATIONS	EWORKSPACE, WEBSITE, STAFF HANDBOOK		
	ISSUE DATE	NOVEMBER 2016		
	REVIEW DATE	DECEMBER 2017		
	REVIEWED BY	ASSISTANT PRINCIPAL	RATIFIED BY	COLLEGE COUNCIL
PURPOSE:	<ul style="list-style-type: none"> <li>To define the roles and responsibilities of Berwick College staff in complying with reporting obligations under child protection law and criminal law</li> <li>To ensure that Berwick College policies and procedures accurately reflect the College operations, directions, educational philosophy and goals and meet all legislative, compliance and duty of care requirements.</li> <li>Berwick College seeks to establish and maintain a high level of professional standards in relation to all activities within the College. This policy is in accord with the College's 'Mission Statement', 'Values' and 'Service Standards'.</li> </ul>			
BACKGROUND:	<ul style="list-style-type: none"> <li>Berwick College is committed to child safety and wellbeing and has a zero tolerance for child abuse.</li> </ul>			
RELATED DOCUMENTS:	<ul style="list-style-type: none"> <li><a href="#">DET Child Protection – Reporting Obligations</a></li> <li>Human Services – <a href="#">Child Protection</a></li> <li>DET Ministerial Order No 870 – <a href="#">Child Safe Standards</a></li> <li><a href="#">Crimes Act 1958</a></li> </ul>			

#### RATIONALE:

Berwick College staff members have a duty of care to protect and preserve the safety, health and wellbeing of children and young people in their care and always act in the best interests of those children and young people.

Berwick College seeks to ensure all students have a safe learning environment; particularly students who are vulnerable due to disability, Indigenous, cultural or linguistic diverse backgrounds are safe from harm and protected from child abuse.

#### LEGISLATIVE CONTEXT:

The Children Youth and Families Act 2005 (CYFA) defines a child as under the age of 17 years. A broad range of professional groups are identified in the CYFA Act as mandatory reporters.

#### Mandated staff members:

The following professionals are prescribed as mandatory reporters and must comply with their duties under section 182 of the CYFA:

- Primary and secondary school teachers and principals (including students in training to become teachers)
- Registered medical practitioners (including psychiatrists)
- Nurses (including school nurses)
- Police

There may be times when two or more mandated staff members, for example a teacher and a principal, have formed a belief about the same child or young person on the same occasion. In this situation it is sufficient for only one of the mandated staff members to make a report. The other staff member is obliged to ensure that the report has been made and that the grounds for their own belief were included in the report made by the other staff member.

#### Non-mandated staff members:

Section 183 of the CYFA states that any person, who believes on reasonable grounds that a child is in need of protection, may report their concerns to Child Protection. This means that any person, including non-mandated school staff, is able to make a report to Child Protection, and the child's parents are unwilling or unable to protect the child.

### **FORMING A BELIEF ON REASONABLE GROUNDS:**

A person may form a belief on reasonable grounds that a child is in need of protection after becoming aware that a young person's health, safety or wellbeing is at risk and the child's parents are unwilling or unable to protect the child.

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

- A child or young person states that they have been physically or sexually abused.
- A child or young person states they may know someone who has been physically or sexually abused (sometimes the child may be talking about themselves).
- Someone who knows the child or young person states that the child or young person has been physically or sexually abused.
- A child shows signs of being physical or sexually abused.
- The staff member is aware of persistent family violence or parental substance abuse, psychiatric illness or intellectual disability that is impacting on the child or young person's safety, stability or development.
- The staff member observes signs or indicators of abuse, including non-accidental or unexplained injury, persistent neglect, poor care, and lack of appropriate supervision or medical neglect.
- A child's actions or behaviour may place them at risk of significant harm and the child's parents are unwilling or unable to protect the child.

### **REPORTING A BELIEF:**

Every staff member has a responsibility to understand the important and specific role they play in ensuring the wellbeing and safety of students. Berwick College staff, whether mandated or non-mandated must make a report to Child Protection or Child FIRST as soon as practicable after forming a belief on reasonable grounds that a child or young person is in need of protection from significant harm as a result of physical injury or sexual abuse, and the child's parents/primary carer(s) are unable or unwilling to protect the child.

If one staff member has a different belief from another staff member about making a report and the staff member continues to hold the belief that a child is in need of protection, that person is obliged to make a report to Child Protection or Child FIRST. School staff can enquire sufficiently, without the use of leading questions, to form a belief on reasonable grounds, but should not take statement or interview witnesses.

### **PROTECTING THE IDENTITY OF THE REPORTER:**

Confidentiality is provided for reporters under the CYFA. The CYFA prevents disclosure of the name or any information likely to lead to the identification of a person who has made a report in accordance with legislation, except in specific circumstances.

The identity of a reporter must remain confidential unless:

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

Information provided during a protective investigation may be used in a court report if the risks to the child or young person require the case to proceed to court. In these circumstances, the source of information may be required to provide evidence to the court.

If Child Protection decides that the report is about a significant concern about the wellbeing of a child, they may refer the report to a community-based child and family service and disclose the identity of the reporter to that service. However the CYFA provides that neither Child Protection nor the community-based child and family service may disclose the reporter's identity to any other person without the reporter's consent.

### **PROFESSIONAL PROTECTION FOR REPORTER:**

If a report is made in good faith:

- It does not constitute unprofessional conduct or a breach of professional ethics on the part of the reporter

- The reporter cannot be held legally responsible in respect of the report.

This means that a person who makes a report in accordance with the legislation will not be held liable for the eventual outcome of any investigation of the report.

#### **FAILURE TO REPORT:**

A failure by mandated professionals and staff members to report a reasonable belief that a child is in need of protection from significant harm as a result of physical or sexual abuse may result in the person being prosecuted and a court imposing a fine under the CYFA.

#### **FAILURE TO REPORT CRIMINAL CHILD SEXUAL ABUSE – FAILURE TO DISCLOSE OFFENCE:**

Under the Crimes Act 1958, any staff member who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child under 16 must disclose that information to police. Failure to disclose the information to police is a criminal offence, except in limited circumstances such as where the information has already been reported to DHHS Child Protection.

The offence applies to all adults in Victoria, not just professionals who work with children.

#### **MAKING A REPORT TO CHILD FIRST/CHILD PROTECTION:**

- 1) To report concerns that are life threatening, phone 000 or the local police station.
- 2) To report concerns about the immediate safety of a child within their family unit to DHS Child Protection, call the Child Protection Crisis Line on 13 12 78 (24 hours 7 days, toll free)
- 3) The CYFA allows for two types of report to be made in relation to significant returns for the safety or wellbeing of the child—a report to Child Protection or a referral to Child FIRST (Child and Family Information, Referral and Support Team). Allegations must also be reported to the Principal or a member of the Principal Executive Team who will notify the Department's Security Services Unit on (03) 9589 6266, Regional Office and Student Critical Incident Advisory Unit on (03) 9637 2934.

Child FIRST is the entry point into Integrated Family Services across Victoria. Staff from Child FIRST undertakes initial needs and risk identification and assessment where there is significant concern for a child's wellbeing, these concerns have a low to moderate impact on the child and the child's safety is not compromised.

A report to Child Protection should be considered if, after taking into account all of the available information, the staff member forms a view that the child or young person is in need of protection because:

- The harm or risk of harm has a serious impact on the child's immediate safety, stability or development
- The harm or risk of harm is persistent and entrenched and is likely to have a serious impact on the child's safety, stability or development
- The child's parents cannot or will not protect the child or young person from harm

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

Staff members of Berwick College may form a professional judgment or belief, in the course of undertaking their professional duties based on:

- Warning signs or indicators of harm that have been observed or inferred from information about the child
- Legal requirements such as mandatory reporting
- Knowledge of the child and adolescent development
- Consultation with colleagues and other professionals
- Professional obligations and duty of care responsibilities
- Established protocols
- Internal policies and procedures in an individual licensed children's service or school

Upon receipt of a report, Child Protection may seek further information, usually from professionals who may be involved with the child or family, to determine whether further action is required.

In most circumstances, Child Protection will inform the reporter of the outcome of the report. When the report is classified by Child Protection as a Wellbeing Report, Child Protection will, in turn, make a referral to Child FIRST.

Anyone who is registered as a teacher under the Education and Training Reform Act 2006, or any person who has been granted permission to teach under that Act, including principals, is mandated to make a report to Child Protection. In the course of undertaking their professional duties, mandated staff members are required to report their belief, when the belief is formed on reasonable grounds that a child is in need of protection from significant harm as a result of sexual abuse or physical injury.

Berwick College Duty of Care policy and procedures stipulate how teaching staff fulfill their duty of care towards children and young people in their school. Any inappropriate behavior will be immediately reported through appropriate channels; including the Victoria Police, Department of Education and Training and the Department of Health and Human Services depending on the severity and urgency of the matter.

Teachers at Berwick College are encouraged to discuss any concerns about the safety and wellbeing of students with the principal or a member of the Wellbeing Team. If a principal or a member of the Wellbeing Team does not wish to make a mandatory report, this does not discharge the teacher's obligation to do so if they have formed a reasonable belief that abuse may have occurred. If the teacher's concerns continue, even after consultation with the principal or a member of the Wellbeing Team, the teacher is still obliged to make a mandatory report of their concerns.

Information about the identity of the person making a report to Child Protection must be kept confidential unless the reporter consents to the disclosure of their identity. If the staff member wishes to remain anonymous this information must be conveyed at the time that the reporter makes the mandatory report.

#### **IMPLEMENTATION - THE ROLE OF BERWICK COLLEGE STAFF:**

If a staff member has any concerns regarding the health, safety or wellbeing of a child or young person it is important to take immediate action. Note that the role of investigating an allegation of child abuse rests solely with Child Protection and/or Victoria Police.

The roles and responsibilities of staff members in supporting children and young people who are involved with Child Protection may include acting as a support person for students, attending Child Protection case plan meetings, observing and monitoring and liaising with professionals.

#### **BERWICK COLLEGE CONFIDENTIALITY:**

Berwick College staff members must respect confidentiality when dealing with a case of suspected child abuse and neglect, and may discuss case details and the identity of the child or the young person and their family only with those involved with managing the situation.

When a child or young person has moved to another school, professional judgment should be exercised as to what information needs to be passed on. This will be guided by usual procedures for passing on information about a child's general wellbeing or special needs, and the role of the school in any ongoing care plans.

#### **INTERVIEWS AT VICTORIAN SCHOOLS:**

Child Protection may conduct interviews of children and young people at Berwick College without parental knowledge or consent. However, a child will be interviewed at a Victorian school only in exceptional circumstances and if it is in the child's best interests to proceed in this manner. Child Protection will notify the school of any intention to interview a child or young person. This may occur regardless of whether the school is the source of the report to Child Protection.

When Child Protection practitioners arrive at the school, the principal or their nominee should ask to see their identification before allowing Child Protection to have access to the child or young person.

#### **SUPPORT PERSONS:**

Students should be advised of their right to have a supportive adult present during interviews. If a student is too young to understand the significance of the interview, a staff member should make arrangements for a supportive adult to attend.

A staff member may be identified as a support person for the student during the interview. In these circumstances the staff member should take notes, listen carefully and provide support for the student. Prior to the commencement of the interview, the Child Protection practitioner should always authorise the Berwick College staff

member to receive information regarding Child Protection's investigation. This may occur verbally or in writing using the relevant Child Protection proforma. Independent persons must refrain from providing their opinions or accounts of events during interviews. A principal or their delegate may act as an independent person when the student is interviewed, unless they believe that in doing so that will create a conflict of interest.

**ADVISING PARENTS, CARERS OR GUARDIANS:**

Berwick College staff members do not require the permission of parents, carers or guardians to make a report to Child Protection, nor are they required to tell parents, carers and guardians that they have done so.

It is the responsibility of Child Protection to advise the parents, carers or guardians of the interview at the earliest possible opportunity. This should occur either before, or by the time the child arrives home.

**ENSURING THAT THE CHILD PROTECTION INTERVIEW TAKES PLACE:**

Berwick College does not have the power to prevent parents, carers or guardians from removing the child from the school and should not attempt to prevent the parents, carers or guardians from collecting the child. If a parent, carer or guardian removes a child before the planned interview has taken place, the principal and/or their nominee should contact the Child Protection or Victoria Police immediately.

**BERWICK COLLEGE STAFF TRAINING:**

Berwick College staff members will be informed of mandatory reporting requirements as part of their initial induction to the school. A Mandatory Reporting presentation will take place annually as part of the staff meeting schedule.

**BERWICK COLLEGE STAFF RECRUITMENT:**

Berwick College employment processes clearly demonstrate our commitment to child safety. All people engaged in work on site are required to hold a Working with Children Check or police record check as part of the VIT process.

**EVALUATION:**

- This policy will be reviewed as part of the College's three-year review cycle.