



Department of
Education

CHILD PROTECTION IN DEPARTMENT OF EDUCATION SITES POLICY

**CHILD PROTECTION IN DEPARTMENT OF EDUCATION SITES
PROCEDURES FOR PRINCIPALS**

**CHILD PROTECTION IN DEPARTMENT OF EDUCATION SITES
PROCEDURES FOR TEACHERS**

**CHILD PROTECTION IN DEPARTMENT OF EDUCATION SITES
PROCEDURES FOR SCHOOL PSYCHOLOGISTS**

**CHILD PROTECTION IN DEPARTMENT OF EDUCATION SITES
PROCEDURES FOR SCHOOL COUNSELLORS**

**CHILD PROTECTION IN DEPARTMENT OF EDUCATION SITES
PROCEDURES FOR BOARDING SUPERVISORS**

**CHILD PROTECTION IN DEPARTMENT OF EDUCATION SITES
PROCEDURES FOR ALLIED PROFESSIONALS**

**CHILD PROTECTION IN DEPARTMENT OF EDUCATION SITES
PROCEDURES FOR COLLEGE MANAGERS**

This PDF contains the following documents:

Document 1:

Child Protection in Department of Education Sites Policy v3.7

Effective: 1 May 2024

Document 2:

Child Protection in Department of Education Sites Procedures for Principals v3.8

Effective: 1 May 2024

Document 3:

Child Protection in Department of Education Sites Procedures for Teachers v3.8

Effective: 1 May 2024

Document 4:

Child Protection in Department of Education Sites Procedures for School Psychologists v3.8

Effective: 1 May 2024

Document 5:

Child Protection in Department of Education Sites Procedures for School Counsellors v1.0

Effective: 1 May 2024

Document 6:

Child Protection in Department of Education Sites Procedures for Boarding Supervisors v3.8

Effective: 1 May 2024

Document 7:

Child Protection in Department of Education Sites Procedures for Allied Professionals v3.8

Effective: 1 May 2024

Document 8:

Child Protection in Department of Education Sites Procedures for Residential College Managers v1.5

Effective: 1 May 2024



Department of
Education

CHILD PROTECTION IN DEPARTMENT OF EDUCATION SITES POLICY

EFFECTIVE: 1 MAY 2024

VERSION: 3.7 FINAL

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 in Department of Education Sites Procedures for Principals
 - Child Protection in Department of Education Sites Procedures for Teachers
 - Child Protection in Department of Education Sites Procedures for School Psychologists
 - Child Protection in Department of Education Sites Procedures for School Counsellors
 - Child Protection in Department of Education Sites Procedures for Boarding Supervisors
 - Child Protection in Department of Education Sites Procedures for Allied Professionals
 - Child Protection in Department of Education Sites Procedures for Residential College Managers.

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*
- *appropriate responses by staff to any disclosures, allegations or suspicions of harm.*

For further information on embedding the Child Safe principles in schools, visit the [National Office for Child Safety](#) and [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 determinants when 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*
- *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 school psychologists apply to staff who are registered under the Health Practitioner Regulation National Law (WA) Act 2010 in the psychology profession (other than as a student).

The procedures for school counsellors apply to staff who are employed or engaged in a school (as defined in the School Education Act 1999 section 4) to provide counselling or pastoral care to children who attend the school. It does not include adults employed or engaged as a student or volunteer. According to current JDFs, Aboriginal and Islander Education Officers fall within the definition of school counsellor.

The procedures for allied professionals are for staff employed under s235(1)(a), (c) and (d) of the School Education Act 1999 who are not categorised as school counsellors and are therefore non-mandatory reporters. -This may include but is not limited to: managers corporate services, school officers, education assistants, library officers, laboratory technicians, home economic assistants, participation coordinators, attendance officers, youth support officers, social trainers, school based community liaison officers, home education moderators, 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

ALLIED PROFESSIONALS

Allied professionals are those staff employed under s235(1)(a)(c) and (d) of the School Education Act 1999.

Allied professionals who are not categorised as school counsellors are non-mandatory reporters. When reporting any type of child abuse, including sexual abuse, these allied professionals are required to follow the procedures for allied professionals.

Allied professionals who fall within the category of school counsellor (see definition) are mandatory reporters of child sexual abuse and are required to follow the procedures for school counsellors.

BELIEF ON REASONABLE GROUNDS

'Believes on reasonable grounds' means that a reasonable person, doing the same work, would have formed the same belief on those grounds. Grounds for forming the belief are matters of which you have become aware, and any opinions in relation to those matters.

A mandatory reporter does not have to be able to prove that harm has occurred. Professional judgement and objective observation help to identify warning signs or possible indicators of child sexual abuse and contribute to a reporter forming the belief on reasonable grounds. Knowledge of child development and consultation with colleagues or other professionals can also contribute to reasonable grounds.

Reasonable grounds may include:

- your own observations of a child's behaviour
- your own observations of the behaviour of an adult interacting with the child
- when a child tells you they, or another child, has been harmed
- when you hear about it from someone who is in a position to provide reliable information, perhaps a relative or friend, neighbour or sibling of a child who is at risk.

Mandatory reporters must specify the grounds on which they formed the belief that a child has been, or is being, sexually abused.

(Mandatory Reporting Guide: Western Australia)

If you are a mandatory reporter and you have not formed the belief that a child has been or is being sexually abused but are sufficiently concerned, it is recommended that you consult with staff with expertise in this area, such as the Department's child protection consultants.

Refer to Ikon: Form the belief that a child is or has been the subject of sexual abuse and Recognise signs of child abuse in Manage child protection at your school (staff only).

BOARDING FACILITY

Means a place used to provide residential accommodation for children while they attend a school as defined in the School Education Act 1999. (Children and Community Services Act 2004 Section 124A).

BOARDING SUPERVISOR

Means a person who holds an office or position in a boarding facility; the duties of which include the supervision of children living at the facility. (Children and Community Services Act 2004 Section 124A).

Department of Education residential settings commonly use the terms boarding supervisor and residential supervisor to describe a boarding supervisor.

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. (*Children and Community Services Act 2004* Section 124A).

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 significant harm to the child's wellbeing. It may involve ongoing, repeated or persistent abuse, or arise from a single incident.

CHILD EXPLOITATION MATERIAL

Child exploitation material is (a) child pornography; or (b) material that, in a way likely to offend a reasonable person, describes, depicts or represents a person, or part of a person, who is, or appears to be, a child (i) in an offensive or demeaning context; or (ii) being subjected to abuse, cruelty or torture (whether or not in a sexual context).

Child pornography is material that, in a way likely to offend a reasonable person, describes, depicts or represents a person, or part of a person, who is, or appears to be a child (a) engaging in sexual activity; or (b) in a sexual context.

Material includes (a) any object, picture, film, written or printed matter, data or other thing; and (b) anything from which text, pictures, sound or data can be produced or reproduced, with or without the aid of anything else.

(*Child Pornography and Exploitation Material and Classification Legislation Amendment Act 2010* s216).

Sexting (sex + texting) is the sending and receiving of sexually explicit or sexually suggestive texts or images via phone or internet (*Australian Institute of Family Studies 2018*).

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 development of the child
- the physical, emotional and psychological health of the child
- 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
- responds appropriately to any disclosures, allegations or suspicions of harm.

Refer to Manage child protection at your school in Ikon (staff only).

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 PLAN

Documented Plan is an umbrella term used to describe a range of ways of catering for the educational needs of individual or smaller groups of students with identified needs. It is primarily a teaching and learning planning document and it identifies short to medium term education outcomes.

Documented Plans take a variety of forms, including: Individual education plans (IEPs); Individual behaviour management plans (IBMPs); Individual transition plans (ITP); Risk management plans (RMP); Risk Assessment and Management Plans (RAMPs); and Documented Education Plans (DEP).

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 family violence.

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

FAMILY VIOLENCE

Family violence is a reference to:

- (a) violence, or a threat of violence, by a person towards a family member of the person
- (b) any other behaviour by the person that coerces or controls the family member or causes the member to be fearful.

A child is **exposed to** family violence or personal violence if the child sees or hears the violence or otherwise experiences the effects of the violence.

Examples of behaviour that may constitute family violence include (but are not limited to) the following:

- (a) an assault against the family member
- (b) a sexual assault or other sexually abusive behaviour against the family member
- (c) stalking or cyber-stalking the family member
- (d) repeated derogatory remarks against the family member
- (e) damaging or destroying property of the family member
- (f) causing death or injury to an animal that is the property of the family member
- (g) unreasonably denying the family member the financial autonomy that the member would otherwise have had

- (h) unreasonably withholding financial support needed to meet the reasonable living expenses of the family member, or a child of the member, at a time when the member is entirely or predominantly dependent on the person for financial support
- (i) preventing the family member from making or keeping connections with the member's family, friends or culture
- (j) kidnapping, or depriving the liberty of, the family member, or any other person with whom the member has a family relationship
- (k) distributing or publishing, or threatening to distribute or publish, intimate personal images of the family member
- (l) causing any family member who is a child to be exposed to behaviour referred to in this section.

(Restraining Orders Act 1997 s5A & Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016.

FEMALE GENITAL MUTILATION/CUTTING

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

HARM

Harm, in relation to a child, means any detrimental effect of a significant nature on the child's wellbeing, whether caused by:

- (a) a single act, omission or circumstance; or
- (b) a series or combination of acts, omissions or circumstances;

Children and Community Services Act 2004.

MANDATORY REPORTER

The legislation covering mandatory reporting of child sexual abuse in Western Australia is the Children and Community Services Act 2004.

Under section 124B of the *Children and Community Services Act 2004*, a specified person whose duty to report child sexual abuse (a Mandatory Reporter) is a person who is working in their role either paid or in a voluntary capacity as a Department of Communities assessor or a department officer, midwife, nurse, police officer, boarding supervisor, doctor, minister of religion, out of home care worker, teacher, psychologist or school counsellor.

For the purposes of the legislation, 'teacher' is defined as any person registered under the Teacher Registration Act 2012 with the Teacher Registration Board of WA or with Provisional Registration, or Limited Registration and is working as a teacher.

For the purposes of the legislation, 'boarding supervisor' is defined as 'a person who holds an office or position at a boarding facility the duties of which include the supervision of children living at the (boarding) facility'.

For the purposes of the legislation, 'psychologist' is defined as a person who is registered under the *Health Practitioner Regulation National Law (WA) Act 2010* in the psychology profession (other than as a student).

For the purposes of the legislation, 'school counsellor' is defined as an adult who is employed or engaged in a school (as defined in the *School Education Act 1999* section 4) to provide counselling or pastoral care to children who attend the school. It does not include adults employed or engaged as a student or volunteer.

Staff who are registered under the Teacher Registration Act 2012 with the Teacher Registration Board of WA, and who are not a mandatory reporter of child sexual abuse are required under this policy to report child sexual abuse to the principal.:-

MANDATORY REPORTING LEGISLATION

Section 124B of the *Children and Community Services Act 2004* requires certain persons in Western Australia to make a mandatory report if:

- they are a person specified to report sexual abuse of children,
- believes on reasonable grounds that a child has been the subject of sexual abuse or is the subject of ongoing sexual abuse
- forms the belief in the course of their work (whether paid or unpaid) as a specified person on or after commencement day.

Commencement day is the date on which the person becomes a mandatory reporter under the legislation. The duty to make a report applies if the reporter forms the belief on or after commencement day (which is the day they became a mandatory reporter), and the belief relates to sexual abuse that occurred on or after the commencement day or is still occurring.

Commencement day varies for the different mandatory reporter groups.

- 1 January 2009 – Teacher
- 1 January 2016 – Boarding Supervisor
- 1 May 2024 – Psychologist and School Counsellor
- 1 November 2024 - Early childhood workers
- 1 May 2025 - Youth Justice Workers.

In a school context, the duty to report sexual abuse applies to a teacher, boarding supervisor, psychologist or school counsellor working in their role either in a paid or voluntary capacity.

If the belief that a child is or has been the subject of sexual abuse when not working in their role, then there is no legal duty to report. However, a report to the Department of Communities can be made voluntarily.

NEGLECT

Neglect includes failure by a child's parents to provide, arrange, or allow the provision of:

- (a) adequate care for the child
- (b) effective medical, therapeutic or remedial treatment for the child.

Children and Community Services Act 2004.

Omission of care (from the Department of Communities Neglect policy 2021)

When a child does not receive adequate food or shelter, medical treatment, supervision, care or nurturance to the extent that their development is harmed, or they are injured.

Cumulative harm (from the Department of Communities Neglect policy 2021)

Refers to the effects of multiple adverse or harmful circumstances and events in a child's life. The unremitting daily impact of these experiences on the child can be profound and exponential, and diminish a child's sense of safety, stability and wellbeing.

It is possible to have cumulative abuse (multiple events over time) that results in harm that is cumulative in nature (the impact of the events has been cumulative).

NON-MANDATORY REPORTER

In a school context, all staff who are not working in the role of a teacher, school psychologist, school counsellor or boarding supervisor are non-mandatory reporters.

When reporting child sexual abuse, non-mandatory reporters are required to follow the procedures for allied professionals.

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 scalding; 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.

PSYCHOLOGIST

A psychologist is defined as a person who is registered under the *Health Practitioner Regulation National Law (WA) Act 2010* in the psychology profession (other than as a student).

Psychologists are mandatory reporters of child sexual abuse. When reporting any type of child abuse, including child sexual abuse, school psychologists are required to follow the procedures for school psychologists.

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.

RESIDENTIAL COLLEGE MANAGER

The residential college manager has the same mandatory reporting responsibilities as a boarding supervisor and is responsible for the line-management of other boarding supervisors and operations in a residential setting. Department of Education residential settings commonly use the terms residential college manager, college manager or head of residence to describe a residential college manager.

RESIDENTIAL SETTING

A place used to provide residential accommodation and related services for students while they attend, and participate in an educational programme of, a school as defined in the *School Education Act 1999* section 4, 213A and 213B. Also referred to as a student residential college or boarding facility and does not include private arrangements.

RESIDENTIAL SETTING ACTIVITY

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

SCHOOL ACTIVITY

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

SCHOOL COUNSELLOR

A school counsellor is defined as an adult who is employed or engaged in a school (as defined in the *School Education Act 1999* section 4) to provide counselling or pastoral care to children who attend the school. It does not include adults employed or engaged as a student or volunteer (*Children and Community Services Act 2004*).

In the Department of Education, school counsellors are allied professionals and third-party providers with either of the terms 'pastoral care' or 'counselling' listed in their job title, JDF or relevant service agreement. This includes chaplains, wellbeing officers, Aboriginal and Islander Education Officers and some third-party providers.

School counsellors are mandatory reporters of child sexual abuse. When reporting any type of child abuse, including child sexual abuse, school counsellors are required to follow the procedures for school counsellors.

SEXUAL ABUSE

Sexual abuse, in relation to a child, includes sexual behaviour in circumstances where:

- (a) the child is the subject of bribery, coercion, a threat, exploitation or violence
 - (b) the child has less power than another person involved in the behaviour
 - (c) there is a significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.
- (s124A *Children and Community Services Act 2004*).

Some examples are: letting a child watch or read pornography; allowing a child to watch sexual acts; touching a child's genitals; 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.

SEXUAL HARASSMENT

Sexual harassment, under the *Equal Opportunity Act 1984 (WA)*, occurs when a person makes an unwelcome sexual advance or request for sexual favours, or engages in other unwelcome conduct of a sexual nature, towards another person and that person is disadvantaged, or has reasonable grounds for believing he or she will be disadvantaged, by taking objection. Sexual harassment is unlawful in the areas of employment, education, and accommodation.

STAFF

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

STUDENT RESIDENTIAL COLLEGE

A place used to provide residential accommodation and related services for students while they attend, and participate in an educational programme of, a school as defined in the *School Education Act 1999 section 4, 213A and 213B*. More commonly known as residential setting.

6 RELATED DOCUMENTS

RELEVANT LEGISLATION OR AUTHORITY

Australian Psychological Society Code of Ethics 2007

Child Pornography and Exploitation Material and Classification Legislation Amendment Act 2010

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 Amendment (Education Standards) Bill 2004 (Cth)

Equal Opportunity Act 1984 (WA)

Freedom of Information Act 1992

Public Sector Management Act 1994 (WA)

Public Interest Disclosure Act 2003 (WA)

Restraining Orders Act 1997 (WA)

Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016)

[School Education Act 1999 \(WA\)](#)
[School Education Regulations 2000 \(WA\)](#)
[Sex Discrimination Act 1984 \(Cth\)](#)
[State Records Act 2000 \(WA\)](#)
[Teacher Registration Act 2012 \(WA\)](#)
[Working With Children \(Criminal Record Checking\) Act 2004 \(WA\)](#)
[Working with Children \(Criminal Record Checking\) Regulations 2005 \(WA\)](#)

RELATED DEPARTMENT POLICIES

[Complaints and Notifications](#)
[Duty of Care for Students for Public Schools](#)
[Enrolment in Public Schools](#)
[Equal Opportunity, Discrimination and Harassment](#)
[Incident Management on Department of Education Sites](#)
[Records Management](#)
[Staff Conduct and Discipline](#)
[Student Attendance in Public Schools](#)
[Student Behaviour in Public Schools](#)
[Visitors and Intruders on Public School Premises](#)

OTHER DOCUMENTS

[Memorandum of Understanding between the Department of Communities and the Department of Education 2021 \(staff only\)](#)
[MOU between the Department of Education and Child and Adolescent Health Service \(CAHS\) and WA Country Health Service \(WACHS\): 1 January 2022 – 31 December 2024 \(staff only\)](#)

7 CONTACT INFORMATION

Policy manager:

Director, Student Engagement and Wellbeing

Policy contact officer:

Principal Consultant

T: (08) 9402 6448

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.
25 July 2017	3 October 2018	3.2	D18/0435849	Minor changes to title D18/0435848, reference to Public Schools D18/0151652 and updated legislation links D18/0207680
13 August 2019		3.3	D19/0186107	Major changes approved by the Director General on 26 July 2019. D19/0349313
13 August 2019	8 July 2022	3.4	D22/0519059	Minor updates to terminology, definitions and links as per D22/0519053
13 August 2019	22 September 2023	3.5	D23/1550636	Minor change to update link to MOU D23/1550610
13 September 2019	6 October 2023	3.6	D23/1590700	Minor changes to update contact details D23/1582068
1 May 2024		3.7	D24/0134461	Major changes to reflect <i>Children and Community Services Amendment Act 2021</i> approved by Director General on 11 April 2024



Department of
Education

CHILD PROTECTION IN DEPARTMENT OF EDUCATION SITES PROCEDURES FOR PRINCIPALS

EFFECTIVE: 1 MAY 2024

VERSION: 3.8 FINAL

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1 POLICY SUPPORTED

Child Protection in Department of Education Sites Policy

2 SCOPE

These procedures apply to principals in Department of Education Sites.

3 PROCEDURES

3.1 CHILD PROTECTION AND ABUSE PREVENTION PROFESSIONAL LEARNING

Principals must:

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

Guidance

Enrolment occurs automatically for staff who have an E number.

Any reference to staff includes casual and relief staff.

The Child Protection and Abuse Prevention course is optional for gardeners. Cleaners are not required to do the course. There is a [brochure](#) (staff only) in Ikon to assist.

For further information refer to [Confirm staff completion of online child protection professional learning in Ikon](#) (staff only).

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 [Access protective behaviours resources](#) and [Request child protection and abuse prevention training in Ikon](#) (staff only).

3.3 INFORM 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 in Department of Education Sites Policy*
- how they can make a disclosure or complaint of abuse.

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 to them for making a disclosure about the behaviour of a member of staff or other adult or child towards them.

3.4 MANDATORY REPORTING OF CHILD SEXUAL ABUSE

When a principal believes on reasonable grounds, that a child is or has been the subject of sexual abuse, and forms the belief during the course of paid or unpaid work as a principal or when a written mandatory report of child sexual abuse has been received, principals must:

- make a mandatory report, or accept a written mandatory report from a teacher, school psychologist, school counsellor or boarding supervisor, and forward it, as soon as practicable, 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 in 3.9)
- provide information to the Department of Communities and/or WA Police as requested
- make an Online Incident Notification and quote the mandatory report receipt number
- seek advice from the MRS prior to communication with parents (refer to procedures 3.14.1)
- 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 (refer to procedures in 3.17.1)
- if a staff member provides information that results in a mandatory report being made, advise the staff member of actions taken
- follow procedures in 3.5 if the belief is formed that a child was the subject of sexual abuse **before 1 January 2009 and** the abuse is **not** ongoing
- apply mandatory reporting requirements in circumstances where:
 - a child is enrolled at another school
 - a child is under 13 years of age
 - another agency has previously submitted a report on the same child and the same alleged incident.

Principals must not:

- write a mandatory report on behalf of a teacher, school psychologist, school counsellor 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 of Education documentation
- identify the mandatory reporter or children involved when making an Online Incident Notification
- interview the child or children involved or investigate the report;
- authorise or request staff to interview the child or children involved or investigate the report
- collect photographic evidence
- authorise or request the collection of photographic evidence by staff
- assign the receiving of a mandatory report for forwarding to the MRS to a deputy or other staff member.

Guidance

Please refer to the relevant service in Ikon including Form the belief that a child is or has been the subject of sexual abuse in Manage child protection at your school (staff only).

The definition of sexual abuse in section 4 of these procedures is from the Children and Community Services Act 2004 (s124A):

Sexual abuse, in relation to a child, includes sexual behaviour in circumstances where:

- (a) the child is the subject of bribery, coercion, a threat, exploitation or violence
- (b) the child has less power than another person involved in the behaviour
- (c) there is a significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.

Children under 13 years of age are deemed to be incapable of consenting to sexual activity.

Prior to submission of a report, principals may seek advice from the Department of Communities Mandatory Reporting Service (MRS) staff on 1800 708 704 and/or the Department of Education's Service Response (Child Protection) staff on (08) 9402 6124.

If the belief that a child is or has been the subject of sexual abuse is **not** formed but a concern is held, refer to procedures in 3.5.

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

The principal is not required to make their own mandatory report if a report has already been made by a Department staff member or a third party provider who is a mandatory reporter for the belief based on the same reasonable grounds and the MR receipt number has been provided to the principal as proof.

A child can be subject to a number of mandatory reports by different mandatory reporters.

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

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 circumstances when they make a notification relating to a school student to the Department of Communities. They are not required to provide the MR receipt number to the principal. For further information, please refer to the MOU between the Department of Education and Child and Adolescent Health Service and WA Country Health Service: 1 January 2022 – 31 December 2024 (staff only).

Unless a principal has proof that a report has been submitted regarding child sexual abuse, mandatory reporting requirements apply. For further explanation, please refer to the Children and Community Services Act 2004 s124B(3):

(3) In a prosecution for an offence under subsection (1) it is a defence for the person charged to prove that he or she honestly and reasonably believed that:

- (a) all of the reasonable grounds for his or her belief were the subject of a report made by another person
- (b) the CEO had caused, or was causing, inquiries to be made under section 31 about the child's wellbeing

(c) the CEO had taken, or was taking, action under section 32 in respect of the child's wellbeing.

School chaplains are classified as school counsellors and are mandatory reporters. They follow reporting procedures for school counsellors. According to current JDFs, Aboriginal and Islander Education Officers fall within the definition of school counsellor.

Mandatory reporting requirements apply when working in the role of a teacher, psychologist or school counsellor, 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 a role not categorised as a mandatory reporting role.

If the belief is formed that a child is or has been the subject of sexual abuse when not working in their role as a teacher, psychologist or school counsellor, either paid or voluntary, there is no legal requirement to report. However, the Department of Education strongly recommends a report be made to the Department of Communities

The legal penalties in accordance with the Children and Community Services Act 2004 for a mandatory reporter who fails to report the belief that a child is or has been the subject of 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 the belief that a child is or has been the subject of 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.

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

Prior to 1 May 2024 there was no legal requirement for psychologists or school counsellors to report child abuse in Western Australia.

If principals have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

When there is concern for the safety of a mandatory reporter, the principal advises the WA Police and/or Department of Communities and contacts the relevant Regional Education Office for further advice. For further information refer to Ikon: Support a staff member who has reported child abuse and Access support after reporting child abuse (staff only).

3.5 REPORT CONCERN OF CHILD SEXUAL ABUSE

If the belief that a child is or has been the subject of sexual abuse is **not** formed, but a child protection concern of child sexual abuse is held, principals must:

- report all new child protection concerns which relate to child sexual abuse to the Department of Communities by using the Child Protection Concern Referral Form (staff only)
- report child protection concerns where there is a concern for the immediate safety of the child to WA Police on 13 14 44 prior to making a report to the Department of Communities (refer to procedures in 3.9)
- conduct all consultations in a confidential manner and document concerns in a confidential file separate from the child's school records (refer to procedures in 3.17.1)

- where appropriate, if information is received from a staff member, advise them to continue to document concerns and update information as necessary
- advise the staff member of further actions taken
- make an Online Incident Notification once a report to the Department of Communities is made and, where a report has been made to WA Police, quote the Incident Report number; and
- follow the procedures in 3.14.1 for communication with parents.

Principals must not:

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

Guidance

See Guidance under 3.6.

If principals have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.6 REPORT CONCERN OF PHYSICAL OR EMOTIONAL ABUSE, FAMILY VIOLENCE OR NEGLECT

Principals must:

- report all new child protection concerns which relate to physical abuse, emotional abuse, family violence or neglect of a child to the Department of Communities by using the Child Protection Concern Referral Form (staff only)
- report child protection concerns where there is a concern for the immediate safety of the child to WA Police on 13 14 44 prior to making a report to Communities (refer to procedures in 3.9)
- conduct all consultations in a confidential manner and document concerns in a confidential file separate from the child's school records (refer to procedures in 3.17.1)
- where appropriate, if information is received from a staff member, advise them to continue to document concerns and update information as necessary
- advise the staff member of further actions taken
- make an Online Incident Notification once a report to the Department of Communities is made and, where a report has been made to WA Police, quote the Incident Report number
- follow the procedures in 3.14.1 for communication with parents.

Principals must not:

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

Guidance

When considering if a submission of a child protection concern referral is warranted, please refer to the definition of 'Child Protection Concern' in the Definitions section of these procedures.

Principals:

- may seek advice from the Department of Communities staff and/or Department of Education Service Response (Child Protection) staff on 08 9402 6124
- refer to procedure 3.9 where a student is at immediate risk of harm or there is a significant concern for the wellbeing of the child
- may request acknowledgement that the child protection concern referral has been received.

*Perth metropolitan area: Mandatory Reporting Service 1800 708 704, Central Intake Team on 1800 273 889 (1800 CP DUTY) or Crisis Care after hours on 1800 199 008.

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 Department of Communities as a private citizen.

Being exposed to family violence is considered to be emotional abuse and may also be physical abuse.

In cases of family violence, WA Police may interview the students, teachers, boarding supervisors, parents and any other parties involved (refer to procedures 3.16).

Principals can request from or provide information to the school nurse relating to a child protection report in accordance with the MOU between the Department of Education and Child and Adolescent Health Service and WA Country Health Service: 1 January 2022 – 31 December 2024 (staff only).

If principals have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.7 REPORT AN ALLEGATION OF PHYSICAL, EMOTIONAL OR SEXUAL ABUSE COMMITTED BY STAFF

Principals 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)
- submit a mandatory report (refer to procedures 3.4), if the belief is formed that a child is or has been the subject of sexual abuse
- if the belief is not formed but a concern of child sexual abuse is held, submit a child protection concern referral (refer to procedures 3.5)
- if a child protection concern is held related to physical abuse or emotional abuse, submit a child concern referral (refer to procedures 3.6)
- obtain permission from SID prior to informing the parent/carer (refer to procedures 3.14)
- make an Online Incident Notification and, where a mandatory report has been submitted, quote the receipt number.

Principals must not:

- interview the child
- investigate the allegation
- 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 3.10.

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 setting.

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

When considering if a submission of a child protection concern referral is warranted, please refer to the definition of 'Child Protection Concern' in the Definitions section of these procedures.

The content of electronic communication between a staff member and student may also constitute reasonable grounds to form the belief that a child is or has been subject to sexual abuse.

Any concerns regarding an inappropriate relationship between a staff member and a student should be reported to the Department's Standards and Integrity Directorate (SID). For further information refer to Report staff misconduct in Ikon(staff only).

Sexual harassment is dealt with in the Equal Opportunity, Discrimination and Harassment policy. In some cases sexual harassment of students may also be child sexual abuse. Refer to the definition of child sexual abuse in Section 4 of these procedures.

Certain behaviour towards students, while not illegal, may not be within appropriate professional boundaries and should be considered as unsafe practice. Refer to the Code of Conduct and Standards (staff only).

If principals have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.8 REPORT AN ALLEGATION OF SEXUAL ABUSE COMMITTED BY A STUDENT DURING SUPERVISED SCHOOL OR RESIDENTIAL SETTING ACTIVITIES

Principals must:

- arrange for the safety and supervision of the alleged victim and the student alleged to have committed the abuse
- follow the mandatory reporting procedures in 3.4
- seek advice from the MRS before informing the alleged victim's parent
- seek advice from the MRS before informing the parents of the student alleged to have committed the abuse
- if medical attention is required, take reasonable steps to contact the parent prior to contacting emergency services
- support the students involved and affected by the incident as required
- make an Online Incident Notification, quoting the receipt number of the mandatory report
- arrange support for staff affected by the incident.

Principals must not:

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

Guidance

*Sexual abuse of a child by another child is any sexual behaviour that involves the use of bribery, coercion, a threat, exploitation or violence **or** when one child has less power than the other **or** when there is significant disparity in the developmental function or maturity of the children involved.*

Examples are: unwanted touching, unwanted kissing, exposure to sexual acts, exposure to pornographic materials and sexual penetration of the genitals or mouth.

Sexual behaviour outside of the normal developmental range may be an indicator of child sexual abuse. Sexual behaviour that is within the normal range may or may not be an indicator of child sexual abuse. For more information, refer to Ikon: Respond to sexual behaviour in students (staff only).

If a report is submitted to the mandatory reporting service (MRS), the MRS will automatically notify WA Police who will assess the need for criminal charges.

Permission to inform parents can be requested or obtained by calling, as relevant: the MRS on 1800 708 704; the Department of Communities Central Intake Team in the Perth metropolitan area on 1800 273 889; or WA Police on 13 14 44.

Making a report to WA Police does not preclude the principal from considering taking action in accordance with the Student Behaviour Policy and Procedures.

If principals have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.9 MANAGE A STUDENT CHARGED WITH A HARMFUL SEXUAL BEHAVIOUR

Principals must:

- upon receipt of notification from the Director of Education, made in accordance with the *Multi-agency protocol for education options for young people charged with harmful sexual behaviours*, develop a Risk Assessment and Management Plan (RAMP) for the student charged or convicted
- detail the specific support and risk management strategies for the student charged or convicted in the RAMP
- manage the school related bail conditions for the student charged or convicted.

Guidance

The Multi-agency protocol for education options for young people charged with harmful sexual behaviours allows for the Western Australian Police Force to notify the Director General, Department of Education, of school aged young people who have been charged with or convicted of harmful sexual behaviours (students charged or convicted) if criteria in section 28B of the Children and Community Services Act 2004 are met and the offence is included in Schedule 1 or 2 of the Working with Children (Criminal Record Checking) Act 2004.

3.10 RESPOND 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 Department of Communities Central Intake Team on 1800 273 889 (1800 CP DUTY) or Crisis Care after hours on 1800 199 008; or
- call the Department of Communities District Office responsible if the child is in the care of the CEO of the Department of Communities; or
- call the Mandatory Reporting Service (MRS) on 1800 708 704 if the belief is formed on reasonable grounds that a child is or has been the subject of sexual abuse
- submit a Child Protection Concern Referral Form (staff only) or a written mandatory report, as appropriate
- conduct all consultations in a confidential manner and document concerns in a confidential file separate from the child's school records (refer to procedures in 3.17.1)
- where appropriate, if information is received from a staff member, advise them to continue to document concerns and update information as necessary
- advise the staff member of further actions taken
- lodge an Online Incident Notification and quote the Incident Report number provided by WA Police or the mandatory report receipt number, as appropriate
- follow the procedures in 3.14.1 for communication with parents.

Guidance

If the Department of Communities identifies an immediate risk of harm to the child, the WA Police and the Department of Communities Child Safety Team may be involved.

If schools do not receive a response at all from the WA Police, do not receive a response within a reasonable timeframe or are concerned about the response received then they can request to speak with the Officer In Charge.

If schools do not receive a response from the Department of Communities or remain concerned about the response received, they can request to speak with the Department of Communities Team Leader followed by the Assistant District Director or District Director to discuss the need for immediate assistance.

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

Contacts:

Perth metropolitan area: Department of Communities Central Intake Team on 1800 273 889 (1800 CP DUTY).

Country areas: Department of Communities District Office.

*After hours contact Crisis Care 9223 1111 (1800 199 008 Country Free Call).
Mandatory Reporting Service (1800 708 704 available 24 hours).*

If principals have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.11 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
- inform the parent or carer when the student:
 - has an intellectual disability
 - 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 report to WA Police 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. For further information refer to Report staff misconduct in Ikon. (staff only)

If principals have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.12 RESPOND TO A STUDENTS IN POSSESSION OF SEXUALLY EXPLICIT OR CHILD EXPLOITATION MATERIAL

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

- secure the electronic device (if circumstances permit)
- report all concerns about issues involving sexually explicit or child exploitation material allegations to WA Police
- store devices securely until WA Police advise of the course of action
- request confirmation that the report has been received through the provision of a WA Police Incident Report number
- seek advice from the WA Police prior to informing parents/caregivers
- if the belief is formed that a child is or has been the subject of sexual abuse, make a mandatory report as outlined in procedures 3.4
- make an Online Incident Notification and quote the Incident Report number provided by WA Police, as well as the mandatory report receipt number if a mandatory report has been made

- follow the procedures in 3.13 on supporting the children involved
- follow the procedures in 3.14 on informing the parents.

Principals must not:

- 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
- inform the alleged offender that an allegation has been made.

Guidance

Please refer to the definitions of 'Child Exploitation Material' and 'Child Protection Concern' in Section 4 of these procedures.

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.

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*
- *image appears to be of a person under 18 years of age.*

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 WA 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 3.16).

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, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

Further information and resources can be found on the website of the Office of the eSafety Commissioner and in Ikön (staff only).

For information related to Western Australia's Intimate Image laws (Chapter XXVA of the Criminal Code) which came into effect on 15 April 2019, please refer to the Frequently Asked Questions.

3.13 RESPOND TO SPECIFIC CHILD PROTECTION ISSUES

3.13.1 FEMALE GENITAL MUTILATION/CUTTING

When a concern is formed that a student may be subjected to Female Genital Mutilation/Cutting (FGM/C), or arrangements are being made to carry out the procedure, principals must follow the requirements in procedure 3.6 **and** make a report to WA Police on 13 14 44.

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

Guidance

The Department of Communities has advised that employees of state government agencies report the practice or risk of FGM/C as a form of physical abuse. FGM/C is also reported to WA Police as the practice is a criminal offence in Western Australia, as is taking the child from the state with the intention of having the child subjected to FGM/C.

For further information refer to Section 306 of the Criminal Code and Report female genital mutilation/cutting of a student in Ikon (staff only).

3.13.2 FORCED MARRIAGE

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

- follow procedures 3.4 where the belief is formed on reasonable grounds that a child is or has been the subject of sexual; or
- follow procedures 3.5 where there is a concern of sexual abuse.

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

Guidance

For further information refer to sections 270.7A and 270.7B of the Commonwealth Criminal Code Act (1995) and to Report forced marriage of a student in Ikon (staff only).

Principals may consult with WA Police (Child Abuse Squad 9428 1500) or the Department of Communities, on 1800 273 889.

3.14 SUPPORT A STUDENTS AFFECTED BY ABUSE

Principals must:

- support students affected by abuse, including students who are alleged to have committed the abuse
- 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 Education Regional Office staff, the lead school psychologist, and student services staff should be accessed by the principal.

In circumstances where the student alleged to have committed the abuse attends the same school, a risk management and support plan should be developed in collaboration with the student and their family.

As appropriate, the student should be provided with the option of who their support person is and 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. Refer to Support a student affected by abuse or neglect in Ikon. (staff only).

The student and their family may be provided with the option to 'opt out' of support and intervention.

School based strategies and or interventions should not disadvantage the student harmed, for example, the student should not be moved out of their class, unless at the request of the student or family.

If principals have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.15 COMMUNICATE TO PARENTS

3.15.1 WHEN A MANDATORY REPORT OR CHILD PROTECTION CONCERN REFERRAL HAS BEEN MADE

Principals must inform parents of a mandatory report or child protection concern referral when:

- permission has been given by the Department of Communities or WA Police
- 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 protection concern referral:

- without prior permission from the Department of Communities or WA Police
- 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
- 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 report
- offer personal opinions
- question the family about matters that are unrelated to the situation.

Guidance

Obtaining permission from the Department of Communities 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 protection concern referral may compromise an investigation.

Permission to inform parents can be requested or obtained by calling, as relevant: the MRS on 1800 708 704; the Department of Communities Central Intake on 1800 273 889; or WA Police on 9428 1500 (Child Abuse Squad).

Where a face-to-face meeting with parents is impractical e.g. if parents live considerable distance from the school, a principal may inform parents by phone.

3.15.2 WHEN A CONCERN IS HELD BUT A MANDATORY REPORT OR CHILD PROTECTION CONCERN REFERRAL-HAS NOT YET 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 child abuse
- of a concern of family violence
- of an intention to make a report concerning their child to the Department of Communities, the Mandatory Reporting Service (MRS), WA Police and/or SID.

Guidance

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

Principals 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 report is required. Document questions and responses verbatim. The WA Police and the Department of Communities may use this information in their investigations.

3.15.3 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
 - a report of child sexual abuse or other form of abuse is made;
 and
- follow procedures 3.4, 3.5 or 3.9, if applicable.

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

Guidance

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

In Western Australia, the legal age for males and females to consent to sexual activity is 16 years of age.

Students under 13 years of age are deemed under the Criminal Code as incapable of consenting to a sexual relationship and this should be reported to WA Police and obtain a police record number, if a mandatory report of child sexual abuse is not submitted.

Sexual behaviour involving students aged 13 to under 16 years of age may not necessarily constitute sexual abuse. If the belief is formed that a child is or has been the subject of sexual abuse, a mandatory report must be submitted as per procedure 3.4. Consideration should be given to the age of the child, developmental level, any disability or the influence of drugs or alcohol.

When a person engages in sexual behaviour with someone below the age of consent, this is a criminal offence under the Criminal Code Act Compilation Act 1913 and should be reported to WA Police. If the belief is formed that the child is or has been the subject of sexual abuse, a mandatory report must be submitted as per procedure 3.3.1.

If the student is a child in the care of the CEO of the Department of Communities), the matter should also be referred to the Department of Communities.

School psychologists may be consulted on determining the best interests of the child and the availability of appropriate support options, including implementation of protective behaviours education. Refer to Access protective behaviours resources in Ikon (staff only).

3.16 THE DEPARTMENT OF COMMUNITIES ON SCHOOL GROUNDS

When the Department of Communities is on school grounds to interview a student, principals must sight the authorised officer identity card of the Department of Communities worker to interview the child before access to the child is given.

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

When the Department of Communities removes a student from the school, principals must:

- confirm with the Department of Communities whether or not they have parental permission to remove the student
- if the Department of Communities does not have parental permission to remove the student, confirm that the Department of Communities is exercising their authority under section 33 of the Children and Community Services Act 2004
- document this information.

Guidance

The Department of Communities 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 Department of Communities. 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 Department of Communities 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*
- *the child has requested that the parents are not informed and the the Department of Communities Officer believes on reasonable grounds that this is in the best interests of the child.*

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

The Department of Communities 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 and the child is at immediate and substantial risk of harm the child will be taken into provisional protection and care under s37 of the Children and Community Services Act 2004 by the Department of Communities or the WA Police. Principals should check that these conditions have been met before allowing the removal of a child from school. Verbal communication is adequate as long as it is documented.

Refer to Sections 32, 35 and 37 of the Children and Community Services Act 2004 (see Memorandum of Understanding between CPFS and the Department – staff only).

3.17 WA POLICE ON SCHOOL GROUNDS

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

- sight the WA Police officer's identification
- establish the purpose of the interview
- 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 the Department of Communities .

3.18 WA POLICE ARRESTING A STUDENT ON A SCHOOL SITE

Principals must:

- liaise with WA Police to determine whether the arrest of the student on the school site is justified
- in line with section 242 of the School Education Act 1999, share any relevant information with the WA Police including the identity of the student, attendance data and parent information
- arrange a time with WA Police to come on the school site

- ensure the arrest is conducted discreetly
- phone the Manager, Incident Support Unit at 9264 5393.

Principals must not refuse the arrest of a student on school site if it has been established there is an immediate risk of harm to anyone.

Guidance

The Department has a Memorandum of Understanding – Arrests of Students on Department of Education Premises with the WA Police, which specifies the process for WA Police officers to attend a public school site for the planned arrest of a student.

The officer in charge of the local police station will establish a channel of communication with the school principal prior to this occurring.

WA Police will do a risk assessment which considers risk of harm to others, immediacy of resolving an incident, whether evidence may be lost or destroyed or other exceptional circumstances which require immediate police action.

WA Police ensure contact is made with the principal of the public school to inform them of the circumstances necessitating the arrest of the student at the school.

WA Police make appropriate arrangements with the principal for attending the school, to ensure the arrest is done in a discreet manner to reduce the impact on the student, the student's family and the public school.

3.19 RECORDKEEPING AND DOCUMENTATION

3.19.1 RECORDKEEPING

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

- child protection referrals to the Department of Communities
- written and electronic, WA Police, the Department's Standards and Integrity Directorate (SID) or other authorities and subsequent actions
- Mandatory Report receipt numbers
- Online Incident Notification (staff only) numbers
- Risk Assessment and Management Plans (RAMPs).

Principals must not:

- keep or store copies of mandatory reports
- record or disclose information that may identify the mandatory reporter other than to the Department of Communities 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.

For further information, please contact the Records Management (staff only) area and refer to the Records Management policy and Manage confidential child protection records (staff only).

Documentation kept by staff, excluding mandatory reports, may be required by the Department of Communities, WA Police and SID in their investigations. For further information refer to Respond to an order to produce documents to a court or WA Police (staff only).

Refer to Appendix C for more information on completing documentation.

3.19.2 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
- retain original documentation in a secure file separate to the student's records.

Principals must not:

- forward a students' Risk Assessment and Management Plan (RAMP) to the principal of the students' new school.

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. Refer to Manage confidential child protection records for further information (staff only).

3.20 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 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 the Department of Communities, WA Police or the Department's Standards and Integrity Directorate (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. However, 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 Respond to student disclosure of abuse in Ikon (staff only).

For further information refer to Appendix D.

3.21 PROTECTION AND SUPPORT FOR EMPLOYEES WHO REPORT CHILD ABUSE

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

- advise the Department of Communities and/or the WA Police
- contact the Regional Education Office for further advice if required
- provide information on counselling support through the Employee Assistance Program (staff only) 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 and the Support a staff member who has reported child abuse service in Ikon (staff only).

3.22 DOCUMENTED PLANNING FOR CHILDREN IN THE CARE OF THE CEO OF THE DEPARTMENT OF COMMUNITIES PRINCIPALS MUST:

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

Guidance

For further information on the requirement to develop a DP refer to Section 30 of the Children and Community Services Act 2004, the Memorandum of Understanding between the Department of Communities and the Department of Education 2021 (staff only) and the Support service in Ikon (staff only).

Teachers and school administrators can use ABLEWA to support the teaching and learning of students with disability and additional learning needs.

The Reporting to Parents Special Education Needs (RTP SEN) framework supports teachers and school administrators in creating education plans for students with special education needs.

3.23 INFORMATION SHARING

3.23.1 SHARING INFORMATION FOR THE WELLBEING OF A CHILD

Principals must:

- share relevant information for the wellbeing of the child, where it is in the best interests of the child, with teachers, school psychologists, school counsellors, boarding supervisors and other staff as relevant
- 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

Section 28B of the *Children and Community Services Act 2004* enables principals, lead 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 the Department of Communities is not involved
- where there is a concern for the safety of a child who is subject to family violence
- 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 Share confidential child protection information and Manage confidential child protection records in Ikon (staff only).

3.23.2 RESPOND TO THE DEPARTMENT OF COMMUNITIES-REQUEST 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
- 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*).

The school principal, in consultation with the lead school psychologist, may provide information in response to a request from a Department of Communities officer. In these circumstances, section 28B 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
- breach of applicable professional ethics, standards or codes of conduct.

For further information refer to Appendix D and the following services in Ikon: Respond to a request for student psychology information, Share confidential child protection information and Manage confidential child protection records (staff only).

4 DEFINITIONS

ALLIED PROFESSIONALS

Allied professionals are those staff employed under s235(1)(a),(c)-(d) of the School Education Act 1999.

Allied professionals who are not categorised as school counsellors are non-mandatory reporters. When reporting any type of child abuse, including sexual abuse, these allied professionals are required to follow the procedures for allied professionals.

Allied professionals who fall within the category of school counsellor (see definition) are mandatory reporters of child sexual abuse and are required to follow the procedures for school counsellors.

BELIEF ON REASONABLE GROUNDS

'Believes on reasonable grounds' means that a reasonable person, doing the same work, would have formed the same belief on those grounds. Grounds for forming the belief are matters of which you have become aware, and any opinions in relation to those matters.

A mandatory reporter does not have to be able to prove that harm has occurred. Professional judgement and objective observation help to identify warning signs or possible indicators of child sexual abuse and contribute to a reporter forming the belief on reasonable grounds. Knowledge of child development and consultation with colleagues or other professionals can also contribute to reasonable grounds.

Reasonable grounds may include:

- your own observations of a child's behaviour
- your own observations of the behaviour of an adult interacting with the child
- when a child tells you they, or another child, has been harmed
- when you hear about it from someone who is in a position to provide reliable information, perhaps a relative or friend, neighbour or sibling of a child who is at risk.

Mandatory reporters must specify the grounds on which they formed the belief that a child has been, or is being, sexually abused.

(Mandatory Reporting Guide: Western Australia)

If you are a mandatory reporter and you have not formed the belief that a child has been or is being sexually abused but are sufficiently concerned, it is recommended that you consult with staff with expertise in this area, such as the Department's child protection consultants.

Form the belief that a child is or has been the subject of sexual abuse and Recognise signs of child abuse in [Manage child protection at your school](#) (staff only).

BOARDING FACILITY

Means a place used to provide residential accommodation for children while they attend a school as defined in the [School Education Act 1999](#). ([Children and Community Services Act 2004 Section 124A](#)).

BOARDING SUPERVISOR

Means a person who holds an office or position in a boarding facility; the duties of which include the supervision of children living at the facility (*Children and Community Services Act 2004 Section 124A*).

Department of Education residential settings commonly use the terms boarding supervisor and residential supervisor to describe a boarding supervisor.

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 (*Children and Community Services Act 2004 Section 124A*).

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 significant harm to the child's wellbeing. It may involve ongoing, repeated or persistent abuse, or arise from a single incident.

CHILD EXPLOITATION MATERIAL

Child exploitation material is (a) child pornography; or (b) material that, in a way likely to offend a reasonable person, describes, depicts or represents a person, or part of a person, who is, or appears to be, a child (i) in an offensive or demeaning context; or (ii) being subjected to abuse, cruelty or torture (whether or not in a sexual context).

Child pornography is material that, in a way likely to offend a reasonable person, describes, depicts or represents a person, or part of a person, who is, or appears to be a child (a) engaging in sexual activity; or (b) in a sexual context.

Material includes (a) any object, picture, film, written or printed matter, data or other thing; and (b) any thing from which text, pictures, sound or data can be produced or reproduced, with or without the aid of anything else.

(*Child Pornography and Exploitation Material and Classification Legislation Amendment Act 2010 s216*).

Sexting (sex + texting) is the sending and receiving of sexually explicit or sexually suggestive texts or images via phone or internet (*Australian Institute of Family Studies 2018*).

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 development of the child
- the physical, emotional and psychological health 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
- responds appropriately to any disclosures, allegations or suspicions of harm.

Refer to Manage child protection at your school in Ikon (staff only).

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 PLAN

Documented Plan is an umbrella term used to describe a range of ways of catering for the educational needs of individual or smaller groups of students with identified needs. It is primarily a teaching and learning planning document and it identifies short to medium term education outcomes.

Documented Plans take a variety of forms, including: Individual education plans (IEPs); Individual behaviour management plans (IBMPs); Individual transition plans (ITP); Risk management plans (RMP); Risk Assessment and Management Plans; and Documented Education Plans (DEP).

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 family violence.

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

FAMILY VIOLENCE

Family violence is a reference to:

- (a) violence, or a threat of violence, by a person towards a family member of the person
- (b) any other behaviour by the person that coerces or controls the family member or causes the member to be fearful.

A child is **exposed to** family violence or personal violence if the child sees or hears the violence or otherwise experiences the effects of the violence.

Examples of behaviour that may constitute family violence include (but are not limited to) the following:

- (a) an assault against the family member
- (b) a sexual assault or other sexually abusive behaviour against the family member
- (c) stalking or cyber-stalking the family member
- (d) repeated derogatory remarks against the family member
- (e) damaging or destroying property of the family member
- (f) causing death or injury to an animal that is the property of the family member
- (g) unreasonably denying the family member the financial autonomy that the member would otherwise have had
- (h) unreasonably withholding financial support needed to meet the reasonable living expenses of the family member, or a child of the member, at a time when the member is entirely or predominantly dependent on the person for financial support
- (i) preventing the family member from making or keeping connections with the member's family, friends or culture
- (j) kidnapping, or depriving the liberty of, the family member, or any other person with whom the member has a family relationship
- (k) distributing or publishing, or threatening to distribute or publish, intimate personal images of the family member
- (l) causing any family member who is a child to be exposed to behaviour referred to in this section.

(Restraining Orders Act 1997 s5A & Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016).

FEMALE GENITAL MUTILATION/CUTTING

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

HARM

Harm, in relation to a child, means any detrimental effect of a significant nature on the child's wellbeing, whether caused by:

- (a) a single act, omission or circumstance
- (b) a series or combination of acts, omissions or circumstances;

Children and Community Services Act 2004.

MANDATORY REPORTER

The legislation covering mandatory reporting of child sexual abuse in Western Australia is the Children and Community Services Act 2004.

Under section 124B of the *Children and Community Services Act 2004*, a specified person whose duty to report child sexual abuse (a Mandatory Reporter) is a person who is working in their role either paid or in a voluntary capacity as a Department of Communities assessor or a department officer, midwife, nurse, police officer, boarding supervisor, doctor, minister of religion, out of home care worker, teacher, psychologist or school counsellor.

For the purposes of the legislation, 'teacher' is defined as any person registered under the Teacher Registration Act 2012 with the Teacher Registration Board of WA or with Provisional Registration, or Limited Registration and is working as a teacher.

For the purposes of the legislation, 'boarding supervisor' is defined as 'a person who holds an office or position at a boarding facility the duties of which include the supervision of children living at the (boarding) facility'.

For the purposes of the legislation, 'psychologist' is defined as a person who is registered under the *Health Practitioner Regulation National Law (WA) Act 2010* in the psychology profession (other than as a student).

For the purposes of the legislation, 'school counsellor' is defined as an adult who is employed or engaged in a school (as defined in the *School Education Act 1999* section 4) to provide counselling or pastoral care to children who attend the school. It does not include adults employed or engaged as a student or volunteer.

Staff who are registered under the Teacher Registration Act 2012 with the Teacher Registration Board of WA, and who are not a mandatory reporter of child sexual abuse are required under this policy to report child sexual abuse to the principal.

MANDATORY REPORTING LEGISLATION

Section 124B of the *Children and Community Services Act 2004*

Duty of certain people to report sexual abuse of children

- (1) A person who:
 - (a) is a person specified in the Table (a **specified person**); and

Table

assessor	boarding supervisor
departmental officer	doctor
midwife	minister of religion
nurse	out-of-home care worker
police officer	teacher
school counsellor	psychologist
Early childhood worker (commencement day 1 November 2024)	Youth Justice Worker (commencement day 1 May 2025)

- (b) believes on reasonable grounds that a child:
 - (i) has been the subject of sexual abuse that occurred on or after commencement day; or
 - (ii) is the subject of ongoing sexual abuse;
 and
- (c) forms the belief:
 - (i) in the course of the person's work (whether paid or unpaid) as a specified person; and
 - (ii) on or after commencement day.

must report the belief as soon as practicable after forming the belief.

Penalty for this subsection: a fine of \$6,000.

Commencement day is the date on which the person becomes a mandatory reporter under the legislation. The duty to report sexual abuse applies if the reporter forms the belief on or after commencement day. Commencement day varies for different reporter groups.

In a school context, the duty to report sexual abuse applies to a teacher, boarding supervisor, psychologist or school counsellor working in their role either in a paid or voluntary capacity.

If the belief that a child is or has been the subject of sexual abuse is formed when not working in their role, then there is no legal duty to report. However, a report to the Department of Communities can be made voluntarily.

NEGLECT

Neglect includes failure by a child's parents to provide, arrange, or allow the provision of:

- (a) adequate care for the child
- (b) effective medical, therapeutic or remedial treatment for the child.

Children and Community Services Act 2004.

Omission of care (from the Department of Communities Neglect policy 2021).

When a child does not receive adequate food or shelter, medical treatment, supervision, care or nurturance to the extent that their development is harmed, or they are injured.

Cumulative harm (from the Department of Communities Neglect policy 2021).

Refers to the effects of multiple adverse or harmful circumstances and events in a child's life. The unremitting daily impact of these experiences on the child can be profound and exponential, and diminish a child's sense of safety, stability and wellbeing.

It is possible to have cumulative abuse (multiple events over time) that results in harm that is cumulative in nature (the impact of the events has been cumulative).

NON-MANDATORY REPORTER

In a school context, all staff who are not working in the role of a teacher, school psychologist, school counsellor or boarding supervisor are non-mandatory reporters. When reporting child sexual abuse, non-mandatory reporters are required to follow the procedures for allied professionals.

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 scalding; 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.

PSYCHOLOGIST

A psychologist is defined as a person who is registered under the *Health Practitioner Regulation National Law (WA) Act 2010* in the psychology profession (other than as a student).

Psychologists are mandatory reporters. When reporting any type of child abuse, including child sexual abuse, school psychologists are required to follow the procedures for school psychologists.

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.

RESIDENTIAL COLLEGE MANAGER

The residential college manager has the same mandatory reporting responsibilities as a boarding supervisor and is responsible for the line-management of other boarding supervisors and operations in a residential setting. Department of Education residential settings commonly use the terms residential college manager, college manager or head of residence to describe a residential college manager.

RESIDENTIAL SETTING

A place used to provide residential accommodation and related services for students while they attend, and participate in an educational programme of, a school as defined in the *School Education Act 1999* section 4, 213A and 213B. Also referred to as a student residential college or boarding facility and does not include private arrangements.

RESIDENTIAL SETTING ACTIVITY

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

SCHOOL ACTIVITY

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

SCHOOL COUNSELLOR

A school counsellor is defined as an adult who is employed or engaged in a school (as defined in the *School Education Act 1999* section 4) to provide counselling or pastoral care to children who attend the school. It does not include adults employed or engaged as a student or volunteer (*Children and Community Services Act 2004*).

In the Department of Education, school counsellors are allied professionals and third-party providers with either of the terms 'pastoral care' or 'counselling' listed in their job title, JDF or relevant service agreement. This includes chaplains, wellbeing officers, Aboriginal and Islander Education Officers and some third-party providers.

School counsellors are mandatory reporters of child sexual abuse. When reporting any type of child abuse, including child sexual abuse, school counsellors are required to follow the procedures for school counsellors.

SEXUAL ABUSE

Sexual abuse, in relation to a child, includes sexual behaviour in circumstances where

- (a) the child is the subject of bribery, coercion, a threat, exploitation or violence
 - (b) the child has less power than another person involved in the behaviour
 - (c) there is a significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.
- (s124A *Children and Community Services Act 2004*).

Some examples are: letting a child watch or read pornography; allowing a child to watch sexual acts; touching a child's genitals; 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.

SEXUAL HARASSMENT

Sexual harassment, under the *Equal Opportunity Act 1984 (WA)*, occurs when a person makes an unwelcome sexual advance or request for sexual favours, or engages in other unwelcome conduct of a sexual nature, towards another person and that person is disadvantaged, or has reasonable grounds for believing he or she will be disadvantaged, by taking objection. Sexual harassment is unlawful in the areas of employment, education, and accommodation.

STAFF

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

STUDENT RESIDENTIAL COLLEGE

A place used to provide residential accommodation and related services for students while they attend, and participate in an educational programme of, a school as defined in the *School Education Act 1999* section 4, 213A and 213B. More commonly known as residential setting.

5 RELATED DOCUMENTS

RELEVANT LEGISLATION OR AUTHORITY

Australian Psychological Society Code of Ethics 2007

Child Pornography and Exploitation Material and Classification Legislation Amendment Act 2010

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 Amendment (Education Standards) Bill 2004 (Cth)

Equal Opportunity Act 1984 (WA)

Freedom of Information Act 1992

Public Sector Management Act 1994 (WA)

Public Interest Disclosure Act 2003 (WA)

Restraining Orders Act 1997 (WA)

Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016)

School Education Act 1999 (WA)

School Education Regulations 2000 (WA)

Sex Discrimination Act 1984 (Cth)

State Records Act 2000 (WA)

Teacher Registration Act 2012 (WA)

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

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

RELATED DEPARTMENT POLICIES

Complaints and Notifications

Duty of Care for Students for Public Schools

Enrolment in Public Schools

Equal Opportunity, Discrimination and Harassment

Incident Management on Department of Education Sites

Records Management

Staff Conduct and Discipline

Student Attendance in Public Schools

Student Behaviour in Public Schools

Visitors and Intruders on Public School Premises

OTHER DOCUMENTS

Child Protection in Department of Education Sites Procedures for Principals

All policy and procedural statements contained within this document are lawful orders for the purposes of section 80(a) of the Public Sector Management Act 1994 (WA) and are therefore to be observed by all Department of Education employees



Memorandum of Understanding between the Department of Communities and the Department of Education 2021 (staff only)
MOU between the Department of Education and Child and Adolescent Health Service and WA Country Health Service: 1 January 2022 – 31 December 2024 (staff only)

6 CONTACT INFORMATION

Policy manager:

Director, Student Engagement and Wellbeing

Policy contact officer:

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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	D17/0217875	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.
25 July 2017	3 October 2018	3.2	D18/0435850	Minor changes to title D18/0435848, reference to Public Schools D18/0151652 and updated legislation links D18/0207680

13 August 2019		3.3	D19/0186108	Major changes approved by the Director General on 26 July 2019. D19/0349313
13 August 2019	14 February 2022	3.4	D22/0091530	Minor change to update links for CPFS Child Protection Concern Referral Form. D22/0091413
13 August 2019	8 July 2022	3.5	D22/0519128	Minor updates to terminology, definitions and links as per D22/0519053
13 August 2019	22 September 2023	3.6	D23/1550674	Minor change to update link to MOU D23/1550610
13 August 2019	5 October 2023	3.7	D23/1587853	Minor change to update reporting process in s3.5, 3.6, 3.9 to Dept Communities D23/1586024 and contact details D23/1582068
1 May 2024		3.8	D24/0134610	Major changes to reflect <i>Children and Community Services Amendment Act 2021</i> approved by Director General on 11 April 2024

APPENDIX A. CHILD PROTECTION AND ABUSE PREVENTION EDUCATION PROFESSIONAL LEARNING

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

All third-party providers, engaged through a formal service agreement with the Department of Education, who have contact with children and their Department of Education line managers must complete the online Child Protection and Abuse Prevention course within 1 month 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.

There is an option for staff to retake the online Child Protection and Abuse Prevention course and receive a new date of completion prior to the three year period elapsing. Staff can select "retake" which is located next to the "play" button.

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 and third-party providers, engaged through a formal service agreement with the Department of Education, are protected from civil, criminal and disciplinary liability by providing information to the Department of Communities, WA Police or the Department's Standards and Integrity Directorate (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 s129 of the *Children and Community Services Act 2004*, if reports are made in good faith and with the best interests of the child in mind, the Act protects the reporter 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.

When there is concern for the safety of the reporter, it is important that the school has a risk management plan in place. The principal advises the Department of Communities and/or the WA Police and contacts the Regional Education Office for further advice.

Staff are entitled to seek counselling through the *Employee Assistance Program* (staff only).

An employee or third-party provider, engaged through a formal service agreement with the Department of Education, 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 of Education's Service Response (Child Protection) staff on 08 9402 6124 or the Department of Communities on 1800 273 889.

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

When reporting the belief that a child is or has been the subject of sexual abuse, staff who are mandatory reporters must complete their own documentation. The principal must not do this on their behalf.

The reporter should document, to the best of their ability, observations and factual information about what they have seen or heard, such as:

- relevant dates and times
- the identity of the source of information
- information from a third party that is clearly identified as third party information
- noting of the exact words the child used to describe what happened, even if it's not Standard Australian English e.g. the word or words they used for genitals or other parts of their body, or anything else related to the disclosure or concern
- statements or descriptions made by the child, parent or third party, written **verbatim** and in quotation (" ") marks
- professional judgments informed by professional training, resources and experience
- any other grounds for concern
- your response to the child
- the current situation i.e. Where is the child? Who is the child with?

Do not include:

- your opinions, for example, "the parent used excessive discipline";
- your personal conclusions about the type of abuse suspected
- your interpretation of what the child or others said.

Language:

- use clear, explicit, unambiguous, objective language;
- use the first person singular, for example, "I saw...";
- use the names of people involved rather than she, he, etc.
- if the child uses any language other than English to describe an incident, document those words
- avoid jargon used within the organisation that may not be understood by others who read the report
- only use terms such as 'probably' or 'likely' 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
- a breach of professional ethics or any principles of conduct applicable to the person's employment
- a breach of professional conduct.

Professional confidentiality is protected when staff provide information in the best interests of the child regarding concerns or the beliefs of child abuse to the Department of Communities, 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 a Department of Communities 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

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 WA Police because the Mandatory Reporting Service must send a copy of every mandatory report to the WA Police for assessment.

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*.



Department of
Education

CHILD PROTECTION IN DEPARTMENT OF EDUCATION SITES PROCEDURES FOR TEACHERS

EFFECTIVE: 1 MAY 2024

VERSION: 3.8 FINAL

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1 POLICY SUPPORTED

Child Protection in Department of Education Sites Policy

2 SCOPE

These procedures apply to teachers in Department of Education sites.

Guidance

These procedures apply to staff who are registered under the Teacher Registration Act 2012 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 professional learning 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.

Refer to Appendix A and Ikon: [Access child protection and abuse prevention online professional learning \(staff only\)](#) 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 [Access protective behaviours resources](#) and [Request child protection and abuse prevention training in Ikon \(staff only\)](#).

3.3 MANDATORY REPORTING OF CHILD SEXUAL ABUSE

When a teacher believes on reasonable grounds, that a child is or has been the subject of sexual abuse and forms the belief, during the course of paid or unpaid work as a teacher, 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 and documentation of the grounds on which they formed the belief;
- follow procedures in 3.4 if belief is formed that a child was the subject of sexual abuse **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 3.4;
- 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.

Where the principal is the person alleged to have committed the abuse or may be biased towards the person alleged to have committed the abuse teachers must:

- make a report to Director of Education 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

Please refer to the relevant service in Ikon including Form the belief that a child is or has been the subject of sexual abuse in Manage child protection at your school (staff only).

The definition of sexual abuse from the Children and Community Services Act 2004 (s124A):

Sexual abuse, in relation to a child, includes sexual behaviour in circumstances where —

(a) the child is the subject of bribery, coercion, a threat, exploitation or violence; or

(b) the child has less power than another person involved in the behaviour; or

(c) there is a significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.

(s124A Children and Community Services Act 2004)

Students under 13 years of age are deemed under the Criminal Code as incapable of consenting to a sexual relationship and this should be reported to WA Police and obtain a police record number, if a mandatory report of child sexual abuse is not submitted.

Prior to submission of a report, teachers may seek advice from Department of Communities (MRS) staff on 1800 708 704 and/or the Department of Education's Service Response (Child Protection) staff on (08) 9402 6124.

Following submission of a report, the mandatory reporter may contact the MRS to request information on the progress or current status of a report.

Under the Memorandum of Understanding between the Department of Communities and the Department of Education, the Department of Communities are obliged to share relevant information with the principal relating to the wellbeing of a child.

The teacher is not required to make their own mandatory report if a report has already been made by a principal or another teacher for the belief based on the same reasonable grounds and the MR receipt number has been provided to the principal as proof.

A child can be subject to a number of mandatory reports by different mandatory reporters.

If the teacher or principal believes on reasonable grounds that a child is or has been the subject of sexual abuse and forms the belief, mandatory reporting requirements apply even if the staff member providing the information has not formed the same belief.

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 circumstances when they make a notification relating to a school student to the Department of Communities. They are not required to provide the MR receipt number to the principal. For further information, please refer to the MOU between the Department of Education and Child and Adolescent Health Service and WA Country Health Service: 1 January 2022 – 31 December 2024 (staff only).

Unless a mandatory reporter has proof that a report has been submitted regarding child sexual abuse, mandatory reporting requirements apply. For further explanation, please refer to the Children and Community Services Act 2004 s124B(3):

In a prosecution for an offence under subsection (1) it is a defence for the person charged to prove that he or she honestly and reasonably believed that —

- (a) all of the reasonable grounds for his or her belief were the subject of a report made by another person; or*
- (b) the CEO had caused, or was causing, inquiries to be made under section 31 about the child's wellbeing; or*
- (c) the CEO had taken, or was taking, action under section 32 in respect of the child's wellbeing.*

School chaplains and Aboriginal and Islander Education Officers (AIEOs) are classified as school counsellors and are mandatory reporters. They follow reporting procedures for school counsellors.

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 requirements do not apply to a registered teacher who is working in another role, for example as a Participation Coordinator, in an Education Regional Office, as a Social Worker or a Youth Transition Coordinator, unless that role is categorised as a mandatory reporter.

If the belief is formed that a child is or has been the subject of sexual abuse when not working in their role as a teacher, either paid or voluntary, there is no legal duty to report. However a report to the Department of Communities can be made voluntarily

TAFE lecturers are mandatory reporters.

In accordance with the Children and Community Services Act 2004, the legal penalties for a mandatory reporter who fails to report the belief that a child is or has been the subject of 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 the belief that a child is or has been the subject of 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.

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

If teachers have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

When there is concern for the safety of a mandatory reporter, the principal should advise the WA Police and/or Department of Communities and contact the relevant Regional Education Office to assist. For further information refer to Ikon: Support a staff member who has reported child abuse and Access support after reporting child abuse (staff only).

3.4 REPORT CONCERN OF CHILD SEXUAL ABUSE

If the belief, that a child is or has been the subject of sexual abuse, is **not** formed, but a child protection concern of 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.

Teachers must not:

- inform parents that a report has been made
- interview the child or children involved
- investigate the concern
- collect photographic evidence
- keep records or documentation
- inform the person alleged to be responsible for the abuse that a child protection concern is held.

Guidance

Teachers may consult with the principal, relevant colleagues or the Department of Education's Service Response (Child Protection) staff on 08 9402 6124 or Department of Communities on 1800 708 704.

If the principal forms the belief, that a child is or has been the subject of sexual abuse, mandatory reporting requirements apply even if the teacher providing the information has not formed the same belief.

If teachers have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.5 REPORT CONCERN OF PHYSICAL OR EMOTIONAL ABUSE, FAMILY VIOLENCE OR NEGLECT

Teachers must:

- document and report all child protection concerns relating to physical abuse, emotional abuse, family violence or neglect to the principal; and
- inform the Director of Education or the Department's Standards and Integrity Directorate (SID) if the principal is the person alleged to have committed the abuse or may be biased towards the person alleged to have committed the abuse.

Teachers must not:

- inform parents that a report has been made
- interview the child or children involved
- investigate the concern
- collect photographic evidence
- inform the person alleged to be responsible for the abuse that a child protection concern is held.

Guidance

Being exposed to family violence is considered to be emotional abuse and may also be physical abuse.

If a teacher holds a child protection concern involving a child or children enrolled at another school or college, they may report their concern to the Department of Communities as a private citizen.

If teachers have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the [School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury](#).

Refer to Appendix C for more information on completing documentation.

3.6 REPORT ALLEGATION OF PHYSICAL, EMOTIONAL OR SEXUAL ABUSE COMMITTED BY STAFF

Teachers must:

- document and report all allegations of abuse committed by staff to the principal
- if the principal is the person alleged to have committed the abuse or may be biased towards the staff member alleged to have committed the abuse, inform the Director of Education or the Department's Standards and Integrity Directorate (SID)
- follow reporting procedures in 3.3, 3.4 or 3.5, as applicable.

Teachers must not:

- interview the child
- investigate the allegation
- inform the person alleged to have committed the abuse 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 reported to the Standards and Integrity Directorate (SID). For further information refer to Report staff misconduct in Ikon (staff only).

Sexual harassment is dealt with in the Equal Opportunity, Discrimination and Harassment policy. In some cases sexual harassment of students may also be child sexual abuse. Refer to the definition of child sexual abuse in Section 4 of these procedures.

Teachers should be aware that certain behaviour towards students, while not illegal, may not be within professional boundaries. Refer to the Code of Conduct and Standards (staff only).

If teachers have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.7 REPORT ALLEGATION OF SEXUAL ABUSE COMMITTED BY A STUDENT DURING SUPERVISED SCHOOL ACTIVITIES

Teachers must:

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

Teachers must not:

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

Guidance

*Sexual abuse of a child by another child is any sexual behaviour that involves the use of bribery, coercion, a threat, exploitation or violence **or** when one child has less power than the other **or** when there is significant disparity in the developmental function or maturity of the children involved.*

Examples are: unwanted touching, unwanted kissing, exposure to sexual acts, exposure to pornographic materials and sexual penetration of the genitals or mouth.

Behaviour outside of the normal developmental range may be an indicator of child sexual abuse. Sexual behaviour that is within the normal range is not usually an indicator of child sexual abuse. For more information refer to Ikon: Respond to sexual behaviour in students. (staff only)

If teachers have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.8 RESPOND 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 as a priority.

3.9 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 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. 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 report to WA Police themselves when the student is incapable of doing so.

Any concerns regarding an inappropriate relationship between a staff member and a student should be reported to the Department's Standards and Integrity Directorate (SID). For further information refer to Report staff misconduct in Ikon. (staff only)

3.10 RESPOND TO STUDENTS IN POSSESSION OF SEXUALLY EXPLICIT OR CHILD EXPLOITATION MATERIAL

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

- secure the electronic device (if circumstances permit)
- report to the principal
- follow reporting procedures in 3.3 or 3.4, as applicable.

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
- inform the person alleged to have committed the abuse that an allegation has been made.

Guidance

Please refer to the definition of 'Child Exploitation Material' in Section 4 of these procedures.

Teachers 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.

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

- *image is sexually explicit*
- *identity of the person is known*
- *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.

If teachers have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

The WA 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.

Further information and resources can be found on the website of the Office of the eSafety Commissioner and in Ikon (staff only).

For information related to Western Australia's Intimate Image laws (Chapter XXVA of the Criminal Code) which came into effect on 15 April 2019, please refer to the Frequently Asked Questions.

3.11 RESPOND TO SPECIFIC CHILD PROTECTION ISSUES

3.11.1 FEMALE GENITAL MUTILATION/CUTTING

Teachers must:

- report to the principal all concerns that a student may be subjected to female genital mutilation/cutting (FGM/C) or arrangements are being made to carry out the procedure
- follow reporting procedures in 3.5.

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

Guidance

Department of Communities has advised that employees of state government agencies should report the practice or risk of FGM/C as a form of physical abuse. FGM/C is also reported to WA Police as the practice is a criminal offence in Western Australia, as is taking the child from the state with the intention of having the child subjected to FGM/C. Concerns of FGM/C are reported to WA Police by the principal.

For further information refer to Section 306 of the Criminal Code and Report female genital mutilation or cutting of a student in Ikon (staff only).

3.11.2 FORCED MARRIAGE

Teachers must:

- report to the principal any concerns for a student under 18 years of age who is being forced or coerced into a marriage, or is in an existing marriage; and
- follow reporting procedures in 3.3 or 3.4.

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

Guidance

For further information refer to sections 270.7A and 270.7B of the Commonwealth Criminal Code Act (1995) and Report forced marriage of a student in Ikon (staff only).

3.12 SUPPORT STUDENTS AFFECTED BY ABUSE

Teachers must:

- support students affected by abuse, including students who are alleged to have committed abuse

- 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. Refer to Support a student affected by abuse or neglect in Ikon (staff only).

Staff should consult with appropriate school and Education Regional Office staff to develop strategies to support the student, whilst maintaining student confidentiality.

Staff should consult with the Sexual Assault Resource Centre resources when supporting students harmed by sexual assault.

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

As appropriate, the student should be provided with the option of who their support person is and involved in decisions that directly affect them and provided with relevant information.

The student and their family may be provided with the option to 'opt out' of support and intervention.

School based strategies and or interventions should not disadvantage the student harmed, for example, the student should not be moved out of their class, unless at the request of the student or family.

If teachers have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.13 COMMUNICATE TO PARENTS

3.13.1 WHEN A MANDATORY REPORT OR CHILD ABUSE REPORT HAS BEEN MADE

Teachers must not:

- inform parents, unless instructed by the principal
- disclose the identity of the mandatory reporter (if known) or the person alleged to have committed the abuse.

Guidance

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

3.13.2 WHEN A CONCERN IS HELD BUT A MANDATORY REPORT OR CHILD ABUSE REPORT HAS NOT YET BEEN MADE

Teachers must not inform parents:

- that physical or behavioural indicators have been observed in their child which have led to the belief or concern of child abuse
- of a concern of family violence
- of an intention to make a report concerning their child to the Department of Communities, the Mandatory Reporting Service (MRS), WA Police and/or the Department's Standards and Integrity Directorate (SID).

Guidance

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

If a parent makes a disclosure of extrafamilial child abuse (where the person alleged to have committed the abuse is not a family or kinship member), 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.

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

Teachers must:

- inform the principal
- follow reporting procedures in 3.3 or 3.4, if applicable.

Teachers must not interview the child or children involved.

Guidance

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

*In Western Australia, the legal age for people to consent to sexual activity is 16 years of age. Sexual behaviour involving students aged 13 to under 16 years of age may not necessarily constitute sexual abuse. If the belief is formed on reasonable grounds that a child is or has been the subject of sexual abuse, a mandatory report must be submitted as per procedure 3.3. Refer to *Ikon: Form a the belief that a child is or has been the subject of sexual abuse*. (staff only) Consideration should be given to the age of the child, developmental level, any disability or the influence of drugs or alcohol.*

Children under 13 years of age are deemed to be incapable of consenting to sexual activity and this should be reported to WA Police if a mandatory report of child sexual abuse is not submitted.

The principal will inform parents about a child under the age of consent being in a sexual relationship, unless:

- *it is not in the best interests of the child*
- *a report of child sexual abuse or other form of abuse is made.*

3.15 RECORDKEEPING AND DOCUMENTATION

Teachers must:

- document all incidents of possible physical or behavioural indicators and concerns of child abuse
- provide copies to the principal
- 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.

Documentation kept by staff, excluding mandatory reports, may be required by the Department of Communities, WA Police and/or the Department's Standards and Integrity Directorate (SID) in their investigations. For further information refer to [Respond to an order to produce documents to a court or WA Police](#) (staff only).

Refer to Appendix C for more information on completing documentation.

3.16 CONFIDENTIALITY

Teachers must protect the identity of a staff member who submits a child abuse report.

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

Guidance

Staff may consult with appropriate school and Education Regional Office staff, as necessary and must at all times maintain confidentiality.

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 the Department of Communities, WA Police or SID.

The identity of the person making the report is protected. However, 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 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 [Respond to student disclosure of abuse in Ikon](#) (staff only).

For further information, refer to Appendix D and [Share confidential child protection information in Ikon](#) (staff only).

3.17 PROTECTION AND SUPPORT FOR STAFF WHO REPORT CHILD ABUSE

Teachers who have a concern for their own safety following a child abuse 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 the Department of Communities.

Staff who require support as a result of reporting child abuse can access the [Employee Assistance Program](#) (staff only) for counselling.

For further information refer to Appendix B and [Access support after reporting child abuse in Ikon](#) (Staff only).

3.18 DOCUMENTED PLANNING FOR CHILDREN IN THE CARE OF THE CEO OF THE DEPARTMENT OF COMMUNITIES-Teachers must:

- develop a Documented Plan (DP) within 30 working days of being advised that a child is in care
- provide a copy of the completed DP to the principal who will forward it to the Department of Communities-child protection worker and other key stakeholders
- review the DP at least twice per year, or if there is a significant change in the students' circumstances.

Guidance

For further information on the requirement to develop a DP refer to the Memorandum of Understanding between the Department of Communities and the Department of Education 2021 (staff only), Section 30 of the Children and Community Services Act 2004 and the Support education planning for children in care service in Ikon (staff only).

All plans should be developed in consultation with the student (as appropriate), Department of Communities and relevant other stakeholders.

Teachers and school administrators can use ABLEWA to support the teaching and learning of students with disability and additional learning needs.

The Reporting to Parents Special Education Needs (RTP SEN) framework supports teachers and school administrators in creating-education plans for students with special education needs.

4 DEFINITIONS

ALLIED PROFESSIONALS

Allied professionals are those staff employed under s235(1)(a),(c)-(d) of the School Education Act 1999.

Allied professionals who are not categorised as school counsellors are non-mandatory reporters. When reporting any type of child abuse, including sexual abuse, these allied professionals are required to follow the procedures for allied professionals.

Allied professionals who fall within the category of school counsellor (see definition) are mandatory reporters of child sexual abuse and are required to follow the procedures for school counsellors.

BELIEF ON REASONABLE GROUNDS

Believes on reasonable grounds' means that a reasonable person, doing the same work, would have formed the same belief on those grounds. Grounds for forming the belief are matters of which you have become aware, and any opinions in relation to those matters.

A mandatory reporter does not have to be able to prove that harm has occurred. Professional judgement and objective observation help to identify warning signs or possible indicators of child sexual abuse and contribute to a reporter forming the belief on reasonable grounds. Knowledge of child development and consultation with colleagues or other professionals can also contribute to reasonable grounds.

Reasonable grounds may include:

- your own observations of a child's behaviour
- your own observations of the behaviour of an adult interacting with the child
- when a child tells you they, or another child, has been harmed
- when you hear about it from someone who is in a position to provide reliable information, for example a relative or friend, neighbour or sibling of a child who is at risk.

Mandatory reporters must specify the grounds on which they formed the belief that a child has been, or is being, sexually abused.

(Mandatory Reporting Guide: Western Australia)

If you are a mandatory reporter and you have not formed the belief that a child has been or is being sexually abused but are sufficiently concerned, it is recommended that you consult with staff with expertise in this area, such as the Department's child protection consultants.

Refer to Ikon: Form the belief that a child is or has been the subject of sexual abuse and Recognise signs of child abuse in Manage child protection at your school (staff only).

BOARDING FACILITY

Means a place used to provide residential accommodation for children while they attend a school as defined in the *School Education Act 1999* (*Children and Community Services Act 2004* Section 124A).

BOARDING SUPERVISOR

Means a person who holds an office or position in a boarding facility; the duties of which include the supervision of children living at the facility (*Children and Community Services Act 2004* Section 124A).

Department of Education residential settings commonly use the terms boarding supervisor and residential supervisor to describe a boarding supervisor.

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 (*Children and Community Services Act 2004* Section 124A).

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 significant harm to the child's wellbeing. It may involve ongoing, repeated or persistent abuse, or arise from a single incident.

CHILD EXPLOITATION MATERIAL

Child exploitation material is (a) child pornography; or (b) material that, in a way likely to offend a reasonable person, describes, depicts or represents a person, or part of a person, who is, or appears to be, a child (i) in an offensive or demeaning context; or (ii) being subjected to abuse, cruelty or torture (whether or not in a sexual context).

Child pornography is material that, in a way likely to offend a reasonable person, describes, depicts or represents a person, or part of a person, who is, or appears to be a child (a) engaging in sexual activity; or (b) in a sexual context.

Material includes (a) any object, picture, film, written or printed matter, data or other thing; and (b) any thing from which text, pictures, sound or data can be produced or reproduced, with or without the aid of anything else.

(Child Pornography and Exploitation Material and Classification Legislation Amendment Act 2010 s216).

Sexting (sex + texting) is the sending and receiving of sexually explicit or sexually suggestive texts or images via phone or internet (Australian Institute of Family Studies 2018).

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 development of the child
- the physical, emotional and psychological health 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 Manage child protection at your school in Ikon (staff only).

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 PLAN

Documented Plan is an umbrella term used to describe a range of ways of catering for the educational needs of individual or smaller groups of students with identified needs. It is primarily a teaching and learning planning document and it identifies short to medium term education outcomes.

Documented Plans take a variety of forms, including: Individual education plans (IEPs); Individual behaviour management plans (IBMPs); Individual transition plans (ITP); Risk management plans (RMP); Risk Assessment and Management Plans (RAMPs) and Documented Education Plans (DEP).

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 family violence.

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

FAMILY VIOLENCE

Family violence is a reference to:

- (a) violence, or a threat of violence, by a person towards a family member of the person; or
- (b) any other behaviour by the person that coerces or controls the family member or causes the member to be fearful.

A child is **exposed to** family violence or personal violence if the child sees or hears the violence or otherwise experiences the effects of the violence.

Examples of behaviour that may constitute family violence include (but are not limited to) the following —

- (a) an assault against the family member;
- (b) a sexual assault or other sexually abusive behaviour against the family member;
- (c) stalking or cyber-stalking the family member;
- (d) repeated derogatory remarks against the family member;
- (e) damaging or destroying property of the family member;
- (f) causing death or injury to an animal that is the property of the family member;
- (g) unreasonably denying the family member the financial autonomy that the member would otherwise have had;
- (h) unreasonably withholding financial support needed to meet the reasonable living expenses of the family member, or a child of the member, at a time when the member is entirely or predominantly dependent on the person for financial support;
- (i) preventing the family member from making or keeping connections with the member's family, friends or culture;
- (j) kidnapping, or depriving the liberty of, the family member, or any other person with whom the member has a family relationship;

(k) distributing or publishing, or threatening to distribute or publish, intimate personal images of the family member;

(l) causing any family member who is a child to be exposed to behaviour referred to in this section.

(Restraining Orders Act 1997 s5A & Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016)

FEMALE GENITAL MUTILATION/CUTTING

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

HARM

Harm, in relation to a child, means any detrimental effect of a significant nature on the child's wellbeing, whether caused by:

- (a) a single act, omission or circumstance; or
- (b) a series or combination of acts, omissions or circumstances;

Children and Community Services Act 2004.

MANDATORY REPORTER

The legislation covering mandatory reporting of child sexual abuse in Western Australia is the Children and Community Services Act 2004.

Under section 124B of the *Children and Community Services Act 2004*, a specified person whose duty to report child sexual abuse (a Mandatory Reporter) is a person who is working in their role either paid or in a voluntary capacity as a Department of Communities assessor or a department officer, midwife, nurse, police officer, boarding supervisor, doctor, minister of religion, out of home care worker, teacher, psychologist or school counsellor.

For the purposes of the legislation, 'teacher' is defined as any person registered under the Teacher Registration Act 2012 with the Teacher Registration Board of WA or with Provisional Registration, or Limited Registration and is working as a teacher.

For the purposes of the legislation, 'boarding supervisor' is defined as 'a person who holds an office or position at a boarding facility the duties of which include the supervision of children living at the (boarding) facility'.

For the purposes of the legislation, 'psychologist' is defined as a person who is registered under the *Health Practitioner Regulation National Law (WA) Act 2010* in the psychology profession (other than as a student).

For the purposes of the legislation, 'school counsellor' is defined as an adult who is employed or engaged in a school (as defined in the *School Education Act 1999* section 4) to provide counselling or pastoral care to children who attend the school. It does not include adults employed or engaged as a student or volunteer.

Staff who are registered under the Teacher Registration Act 2012 with the Teacher Registration Board of WA, and who are not a mandatory reporter of child sexual abuse are required under this policy to report child sexual abuse to the principal.

MANDATORY REPORTING LEGISLATION

Section 124B of the *Children and Community Services Act 2004*.

Duty of certain people to report sexual abuse of children

- (1) A person who:
 - (a) is a person specified in the Table (a **specified person**); and

Table

assessor	boarding supervisor
departmental officer	doctor
midwife	minister of religion
nurse	out-of-home care worker
police officer	teacher
school counsellor	psychologist
Early childhood worker (commencement day 1 November 2024)	Youth Justice Worker (commencement day 1 May 2025)

- (b) believes on reasonable grounds that a child:
 - (i) has been the subject of sexual abuse that occurred on or after commencement day; or
 - (ii) is the subject of ongoing sexual abuse;
 and
- (c) forms the belief:
 - (i) in the course of the person’s work (whether paid or unpaid) as a specified person; and
 - (ii) on or after commencement day.

must report the belief as soon as practicable after forming the belief.

Penalty for this subsection: a fine of \$6,000.

Commencement day is the date on which the person becomes a mandatory reporter under the legislation. The duty to report sexual abuse applies if the reporter forms the belief on or after commencement day. Commencement day varies for different reporter groups.

In a school context, the duty to report sexual abuse applies to a teacher, boarding supervisor, psychologist or school counsellor working in their role either in a paid or voluntary capacity.

If the belief that a child is or has been the subject of sexual abuse is formed when not working in their role, then there is no legal duty to report. However, a report to the Department of Communities can be made voluntarily.

NEGLECT

Neglect includes failure by a child's parents to provide, arrange, or allow the provision of:

- (a) adequate care for the child; or
- (b) effective medical, therapeutic or remedial treatment for the child.

Children and Community Services Act 2004.

Omission of care (from the Department of Communities Neglect policy 2021).

When a child does not receive adequate food or shelter, medical treatment, supervision, care or nurturance to the extent that their development is harmed, or they are injured.

Cumulative harm (from the Department of Communities Neglect policy 2021).

Refers to the effects of multiple adverse or harmful circumstances and events in a child's life. The unremitting daily impact of these experiences on the child can be profound and exponential, and diminish a child's sense of safety, stability and wellbeing.

It is possible to have cumulative abuse (multiple events over time) that results in harm that is cumulative in nature (the impact of the events has been cumulative).

NON-MANDATORY REPORTER

In a school context, all staff who are not working in the role of a teacher, school psychologist, school counsellor or boarding supervisor are non-mandatory reporters.

When reporting child sexual abuse, non-mandatory reporters are required to follow the procedures for allied professionals.

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 scalding; 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.

PSYCHOLOGIST

A psychologist is defined as a person who is registered under the *Health Practitioner Regulation National Law (WA) Act 2010* in the psychology profession (other than as a student).

Psychologists are mandatory reporters. When reporting any type of child abuse, including child sexual abuse, school psychologists are required to follow the procedures for school psychologists.

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.

RESIDENTIAL COLLEGE MANAGER

The residential college manager has the same mandatory reporting responsibilities as a boarding supervisor and is responsible for the line-management of other boarding supervisors and operations in a residential setting. Department of Education residential settings commonly use the terms residential college manager, college manager or head of residence to describe a residential college manager.

RESIDENTIAL SETTING

A place used to provide residential accommodation and related services for students while they attend, and participate in an educational programme of, a school as defined in the *School Education Act 1999 section 4, 213A and 213B*. Also referred to as a student residential college or boarding facility and does not include private arrangements.

RESIDENTIAL SETTING ACTIVITY

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

SCHOOL ACTIVITY

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

SCHOOL COUNSELLOR

A school counsellor is defined as an adult who is employed or engaged in a school (as defined in the *School Education Act 1999* section 4) to provide counselling or pastoral care to children who attend the school. It does not include adults employed or engaged as a student or volunteer (*Children and Community Services Act 2004*).

In the Department of Education, school counsellors are allied professionals and third-party providers with either of the terms 'pastoral care' or 'counselling' listed in

their job title, JDF or relevant service agreement. This includes chaplains, wellbeing officers, Aboriginal and Islander Education Officers and some third-party providers.

School counsellors are mandatory reporters of child sexual abuse. When reporting any type of child abuse, including child sexual abuse, school counsellors are required to follow the procedures for school counsellors.

SEXUAL ABUSE

Sexual abuse, in relation to a child, includes sexual behaviour in circumstances where:

- (a) the child is the subject of bribery, coercion, a threat, exploitation or violence; or
- (b) the child has less power than another person involved in the behaviour; or
- (c) there is a significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.

(s124A *Children and Community Services Act 2004*).

Some examples are: letting a child watch or read pornography; allowing a child to watch sexual acts; touching a child's genitals; 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.

SEXUAL HARASSMENT

Sexual harassment under the *Equal Opportunity Act 1984* occurs when a person makes an unwelcome sexual advance or request for sexual favours, or engages in other unwelcome conduct of a sexual nature, towards another person and that person is disadvantaged, or has reasonable grounds for believing he or she will be disadvantaged, by taking objection. Sexual harassment is unlawful in the areas of employment, education, and accommodation.

STAFF

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

STUDENT RESIDENTIAL COLLEGE

A place used to provide residential accommodation and related services for students while they attend, and participate in an educational programme of a school, as defined in the *School Education Act 1999* section 4, 213A and 213B. More commonly known as residential setting or residential college.

5 RELATED DOCUMENTS

RELEVANT LEGISLATION OR AUTHORITY

Australian Psychological Society Code of Ethics 2007

Child Pornography and Exploitation Material and Classification Legislation Amendment Act 2010

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 Amendment (Education Standards) Bill 2004 (Cth)
Equal Opportunity Act 1984 (WA)
Freedom of Information Act 1992
Public Sector Management Act 1994 (WA)
Public Interest Disclosure Act 2003 (WA)
Restraining Orders Act 1997 (WA)
Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016)
School Education Act 1999 (WA)
School Education Regulations 2000 (WA)
Sex Discrimination Act 1984 (Cth)
State Records Act 2000 (WA)
Teacher Registration Act 2012 (WA)
Working With Children (Criminal Record Checking) Act 2004 (WA)
Working with Children (Criminal Record Checking) Regulations 2005 (WA)

RELATED DEPARTMENT POLICIES

Complaints and Notifications
Duty of Care for Students for Public Schools
Enrolment in Public Schools
Equal Opportunity, Discrimination and Harassment
Incident Management on Department of Education Sites
Records Management
Staff Conduct and Discipline
Student Attendance in Public Schools
Student Behaviour in Public Schools
Visitors and Intruders on Public School Premises

OTHER DOCUMENTS

Memorandum of Understanding between the Department of Communities and the Department of Education 2021 (staff only)
MOU between the Department of Education and Child and Adolescent Health Service and WA Country Health Service: 1 January 2022 – 31 December 2024 (staff only).

6 CONTACT INFORMATION

Policy manager:

Director, Student Engagement and Wellbeing

Policy contact officer:

Principal Consultant (Student Engagement and Wellbeing)

T: (08) 9402 6448

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.
25 July 2017	3 October 2018	3.2	D18/0435854	Minor changes to title D18/0435848, reference to Public Schools D18/0151652 and updated legislation links D18/0207680
13 August 2019		3.3	D19/0186112	Major changes approved by the Director General on 26 July 2019. D19/0349313
13 August 2019	19 January 2021	3.4	D21/0028206	Minor changes to replace the Regional Executive Director position title with Director of Education D20/0647278.
13 August 2019	8 July 2022	3.5	D22/0519293	Minor updates to terminology, definitions and links as per D22/0519053
13 August 2019	22 September 2023	3.6	D23/1550773	Minor change to update link to MOU D23/1550610
13 August 2019	6 October 2023	3.7	D23/1590706	Minor changes to update contact details D23/1582068
1 May 2024		3.8	D24/0134797[v2]	Major changes to reflect <i>Children and Community Services Amendment Act 2021</i> approved by Director General on 11 April 2024

APPENDIX A. CHILD PROTECTION AND ABUSE PREVENTION EDUCATION PROFESSIONAL LEARNING

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

All third-party providers, engaged through a formal service agreement with the Department of Education, who have contact with children and their Department of Education line managers, must complete the online Child Protection and Abuse Prevention course within one month 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.

There is an option for staff to retake the online Child Protection and Abuse Prevention course and receive a new date of completion prior to the three year period elapsing. Staff can select “retake” which is located next to the “play” button.

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 OF EMPLOYEES WHO REPORT CHILD ABUSE

All staff and third-party providers, engaged through a formal service agreement with the Department of Education, are protected from civil, criminal and disciplinary liability by providing information to the Department of Communities, WA Police or the Department's Standards and Integrity Directorate (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 s129 of the Children and Community Services Act 2004, if reports are made in good faith and with the best interests of the child in mind, the Act protects the reporter 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.

When there is concern for the safety of the reporter, it is important that the school has a risk management plan in place. The principal advises the Department of Communities and/or the WA Police and contacts the Education Regional Office for further advice.

Staff are entitled to seek counselling through the Employee Assistance Program (staff only).

An employee or third-party provider, engaged through a formal service agreement with the Department of Education, 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 of Education's-Service Response (Child Protection) staff on 08 9402 6124 or the Department of Communities.

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

When reporting the belief that a child is or has been the subject of sexual abuse staff who are mandatory reporters must complete their own documentation. The principal must not do this on their behalf.

The reporter should document, to the best of their ability, observations and factual information about what they have seen or heard, such as:

- relevant dates and times
- the identity of the source of information
- information from a third party that is clearly identified as third party information
- noting of the exact words the child used to describe what happened, even if it's not Standard Australian English for example the word or words they used for genitals or other parts of their body, or anything else related to the disclosure or concern
- statements or descriptions made by the child, parent or third party, written **verbatim** and in quotation marks
- professional judgments informed by professional training, resources and experience
- any other grounds for concern
- your response to the child
- the current situation for example, where the child is and who they are with.

Do not include:

- your opinions, for example, "the parent used excessive discipline"
- your personal conclusions about the type of abuse suspected
- your interpretation of what the child or others said.

Language:

- use clear, explicit, unambiguous, objective language
- use the first person singular, for example, "I saw...".
- use the names of people involved rather than she, he, etc.
- if the child uses any language other than English to describe an incident, document those words
- avoid jargon used within the organisation that may not be understood by others who read the report
- only use terms such as 'probably' or 'likely' if there is a reasonable degree of certainty.

APPENDIX D. CONFIDENTIALITY AND LEGAL PROTECTION

The identity of the person making a report to the Department of Communities is protected and can only be released:

- for the purpose of a Department of Communities assessment
- for investigative purposes by a WA Police officer
- with the written permission of the reporter
- purposes of court protection proceedings.

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 concerns or the belief of child abuse to the Department of Communities 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.

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
- 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.

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 Education Regional Office for support.

Staff are entitled to seek counselling through the Employee Assistance Program (staff only).

An employee or third-party provider, engaged through a formal service agreement with the Department of Education 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).



Department of
Education

CHILD PROTECTION IN DEPARTMENT OF EDUCATION SITES PROCEDURES FOR SCHOOL PSYCHOLOGISTS

EFFECTIVE: 1 MAY 2024

VERSION: 3.8 FINAL

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1 POLICY SUPPORTED

Child Protection in Department of Education Sites Policy.

2 SCOPE

These procedures apply to school psychologists in Department of Education sites.

3 PROCEDURES

3.1 CHILD PROTECTION AND ABUSE PREVENTION PROFESSIONAL LEARNING

School psychologists must:

- complete the online Child Protection and Abuse Prevention professional learning within six months of enrolment in the online course
- repeat the online Child Protection and Abuse Prevention professional learning 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.

Refer to Appendix A and Ikon: [Access child protection and abuse prevention online professional learning \(staff only\)](#) for further information.

3.2 CHILD ABUSE PREVENTION EDUCATION

School psychologists must promote protective behaviours education that aligns with the Western Australian Curriculum across all phases of schooling.

Guidance

For further information refer to [Access protective behaviours resources](#) and [Request child protection and abuse prevention training in Ikon \(staff only\)](#).

3.3 MANDATORY REPORTING OF CHILD SEXUAL ABUSE

When a school psychologist believes on reasonable grounds, that a child is or has been the subject of sexual abuse and forms the belief, during the course of paid or unpaid work as a school psychologist, and where the principal or, where applicable residential college manager, is not the person alleged responsible for the abuse, school psychologists 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
- in a school context, complete the Mandatory Reporting form (available from the Mandatory Reporting Service) and provide it to the principal for lodgement with MRS
- inform the principal and where applicable, residential college manager, that a mandatory report has been lodged
- provide the principal and, where applicable, residential college manager, with
 - the documentation of the grounds on which they formed a the belief; and
 - the receipt number of the mandatory report
- inform the principal of the advice contained in the feedback letter received from MRS following the mandatory report
- not provide a copy of their mandatory report to the principal or, where applicable, residential college manager, for storage or store their own copy of the report in Department of Education files
- follow procedures in 3.4 if the belief is formed that a child was the subject of sexual abuse **before 1 May 2024** and the abuse is **not** ongoing
- if a decision has been made to not make a mandatory report, document observations, information and disclosures received or discussed with staff and consultations, record this information in the student psychology file and follow procedure 3.4.

Where the principal or, where applicable, residential college manager is the person alleged to have committed the abuse, or may be biased towards the person alleged to have committed the abuse, school psychologists must:

- make a report to the Director of Education or the Standards and Integrity Directorate (SID), and choose one of the following reporting processes
 - make an online mandatory report
 - make a verbal report to the MRS which must be followed up with an online or written mandatory report
- provide the Director of Education with
 - the receipt number of the mandatory report; and
 - documentation of the grounds on which they formed their belief
- not provide a copy of their mandatory report to the principal/residential college manager or Director of Education for storage or store their own copy of the report in Department of Education files.

School psychologists must not:

- inform parents that a report has been made
- interview the child or children involved
- investigate the concern
- collect photographic evidence
- inform the person alleged to be responsible for the abuse.

Guidance

Mandatory reporting requirements apply when working in the role of a school psychologist, whether at their own school or another school, in either a paid or unpaid capacity.

Please refer to the relevant service in Ikon including Form the belief that a child is or has been the subject of sexual abuse in Manage child protection at your school. (staff only)

*The definition of sexual abuse from the Children and Community Services Act 2004 (s124A): Sexual abuse, in relation to a child, includes sexual behaviour in circumstances where —
(a) the child is the subject of bribery, coercion, a threat, exploitation or violence; or*

(b) the child has less power than another person involved in the behaviour; or
(c) there is a significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.
(s124A Children and Community Services Act 2004)

Students under 13 years of age are deemed under the Criminal Code as incapable of consenting to a sexual relationship and this should be reported to WA Police and obtain a police record number, if a mandatory report of child sexual abuse is not submitted.

Prior to 1 May 2024 there was no legal requirement for school psychologists to report the belief of child sexual abuse in Western Australia.

The school psychologist is not required to make their own mandatory report if a report has already been made by a Department staff member or a third party provider who is a mandatory reporter for the belief based on the same reasonable grounds and the MR receipt number has been provided to the school psychologist as proof.

Unless a mandatory reporter has proof that a report has been submitted regarding child sexual abuse, mandatory reporting requirements apply. For further explanation, please refer to the Children and Community Services Act 2004 s124B(3):

(3) In a prosecution for an offence under subsection (1) it is a defence for the person charged to prove that he or she honestly and reasonably believed that —

- (a) all of the reasonable grounds for his or her belief were the subject of a report made by another person; or
- (b) the CEO had caused, or was causing, inquiries to be made under section 31 about the child's wellbeing; or
- (c) the CEO had taken, or was taking, action under section 32 in respect of the child's wellbeing.

If the psychologist believes on reasonable grounds that a child is or has been the subject of sexual abuse and forms the belief, mandatory reporting requirements apply even if the staff member providing the information has not formed the same belief.

A child can be subject to a number of mandatory reports by different mandatory reporters. Multiple reports can be made for the same child if that child is subjected to abuse over a period of time.

Prior to submission of a report, school psychologists may seek advice from the Department of Education's, Service Response (Child Protection) staff on (08) 9402 6124 or the Department of Communities on 1800 708 704.

The legal penalties in accordance with the Children and Community Services Act 2004 for a mandatory reporter who fails to report the belief that a child is or has been the subject of 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 the belief that a child is or has been the subject of 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.

Following submission of a report, the mandatory reporter may contact the MRS to request information on the progress or current status of a report.

Under the Memorandum of Understanding between the Department of Education and the Department of Communities, the Department of Communities is obliged to share relevant information with the principal relating to the wellbeing of a child.

If the belief is formed that a child is or has been the subject of sexual abuse when not working in their role as a psychologist, either paid or voluntary, there is no legal requirement to report. However, the Department of Education strongly recommends a report be made voluntarily to the Department of Communities. School psychologists may like to refer to the Australian Psychological Society Code of Ethics.

If school psychologists have any concerns regarding the student and suicidal ideation they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

When there is concern for the safety of a reporter, the principal or, where applicable, residential college manager, should advise the Department of Communities and/or the WA Police and contact the relevant Regional Education Office for further advice. For further information refer to Ikon: Support a staff member who has reported child abuse and Access support after reporting child abuse (staff only).

School psychologists are protected from civil, criminal liability or professional misconduct allegations by providing information in good faith to the Department of Communities, 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.

3.4 REPORT CONCERN OF CHILD SEXUAL ABUSE

If the belief, that a child is or has been the subject of sexual abuse, is **not** formed, but a child protection concern of child sexual abuse is held, school psychologists must:

- document observations, relevant information and disclosures received or discussed with staff
- record this information in the student psychology file
- provide this documentation to the principal and where applicable, residential college manager
- make a report to the Director of Education or the Standards and Integrity Directorate (SID) if the principal or residential college manager is the person alleged responsible for the abuse or may be biased towards the person alleged responsible for the abuse.

School psychologists must not:

- inform parents that a report has been made
- interview the child or children involved
- investigate the concern
- collect photographic evidence
- inform the person alleged to be responsible for the abuse that a child protection concern is held.

Guidance

School psychologists may consult with the principal and, where applicable, the residential college manager, their lead school psychologist, the Department of Education's Service Response (Child Protection) staff on (08) 9402 6124 or the Department of Communities on 1800 708 704.

When considering if a submission of a child concern report is warranted, please refer to the definition of 'Child Protection Concern' in the Definitions section of these procedures and Manage child protection at your school in Ikon. (staff only)

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

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

The concern may be based on a number of possible indicators over time. Refer to Ikon: Recognise signs of child abuse and Indicators of abuse - factsheet. (staff only)

There is no requirement to provide proof of child abuse. School psychologists provide evidence of the reasonable grounds for their concern e.g., sufficient indicators, disclosure from a child, information from a third party.

A child can be subject to a number of mandatory reports by different mandatory reporters. Multiple reports 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 Department of Communities, as a private citizen. School psychologists may like to refer to the Australian Psychological Society Code of Ethics.

Another mandatory reporter may form the belief, based on information received from the school psychologist, that a child is or has been the subject of sexual abuse even if the school psychologist has not formed the belief. School psychologists should be aware that they will be named in the mandatory report.

If school psychologists have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

School psychologists are protected from civil, criminal liability or professional misconduct allegations by providing information in good faith to the Department of Communities, 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.

3.5 REPORT CONCERN OF PHYSICAL OR EMOTIONAL ABUSE, FAMILY VIOLENCE OR NEGLECT

School psychologists must:

- document observations, information and disclosures received or discussed with staff and store these records in the student psychology file
- report all child protection concerns to the principal and, where applicable, residential college manager
- make a report to the Director of Education or the Standards and Integrity Directorate (SID) if the principal or residential college manager is the person alleged responsible for the abuse or may be biased towards the person alleged to be responsible for the abuse.

School psychologists must not:

- inform parents that a report has been made
- interview the child or children involved
- investigate the concern

- collect photographic evidence
- inform the person alleged to be responsible for the abuse that a child protection concern is held.

Guidance

When considering if a submission of a child concern report is warranted, please refer to the definition of 'Child Protection Concern' in the Definitions section of these procedures and Manage child protection at your school in Ikon. (staff only)

There is no requirement to provide proof of child abuse. The referrer needs to provide reasonable grounds for their concern.

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

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

The concern may be based on a number of possible indicators over time. Refer to Ikon: Recognise signs of child abuse and Indicators of abuse - factsheet (staff only).

Emotional abuse includes being exposed to family violence.

Multiple reports 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 Department of Communities as a private citizen. School psychologists may refer to the Australian Psychological Society Code of Ethics.

If school psychologists have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

School psychologists are protected from civil, criminal liability or professional misconduct allegations by providing information in good faith to the Department of Communities 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.

3.6 REPORT ALLEGATION OF PHYSICAL, EMOTIONAL OR SEXUAL ABUSE COMMITTED BY STAFF

School psychologists must:

- document and report all allegations of abuse, where a staff member is the person alleged responsible, to the principal or, where applicable, residential college manager
- report to the Director of Education or the Department's Standards and Integrity Directorate (SID) if the principal or residential college manager is the person alleged responsible for the abuse or may be biased towards the person alleged responsible for the abuse
- follow reporting procedures in 3.3, 3.4 or 3.5, as applicable.

School psychologists must not:

- interview the child
- investigate the allegation
- inform the person alleged to have committed the abuse that an allegation has been made.

Guidance

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.

Certain behaviour towards students, while not illegal, may not be within appropriate professional boundaries. Refer to the Code of Conduct and Standards (staff only).

Any concerns regarding an inappropriate relationship between a staff member and a student should be referred to the Standards and Integrity Directorate. For further information refer to Report staff misconduct in Ikon (staff only).

Sexual harassment is dealt with in the Equal Opportunity, Discrimination and Harassment policy. In some cases, sexual harassment of students may also be child sexual abuse. Refer to the definition of child sexual abuse in Section 4 of these procedures.

If school psychologists have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.7 REPORT ALLEGATION OF SEXUAL ABUSE COMMITTED BY A STUDENT DURING SUPERVISED SCHOOL OR RESIDENTIAL COLLEGE ACTIVITIES

School psychologists must:

- report all incidents of sexual abuse committed by a student during supervised school or college activities to the principal and where applicable, residential college manager
- follow reporting procedures in 3.2.

School psychologists must not:

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

Guidance

*Sexual abuse of a child by another child is any sexual behaviour that involves the use of bribery, coercion, a threat, exploitation or violence **or** when one child has less power than the other **or** when there is significant disparity in the developmental function or maturity of the children involved. Examples are: unwanted touching, unwanted kissing, exposure to sexual acts, exposure to pornographic materials and sexual penetration of the genitals or mouth.*

Sexual behaviour within the normal developmental range is not usually an indicator of child sexual abuse. Sexual behaviour outside of the normal developmental range may be an indicator that the child is or has been the subject of abuse, including sexual abuse. For more information, refer to Ikon: Respond to sexual behaviour in students. (staff only)

If school psychologists have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.8 RESPOND 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, as a matter of priority:

- report to the principal and where applicable, residential college manager
- 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, and liaison with other agencies.

If a school psychologist has any concerns regarding the student and suicidal ideation they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

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

School psychologists must report to the principal/residential college manager a concern for a student 18 years or over who discloses 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 or, where applicable, residential college 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/residential college manager 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 reported to the Department's Standards and Integrity Directorate (SID). For further information refer to Report staff misconduct in Ikon. (staff only)

If school psychologists have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.10 RESPOND TO STUDENTS IN POSSESSION OF SEXUALLY EXPLICIT OR CHILD EXPLOITATION MATERIAL

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

- report to the principal/residential college manager

- follow reporting procedures in 3.3 or 3.4, as applicable.

School psychologists must not:

- inform parents that a report has been made
- investigate the allegation
- search through a student's portable electronic device for evidence
- seize any portable electronic device
- download, transmit or distribute the images
- delete images or text
- inform the person alleged responsible that an allegation has been made.

Guidance

Please refer to the definition of 'Child Exploitation Material' in Section 4 of these procedures.

Only 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.

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*
- *image appears to be of a person under 18 years old.*

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

The WA Police will identify whether a child has been exploited and may interview the students, teachers, parents and any other parties involved.

Further information and resources can be found on the website of the Office of the eSafety Commissioner and in Ikon (staff only).

For information related to Western Australia's Intimate Image laws (Chapter XXVA of the Criminal Code) which came into effect on 15 April 2019, please refer to the Frequently Asked Questions.

If school psychologists have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.11 RESPOND TO SPECIFIC CHILD PROTECTION CONCERNS

3.11.1 FEMALE GENITAL MUTILATION/CUTTING

School psychologists must:

- report all concerns that a student may be subjected to female genital mutilation/cutting or arrangements are being made to carry out the procedure to the principal and, where applicable, residential college manager; and
- follow procedures in 3.5.

School psychologists must not inform the parent of the concern or the report.

Guidance

The Department of Communities has advised that employees of state government agencies should report the practice or risk of FGM/C as a form of physical abuse. FGM/C should also be reported to WA Police as the practice is a criminal offence in Western Australia, as is taking the child from the state with the intention of having the child subjected to FGM/C. Concerns of FGM/C must be reported to WA Police by the principal.

For further information refer to Section 306 of the Criminal Code and Report female genital mutilation/cutting of a student in Ikon. (staff only)

3.11.2 FORCED MARRIAGE

School psychologists must:

- report to the principal and, where applicable, residential college manager; concerns for a student under 18 years of age who is being forced or coerced into a marriage, or is in an existing marriage and
- follow procedures in 3.3 or 3.4.

School psychologists must not inform the parent of the concern or the report.

Guidance

For further information refer to sections 270.7A and 270.7B of the Commonwealth Criminal Code Act (1995), the Australian Federal Police website and to Report forced marriage of a student in Ikon. (staff only)

3.12 SUPPORT STUDENTS AFFECTED BY ABUSE

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

Guidance

The principal or residential college 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 for further information on 'best interests of the child'.

The principal or residential college 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 be responsible for abuse. A support plan may involve a risk assessment, collaboration with staff to develop a safety plan, and liaison with other agencies.

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 Respond to a disclosure of abuse. (Staff only)

When providing direct psychological services to a student, consider the impact of possible trauma stemming from abuse and apply evidence-based support and interventions. Staff involved in a supportive role should consider factors such as culture, religion, age, disability and level of maturity of the student. The impact on the student's behaviour of trauma stemming from abuse should also be considered.

Refer to the Connect community for information and resources on trauma informed frameworks and practices (staff only).

As appropriate, the student should be provided with the option of who their support person is and involved in decisions that directly affect them and provided with relevant information.

The student and their family may be provided with the option to 'opt out' of support and intervention.

School based strategies and or interventions should not disadvantage the student harmed, for example, the student should not be moved out of their class, unless at the request of the student or family.

If school psychologists have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.13 SUPPORT A STUDENT CHARGED WITH A HARMFUL SEXUAL BEHAVIOUR

Lead school psychologists must:

- upon receipt of notification from the Director of Education, made in accordance with the *Multi-agency protocol for education options for young people charged with harmful sexual behaviours*, support the development of a Risk Assessment and Management Plan (RAMP) for the student charged or convicted
- detail the specific support and risk management strategies for the student charged or convicted in the RAMP
- detail how the school related bail conditions for the student charged or convicted will be managed.

Guidance

The Multi-agency protocol for education options for young people charged with harmful sexual behaviours allows for the Western Australian Police Force to notify the Director General, Department of Education, of school aged young people who have been charged with or convicted of harmful sexual behaviours (students charged or convicted) if criteria in section 28B of the Children and Community Services Act 2004 are met and the offence is included in Schedule 1 or 2 of the Working with Children (Criminal Record Checking) Act 2004.

3.14 COMMUNICATE TO PARENTS

3.14.1 WHEN A MANDATORY REPORT OR CHILD PROTECTION CONCERN REFERRAL HAS BEEN MADE

School psychologists must not

- inform parents of a mandatory report or a child protection concern referral has been-made to the Department of Communities, or to WA Police
- disclose the identity of the reporter (if known) or the person alleged to have committed the abuse.

Guidance

No member of staff, apart from the principal/residential college manager or their nominee, is permitted to inform parents of a child abuse report. A parent may be responsible for the abuse and advising them that the school has made a child abuse report may compromise an investigation by the Department of Communities or WA Police.

3.14.2 WHEN THE BELIEF OR CONCERN IS HELD BUT A MANDATORY REPORT OR A CHILD PROTECTION CONCERN REFERRAL-HAS NOT YET 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 child abuse
- of a concern of family violence
- of an intention to make a report concerning their child to the Department of Communities WA Police and/or the Department's Standards and Integrity Directorate (SID).

Guidance

No member of staff, apart from the principal/residential college manager or their nominee, is permitted to inform parents of a child abuse report. A parent or family member may be responsible for the abuse. To inform the parent of a child protection concern may alert them and pose a further risk to the child.

School psychologists should use their professional judgement when deciding to clarify information or discuss observations with parents. It is permissible to seek clarification from a parent about an incident to assist in determining if there are reasonable grounds to form a concern or the belief that a child is being or has been subject to abuse. Document questions and responses verbatim. The WA Police and the Department of Communities may use this information in their investigations.

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

School psychologists must:

- document the disclosure and provide a copy to the principal and, where applicable, residential college manager;
- follow documentation procedures in the Professional Practice Guidelines - Records Management (staff only);
- follow reporting procedures 3.3 or 3.4, if applicable;
- document advice to the principal and, where applicable, residential college manager on the grounds for or against informing parents based on the best interests of the child concerned; and
- record this information in the student psychology file.

Guidance

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

In Western Australia, under the Criminal Code, the legal age for people to consent to sexual activity is 16 years of age.

When a person engages in sexual behaviour with someone below the age of consent (16 years of age), this is a criminal offence under the Criminal Code and should be reported to WA Police. Sexual behaviour involving students aged 13 to under 16 years of age may not necessarily constitute sexual abuse. Consideration should be given to characteristics of the child that could be exploited - their age and developmental level, their understanding of the consequences of the behaviour and the influence of drugs or alcohol. Refer to Ikon: Form the belief that a child is or has been the subject of sexual abuse (staff only).

If a mandatory reporter forms the belief that the child is or has been the subject of sexual abuse, a mandatory report must be submitted.

Students under 13 years of age are deemed under the Criminal Code as incapable of consenting to a sexual relationship and this should be reported to WA Police if a mandatory report of child sexual abuse is not submitted.

The principal/residential college 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 report of child sexual abuse has been made.*

The school psychologist may be consulted on determining the best interests of the child. Refer to the Children and Community Services Act 2004 for further information on 'best interests of the child'.

3.16 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 requirements of the Professional Practice Guidelines - Records Management (staff only).

Guidance

As per procedure 3.3, a mandatory reporter must not provide a copy of their mandatory report to the principal or residential college manager for storage or store their own copy of the report in Department of Education files. 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. Therefore, it is not necessary to keep a mandatory report and it is strongly advised that a copy of the mandatory report is not stored by the mandatory reporter.

School psychologists record decision-making and actions in student psychology files, including that:

- *Child Protection in Department of Education sites policy and procedures for school psychologists were followed*
- *if a child protection report was submitted to the Department of Communities.*

Where a mandatory report is made, the receipt number issued by the MRS is provided to the principal, and may also be recorded in the student psychology file.

Information relevant to a child protection report to the Department of Communities is recorded in student psychology files but not copies of child protection reports.

Where the principal or residential college manager is the person alleged responsible for the abuse, child concern referrals are stored by the Director of Education/the Manager Residential Colleges.

Documentation kept by staff, excluding mandatory reports, may be required by the Department of Communities, WA Police and/or the Department's Standards and Integrity Directorate (SID) in their investigations (refer to Respond to an order to produce documents to a court or WA Police (staff only)).

Refer to the Professional Practice Guidelines – Records Management and Manage student psychology records in Ikon (staff only).

School Psychology records should include the identity of the staff member who has consulted about possible child abuse and making a child protection report or mandatory report. This information may be required by the Department of Communities and/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).

3.17 CONFIDENTIALITY

School psychologists must protect the identity of a staff member who makes a child abuse report.

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

Guidance

Staff may consult with appropriate school and Education Regional Office staff, as necessary and must at all times maintain confidentiality.

Professional confidentiality is protected when school psychologists provide information in the best interests of the child regarding possible child abuse to the Department of Communities, 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 a Department of Communities 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.*

The penalty for disclosing a 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 Respond to student disclosure of abuse in Ikon (staff only).

3.18 PROTECTION AND SUPPORT FOR STAFF WHO REPORT CHILD ABUSE

School psychologists who have a concern for their own safety following a child abuse report must inform the principal and, where applicable, the residential college manager, and their lead school psychologist.

Guidance

Where there is concern for the safety of a reporter, the principal/residential college manager advises the Department of Communities and/or the WA Police and and contacts the regional education office for further advice.

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

For further information refer to Appendix B and Access support after reporting child abuse in Ikon. (Staff only)

3.19 INFORMATION SHARING

School psychologists must:

- direct requests for information from prescribed authorities to the principal or, where applicable, the Manager Residential Colleges and the lead school psychologist
- assist principals or Manager Residential Colleges 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

Refer to Ikon for information about sharing confidential child protection information and to understand who authorised staff can share information with (staff only).

The principal or Manager Residential Colleges, 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 of Communities is not involved; or*
- *where there is a concern for the safety of a child subject to family and domestic violence.*

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.

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 2004

In these circumstances, the Children and Community Services Act 2004 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).

3.20 RESPOND TO THE DEPARTMENT OF COMMUNITIES REQUESTS FOR SCHOOL PSYCHOLOGY INFORMATION

School Psychologists must:

- direct all requests for school psychology information to the principal or, where applicable, the Manager Residential Colleges;
- inform the lead school psychologist who will consult with the principal/Manager Residential Colleges to determine what information is relevant to the request; and
- assist the principal/Manager Residential Colleges 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).

Refer to Ikon for information about sharing confidential child protection information and to understand who authorised staff can share information with (staff only).

4 DEFINITIONS

ALLIED PROFESSIONALS

Allied professionals are those staff employed under s235(1)(a), (c) and (d) of the School Education Act 1999.

Allied professionals who are not categorised as school counsellors are non-mandatory reporters. When reporting any type of child abuse, including sexual abuse, these allied professionals are required to follow the procedures for allied professionals.

Allied professionals who fall within the category of school counsellor (see definition) are mandatory reporters of child sexual abuse and are required to follow the procedures for school counsellors.

BELIEF ON REASONABLE GROUNDS

'Believes on reasonable grounds' means that a reasonable person, doing the same work, would have formed the same belief on those grounds. Grounds for forming the belief are matters of which you have become aware, and any opinions in relation to those matters.

A mandatory reporter does not have to be able to prove that harm has occurred. Professional judgement and objective observation help to identify warning signs or possible indicators of child sexual abuse and contribute to a reporter forming the belief on reasonable grounds. Knowledge of child development and consultation with colleagues or other professionals can also contribute to reasonable grounds.

Reasonable grounds may include:

- your own observations of a child's behaviour;
- your own observations of the behaviour of an adult interacting with the child;
- when a child tells you they, or another child, has been harmed;
- when you hear about it from someone who is in a position to provide reliable information, perhaps a relative or friend, neighbour or sibling of a child who is at risk.

Mandatory reporters must specify the grounds on which they formed the belief that a child has been, or is being, sexually abused.

(Mandatory Reporting Guide: Western Australia)

If you are a mandatory reporter and you have not formed the belief that a child has been or is being sexually abused but are sufficiently concerned, it is recommended that you consult with staff with expertise in this area, such as the Department's child protection consultants.

Refer to Ikon: Form the belief that a child is or has been the subject of sexual abuse and Recognise signs of child abuse in Manage child protection at your school (staff only).

BOARDING FACILITY

Means a place used to provide residential accommodation for children while they attend a school as defined in the School Education Act 1999. (Children and Community Services Act 2004 Section 124A).

BOARDING SUPERVISOR

Means a person who holds an office or position in a boarding facility; the duties of which include the supervision of children living at the facility. (Children and Community Services Act 2004 Section 124A)

Department of Education residential settings commonly use the terms boarding supervisor and residential supervisor to describe a boarding supervisor.

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 (Children and Community Services Act 2004 Section 124A).

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 significant harm to the child's wellbeing. It may involve ongoing, repeated or persistent abuse, or arise from a single incident.

CHILD EXPLOITATION MATERIAL

Child exploitation material is (a) child pornography; or (b) material that, in a way likely to offend a reasonable person, describes, depicts or represents a person, or part of a person, who is, or appears to be, a child (i) in an offensive or demeaning context; or (ii) being subjected to abuse, cruelty or torture (whether or not in a sexual context).

Child pornography is material that, in a way likely to offend a reasonable person, describes, depicts or represents a person, or part of a person, who is, or appears to be a child (a) engaging in sexual activity; or (b) in a sexual context.

Material includes (a) any object, picture, film, written or printed matter, data or other thing; and (b) any thing from which text, pictures, sound or data can be produced or reproduced, with or without the aid of anything else.

(Child Pornography and Exploitation Material and Classification Legislation Amendment Act 2010 s216)

Sexting (sex + texting) is the sending and receiving of sexually explicit or sexually suggestive texts or images via phone or internet. *(Australian Institute of Family Studies 2018)*

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 development of the child
- the physical, emotional and psychological health 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 [Manage child protection at your school](#) in Ikon (staff only).

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 PLAN

Documented Plan is an umbrella term used to describe a range of ways of catering for the educational needs of individual or smaller groups of students with identified needs. It is primarily a teaching and learning planning document and it identifies short to medium term education outcomes.

Documented Plans take a variety of forms, including: Individual education plans (IEPs); Individual behaviour management plans (IBMPs); Individual transition plans (ITP) and Risk management plans (RMP); Risk Assessment and Management Plans (RAMPs) and Documented Education Plans (DEP).

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 family violence.

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

FAMILY VIOLENCE

Family violence is a reference to:

- (a) violence, or a threat of violence, by a person towards a family member of the person; or
- (b) any other behaviour by the person that coerces or controls the family member or causes the member to be fearful.

A child is **exposed to** family violence or personal violence if the child sees or hears the violence or otherwise experiences the effects of the violence.

Examples of behaviour that may constitute family violence include (but are not limited to) the following:

- (a) an assault against the family member;
- (b) a sexual assault or other sexually abusive behaviour against the family member;
- (c) stalking or cyber-stalking the family member;
- (d) repeated derogatory remarks against the family member;
- (e) damaging or destroying property of the family member;
- (f) causing death or injury to an animal that is the property of the family member;
- (g) unreasonably denying the family member the financial autonomy that the member would otherwise have had;

- (h) unreasonably withholding financial support needed to meet the reasonable living expenses of the family member, or a child of the member, at a time when the member is entirely or predominantly dependent on the person for financial support;
- (i) preventing the family member from making or keeping connections with the member's family, friends or culture;
- (j) kidnapping, or depriving the liberty of, the family member, or any other person with whom the member has a family relationship;
- (k) distributing or publishing, or threatening to distribute or publish, intimate personal images of the family member;
- (l) causing any family member who is a child to be exposed to behaviour referred to in this section.

(Restraining Orders Act 1997 s5A & Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016)

FEMALE GENITAL MUTILATION/CUTTING

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

HARM

Harm, in relation to a child, means any detrimental effect of a significant nature on the child's wellbeing, whether caused by:

- (a) a single act, omission or circumstance; or
- (b) a series or combination of acts, omissions or circumstances;

Children and Community Services Act 2004

MANDATORY REPORTER

In Western Australia, the legislation covering mandatory reporting of child sexual abuse in Western Australia is the Children and Community Services Act 2004.

Under section 124B of the *Children and Community Services Act 2004*, a specified person whose duty to report child sexual abuse (a Mandatory Reporter) is a person who is working in their role either paid or in a voluntary capacity as a Department of Communities assessor or a department officer, midwife, nurse, police officer, boarding supervisor, doctor, minister of religion, out of home care worker, teacher, psychologist and school counsellor.

For the purposes of the legislation, 'teacher' is defined as any person registered under the Teacher Registration Act 2012 with the Teacher Registration Board of WA or with Provisional Registration, or Limited Registration and is working as a teacher.

For the purposes of the legislation, 'boarding supervisor' is defined as 'a person who holds an office or position at a boarding facility the duties of which include the supervision of children living at the (boarding) facility'.

For the purposes of the legislation, 'psychologist' is defined as a person who is registered under the *Health Practitioner Regulation National Law (WA) Act 2010* in the psychology profession (other than as a student).

For the purposes of the legislation, school counsellor' is defined as an adult who is employed or engaged in a school (as defined in the *School Education Act 1999* section 4) to provide counselling or pastoral care to children who attend the school. It does not include adults employed or engaged as a student or volunteer.

Staff who are registered under the Teacher Registration Act 2012 with the Teacher Registration Board of WA, and who are not a mandatory reporter of child sexual abuse are required under this policy to report child sexual abuse to the principal.

MANDATORY REPORTING LEGISLATION

Section 124B of the *Children and Community Services Act 2004*

Duty of certain people to report sexual abuse of children

- (1) A person who —
 - (a) is a person specified in the Table (a **specified person**); and

Table

assessor	boarding supervisor
departmental officer	doctor
midwife	minister of religion
nurse	out-of-home care worker
police officer	teacher
school counsellor	psychologist
Early childhood worker (commencement day 1 November 2024)	Youth Justice Worker (commencement day 1 May 2025)

- (b) believes on reasonable grounds that a child —
 - (i) has been the subject of sexual abuse that occurred on or after commencement day; or
 - (ii) is the subject of ongoing sexual abuse;
 and
- (c) forms the belief:
 - (i) in the course of the person's work (whether paid or unpaid) as a specified person; and
 - (ii) on or after commencement day,

must report the belief as soon as practicable after forming the belief.

Penalty for this subsection: a fine of \$6 000.

Commencement day is the date on which the person becomes a mandatory reporter under the legislation. The duty to report sexual abuse applies if the reporter forms the belief on or after commencement day. Commencement day varies for different reporter groups.

In a school context, the duty to report sexual abuse applies to a teacher, boarding supervisor, psychologist or school counsellor working in their role either in a paid or voluntary capacity.

If the belief that a child is or has been the subject of sexual abuse is formed when not working in their role, then there is no legal duty to report. However, a report to the Department of Communities can be made voluntarily.

NEGLECT

Neglect includes failure by a child's parents to provide, arrange, or allow the provision of —

- (a) adequate care for the child; or
- (b) effective medical, therapeutic or remedial treatment for the child.

Children and Community Services Act 2004.

Omission of care (from the Department of Communities Neglect policy 2021).

When a child does not receive adequate food or shelter, medical treatment, supervision, care or nurturance to the extent that their development is harmed, or they are injured.

Cumulative harm (from the Department of Communities Neglect policy 2021).

Refers to the effects of multiple adverse or harmful circumstances and events in a child's life. The unremitting daily impact of these experiences on the child can be profound and exponential, and diminish a child's sense of safety, stability and wellbeing.

It is possible to have cumulative abuse (multiple events over time) that results in harm that is cumulative in nature (the impact of the events has been cumulative).

NON-MANDATORY REPORTER

In a school context, all staff who are not working in the role of a teacher, psychologist, school counsellor or boarding supervisor are non-mandatory reporters.

When reporting child sexual abuse, non-mandatory reporters are required to follow the procedures for allied professionals.

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 scalding; 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.

PSYCHOLOGIST

A psychologist is defined as a person who is registered under the *Health Practitioner Regulation National Law (WA) Act 2010* in the psychology profession (other than as a student).

Psychologists are mandatory reporters. When reporting any type of child abuse, including child sexual abuse, school psychologists are required to follow the procedures for school psychologists.

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.

RESIDENTIAL COLLEGE MANAGER

The residential college manager has the same mandatory reporting responsibilities as a boarding supervisor and is responsible for the line-management of other boarding supervisors and operations in a residential setting. Department of Education residential settings commonly use the terms residential college manager, college manager or head of residence to describe a residential college manager.

RESIDENTIAL SETTING

A place used to provide residential accommodation and related services for students while they attend, and participate in an educational programme of, a school as defined in the *School Education Act 1999* section 4, 213A and 213B. Also referred to as a student residential college or boarding facility and does not include private arrangements.

RESIDENTIAL SETTING ACTIVITY

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

SCHOOL ACTIVITY

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

SCHOOL COUNSELLOR

A school counsellor is defined as an adult who is employed or engaged in a school (as defined in the *School Education Act 1999* section 4) to provide counselling or pastoral care to children who attend the school. It does not include adults employed or engaged as a student or volunteer. (*Children and Community Services Act 2004*)

In the Department of Education, school counsellors are allied professionals and third-party providers with either of the terms 'pastoral care' or 'counselling' listed in their job title, JDF or relevant service agreement. This includes Aboriginal and Islander Education Officers and some third-party providers including school chaplains, student wellbeing officers and providers of engagement programs for Aboriginal students, engaged through a formal service agreement with the Department of Education.

School counsellors are mandatory reporters of child sexual abuse. When reporting any type of child abuse, including child sexual abuse, school counsellors are required to follow the procedures for school counsellors.

SEXUAL ABUSE

Sexual abuse, in relation to a child, includes sexual behaviour in circumstances where —

- (a) the child is the subject of bribery, coercion, a threat, exploitation or violence; or
- (b) the child has less power than another person involved in the behaviour; or
- (c) there is a significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.

(s124A *Children and Community Services Act 2004*)

Some examples are: letting a child watch or read pornography; allowing a child to watch sexual acts; touching a child's genitals; 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.

SEXUAL HARASSMENT

Sexual harassment under the Equal Opportunity Act occurs when a person makes an unwelcome sexual advance or request for sexual favours, or engages in other unwelcome conduct of a sexual nature, towards another person and that person is disadvantaged, or has reasonable grounds for believing he or she will be disadvantaged, by taking objection. Sexual harassment is unlawful in the areas of employment, education, and accommodation.

STAFF

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

STUDENT RESIDENTIAL COLLEGE

A place used to provide residential accommodation and related services for students while they attend, and participate in an educational programme of, a school as defined in the *School Education Act 1999* section 4, 213A and 213B. More commonly known as residential setting.

5 RELATED DOCUMENTS

RELEVANT LEGISLATION OR AUTHORITY

Australian Psychological Society Code of Ethics 2007

Child Pornography and Exploitation Material and Classification Legislation Amendment Act 2010

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 Amendment (Education Standards) Bill 2004 (Cth)

Equal Opportunity Act 1984 (WA)

Freedom of Information Act 1992

Public Sector Management Act 1994 (WA)

Public Interest Disclosure Act 2003 (WA)

Restraining Orders Act 1997 (WA)

Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016)

School Education Act 1999 (WA)

School Education Regulations 2000 (WA)

Sex Discrimination Act 1984 (Cth)

State Records Act 2000 (WA)

Teacher Registration Act 2012 (WA)

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

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

RELATED DEPARTMENT POLICIES

Complaints and Notifications

Complaints and Notifications

Duty of Care for Students for Public Schools

Enrolment in Public Schools

Equal Opportunity, Discrimination and Harassment

Incident Management on Department of Education Sites

Records Management

Staff Conduct and Discipline

Student Attendance in Public Schools

Student Behaviour in Public Schools

Visitors and Intruders on Public School Premises

OTHER DOCUMENTS

Memorandum of Understanding between the Department of Communities and the Department of Education 2021 (staff only)

MOU between the Department of Education and Child and Adolescent Health Service (CAHS) and WA Country Health Service (WACHS): 1 January 2022 – 31 December 2024 (staff only)

6 CONTACT INFORMATION**Policy manager:**

Director, Student Engagement and Wellbeing

Policy contact officer:

Principal Consultant

T: (08) 9402 6248

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.
25 July 2017	3 October 2018	3.2	D18/0435864	Minor changes to title D18/0435848, reference to Public Schools D18/0151652 and updated legislation links D18/0207680

13 August 2019		3.3	D19/0186114	Major changes approved by the Director General on 26 July 2019. D19/0349313
13 August 2019	19 January 2021	3.4	D21/0028208	Minor changes to replace the Regional Executive Director position title with Director of Education D20/0647278.
13 August 2019	8 July 2022	3.5	D22/0519245	Minor updates to terminology, definitions and links as per D22/0519053
13 August 2019	22 September 2023	3.6	D23/1550820	Minor change to update link to MOU D23/1550610
13 August 2019	6 October 2023	3.7	D23/1590730	Minor changes to update contact details D23/1582068
1 May 2024		3.8	D24/0134832[v2]	Major changes to reflect <i>Children and Community Services Amendment Act 2021</i> approved by Director General on 11 April 2024

APPENDIX A. CHILD PROTECTION AND ABUSE PREVENTION EDUCATION PROFESSIONAL LEARNING

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

All third-party providers, engaged through a formal service agreement with the Department of Education, who have contact with children and their Department of Education line managers, must complete the online Child Protection and Abuse Prevention course within 1 month 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.

There is an option for staff to retake the online Child Protection and Abuse Prevention course and receive a new date of completion prior to the three year period elapsing. Staff can select "retake" which is located next to the "play" button.

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 and third-party providers engaged through a formal service agreement with the Department of Education, are protected from civil, criminal and disciplinary liability by providing information to the Department of Communities, WA Police or the Department's Standards and Integrity Directorate (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 s129 of the Children and Community Services Act 2004, if reports are made in good faith and with the best interests of the child in mind, the Act protects the reporter 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.

When there is concern for the safety of the reporter, it is important that the school has a risk management plan in place. The principal advises the Department of Communities and/or the WA police and contacts the Regional Education Office for further advice. Third party providers should consult with their employer.

Staff are entitled to seek counselling through the Employee Assistance Program (staff only).

An employee or third-party provider, engaged through a formal service agreement with the Department of Education, 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 of Education's Service Response (Child Protection) staff on 08 9402 6124 or the Department of Communities on 1800 273 889.

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

When reporting the belief that a child is or has been the subject of sexual abuse, staff who are mandatory reporters must complete their own documentation. The principal must not do this on their behalf.

The reporter should document, to the best of their ability, observations and factual information about what they have seen or heard, such as:

- relevant dates and times
- the identity of the source of information
- information from a third party that is clearly identified as third party information
- noting of the exact words the child used to describe what happened, even if it's not Standard Australian English e.g. the word or words they used for genitals or other parts of their body, or anything else related to the disclosure or concern
- statements or descriptions made by the child, parent or third party, written **verbatim** and in quotation (" ") marks
- professional judgments informed by professional training, resources and experience
- any other grounds for concern
- your response to the child
- the current situation for example Where is the child? Who is the child with?

Do not include:

- your opinions, for example, "the parent used excessive discipline"
- your personal conclusions about the type of abuse suspected
- your interpretation of what the child or others said.

Language:

- use clear, explicit, unambiguous, objective language
- use the first person singular, for example, "I saw...".
- use the names of people involved rather than she, he, etc.
- if the child uses any language other than English to describe an incident, document those words
- avoid jargon used within the organisation that may not be understood by others who read the report
- only use terms such as 'probably' or 'likely' 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 of Education'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
- a breach of professional conduct.

Professional confidentiality is protected when staff provide information in the best interests of the child regarding concerns or beliefs of child abuse to the Department of Communities 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 assessment by the Department of Communities;
- 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.

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 WA Police because the Mandatory Reporting Service must send a copy of every mandatory report to the WA Police for assessment.

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*.



Department of
Education

CHILD PROTECTION IN DEPARTMENT OF EDUCATION SITES PROCEDURES FOR SCHOOL COUNSELLORS

EFFECTIVE: 1 MAY 2024

VERSION: 1.0 FINAL

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1 POLICY SUPPORTED

Child Protection in Department of Education Sites Policy

2 SCOPE

These procedures apply to school counsellors in Department of Education sites.

Guidance

The procedures for school counsellors are for allied professionals and third-party providers with either of the terms 'pastoral care' or 'counselling' listed in their job title, JDF or relevant service agreement. This includes Aboriginal and Islander Education Officers and some third-party providers including school chaplains, student wellbeing officers and providers of engagement programs for Aboriginal students, engaged through a formal service agreement with the Department of Education.

3 PROCEDURES

3.1 CHILD PROTECTION AND ABUSE PREVENTION PROFESSIONAL LEARNING

School counsellors and their school-based line managers must:

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

Guidance

Enrolment occurs automatically for staff who have an E number.

Third-party providers are provided access via an EZ or EV number.

Any reference to staff includes casual and relief staff.

Compliance is monitored by the principal and the Department.

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 Appendix A and Ikon: [Access child protection and abuse prevention online professional learning \(staff only\)](#)

3.2 CHILD ABUSE PREVENTION EDUCATION

School counsellors must support 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 [Access protective behaviours resources](#) and [Request child protection and abuse prevention training in Ikon \(staff only\)](#).

3.3 MANDATORY REPORTING OF CHILD SEXUAL ABUSE

When a school counsellor believes on reasonable grounds, that a child is or has been the subject of sexual abuse and forms the belief, during the course of paid or unpaid work as a school counsellor, and where the principal is not the person alleged responsible for the abuse, school counsellors 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
 - complete the Mandatory Reporting form (available from the Mandatory Reporting Service) and provide it to the principal for lodgement with MRS
- inform the principal that a mandatory report has been lodged
- provide the principal with
 - the receipt number of the mandatory report; and
 - documentation of the grounds on which they formed the belief;
- inform the principal of the advice contained in the feedback letter received from MRS following the mandatory report;
- 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 (follow procedure 3.15),
- follow procedure 3.4, if the belief is formed that a child was the subject of sexual abuse **before 1 May 2024** and the abuse is **not** ongoing; and
- if a decision has been made to not make a mandatory report, document all observations, information and disclosures received or discussed with staff and consultations and follow procedure 3.4.

Where the principal is the person alleged responsible for the abuse or may be biased towards the person alleged responsible for the abuse, school counsellors must:

- make a report to the Director of Education or the 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;
- provide the Director of Education with
 - the receipt number of the mandatory report; and
 - documentation of the grounds on which they formed the belief; and
- not provide a copy of their mandatory report to the principal or Director of Education for storage or store their own copy of the report in Department of Education files (follow procedure 3.15).

School counsellors must not:

- inform parents that a report has been made
- interview the child or children involved
- investigate the concern
- collect photographic evidence
- inform the person alleged to be responsible for the abuse.

Guidance

Aboriginal and Islander Education Officers and some third-party providers (including school chaplains, student wellbeing officers and providers of engagement programs for Aboriginal students, engaged through a formal service agreement with the Department of Education fall into the definition of school counsellor), are mandatory reporters of child sexual abuse and should follow these procedures.

Mandatory reporting requirements apply when working in the role of a school counsellor, at any school in Western Australia, in either a paid or unpaid capacity.

Please refer to the relevant service in Ikon including Form the belief that a child is or has been the subject of sexual abuse in Manage child protection at your school. (staff only)

The definition of sexual abuse from the Children and Community Services Act 2004 (s124A): Sexual abuse, in relation to a child, includes sexual behaviour in circumstances where —
(a) the child is the subject of bribery, coercion, a threat, exploitation or violence; or
(b) the child has less power than another person involved in the behaviour; or
(c) there is a significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.
(s124A Children and Community Services Act 2004).

Students under 13 years of age are deemed under the Criminal Code as incapable of consenting to a sexual relationship and this should be reported to WA Police and obtain a police record number, if a mandatory report of child sexual abuse is not submitted.

Prior to 1 May 2024 there was no legal requirement for school counsellors to report the belief of child sexual abuse in Western Australia.

The school counsellor is not required to make their own mandatory report if a report has already been made by another staff member or third party provider who is a mandatory reporter for the belief based on the same reasonable grounds, and the MR receipt number has been provided to the school counsellor as proof.

Unless a person who is a mandatory reporter has proof that a report has been submitted regarding child sexual abuse, mandatory reporting requirements apply. For further explanation, please refer to the Children and Community Services Act 2004 s124B(3):
(3) In a prosecution for an offence under subsection (1) it is a defence for the person charged to prove that he or she honestly and reasonably believed that —
(a) all of the reasonable grounds for his or her belief were the subject of a report made by another person; or
(b) the CEO had caused, or was causing, inquiries to be made under section 31 about the child's wellbeing; or
(c) the CEO had taken, or was taking, action under section 32 in respect of the child's wellbeing.

If a school counsellor believes that a child is or has been the subject of sexual abuse mandatory reporting requirements apply even if the staff member providing the information has not formed the belief.

A child can be subject to a number of mandatory reports by different mandatory reporters. Multiple reports can be made for the same child if that child is subjected to abuse over a period of time.

Prior to submission of a report, school counsellors may seek advice from the Department of Education's Service Response (Child Protection) staff on (08) 9402 6124 or the Department of Communities on 1800 708 704.

The legal penalties in accordance with the Children and Community Services Act 2004 for a mandatory reporter who fails to report the belief that a child is or has been the subject of 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 the belief that a child is or has been the subject of 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.

Following submission of a report, the mandatory reporter may contact the MRS to request information on the progress or current status of a report.

Under the Memorandum of Understanding between the Department of Education and the Department of Communities, the Department of Communities is obliged to share relevant information with the principal relating to the wellbeing of a child.

If a school counsellor believes that a child is or has been the subject of sexual abuse when not working in their role as a school counsellor, either paid or voluntary, there is no legal duty to report. However, a child protection concern referral can be made to the Department of Communities voluntarily.

School chaplains, student wellbeing officers and providers of engagement programs for Aboriginal students, engaged through a formal service agreement with the Department of Education, are also subject to the Department's Code of Conduct.

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 circumstances when they make a notification relating to a school student to the Department of Communities. They are not required to provide the MR receipt number to the principal. For further information, please refer to the MOU between the Department of Education and Child and Adolescent Health Service(CAHS) and WA Country Health Service (WACHS): 1 January 2022 – 31 December 2024 (staff only).

If school counsellors have any concerns regarding the student and suicidal ideation they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

When there is concern for the safety of a reporter, the principal should advise the Department of Communities and/or the WA Police and contact the relevant Regional Education Office for further advice. For further information refer to Ikon: Support a staff member who has reported child abuse and Access support after reporting child abuse (staff only).

3.4 REPORT CONCERN OF CHILD SEXUAL ABUSE

If the belief, that a child is or has been the subject of sexual abuse, is **not** formed, but a child protection concern of child sexual abuse is held, school counsellors must:

- document concerning observations, information and disclosures received, or discussed with staff
- provide this documentation to the principal
- make a report to the Director of Education or the Standards and Integrity Directorate (SID) if the principal is the person alleged responsible for the abuse or may be biased towards the person alleged to be responsible for the abuse.

School counsellors must not:

- inform parents that a report has been made
- interview the child or children involved
- investigate the concern
- collect photographic evidence
- keep records or information
- inform the person alleged to be responsible for the abuse.

Guidance

School counsellors may consult with the principal, the school psychologist, the Department of Education's Service Response (Child Protection) staff on (08) 9402 6124 or the Department of Communities on 1800 708 704.

When considering if a submission of a child concern report is warranted, please refer to the definition of 'Child Protection Concern' in the Definitions section of these procedures and Manage child protection at your school in Ikon (staff only).

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

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

The concern may be based on a number of possible indicators over time. Refer to Ikon: Recognise signs of child abuse and Indicators of abuse - factsheet (staff only).

There is no requirement to provide proof of child abuse. School counsellors should provide evidence of the reasonable grounds for their concern e.g. sufficient indicators, disclosure from a child, information from a third party.

A child can be subject to a number of mandatory reports by different mandatory reporters. Multiple reports can be made for the same child if that child is subjected to abuse over a period of time.

If a school counsellor holds a child protection concern involving a child or children enrolled at another school or college, they may report their concern to the Department of Communities as a private citizen.

Another mandatory reporter may form the belief based on information received from the school counsellor, that a child is or has been the subject of sexual abuse even if the school counsellor has not formed the belief. The school counsellor should be aware they will be named in the mandatory report.

If school counsellors have any concerns regarding the student and suicidal ideation they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

School counsellors are protected from civil, criminal liability or professional misconduct allegations by providing information in good faith to the Department of Communities, WA Police and/or the Standards and Integrity Directorate (SID) for the purpose of investigating child abuse. Refer to procedure 3.16 on Confidentiality and procedure 3.11 on Information Sharing.

3.5 REPORT CONCERN OF PHYSICAL OR EMOTIONAL ABUSE, FAMILY VIOLENCE OR NEGLECT

School counsellors must:

- document concerning observations, information and disclosures received, or discussed with staff
- report all child protection concerns to the principal, or
- make a report to the Director of Education or the Standards and Integrity Directorate (SID) if the principal is the person alleged have committed the abuse or may be biased towards the staff member alleged to have committed the abuse.

School counsellors must not:

- inform parents that a report has been made
- interview the child or children involved
- investigate the concern
- collect photographic evidence
- inform the person alleged to be responsible for the abuse that a child protection concern is held.

Guidance

When considering if a submission of a child concern report is warranted, please refer to the definition of 'Child Protection Concern' in the Definitions section of these procedures and Manage child protection at your school in Ikon. (staff only)

There is no requirement to provide proof of child abuse. The person making the referral needs to provide reasonable grounds for their concern.

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

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

The concern may be based on a number of possible indicators over time. Refer to Ikon: Recognise signs of child abuse and Indicators of abuse - factsheet. (staff only)

Emotional abuse includes being exposed to family violence.

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

If a school counsellor holds a child protection concern involving a child or children enrolled at another school or college, they may report their concern to the Department of Communities, as a private citizen.

If school counsellors have any concerns regarding the student and suicidal ideation they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

School counsellors are protected from civil, criminal liability or professional misconduct allegations by providing information in good faith to the Department of Communities, WA Police and/or the Standards and Integrity Directorate (SID) for the purpose of investigating child abuse. Refer to procedure 3.16 on Confidentiality.

3.6 REPORT ALLEGATION OF PHYSICAL, EMOTIONAL OR SEXUAL ABUSE COMMITTED BY STAFF

School counsellors must:

- document and report all allegations of abuse, where staff are alleged responsible for the abuse, to the principal
- report to the Director of Education or the Department's Standards and Integrity Directorate (SID) if the principal is the person alleged to have committed the abuse or may be biased towards the person alleged to have committed the abuse; and

- follow reporting procedures in 3.3, 3.4 or 3.5, as applicable.

School counsellors must not:

- interview the child
- investigate the allegation
- inform the person alleged to have committed the abuse that an allegation has been made.

Guidance

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

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

Certain behaviour towards students, while not illegal, may not be within appropriate professional boundaries. Refer to the Code of Conduct and Standards (staff only).

Any concerns regarding an inappropriate relationship between a staff member and a student should be referred to the Department's Standards and Integrity Directorate. For further information refer to Report staff misconduct in Ikon. (staff only)

Sexual harassment is dealt with in the Equal Opportunity, Discrimination and Harassment policy. In some cases sexual harassment of students may also be child sexual abuse. Refer to the definition of child sexual abuse in Section 4 of these procedures.

If school counsellors have any concerns regarding the student and suicidal ideation they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.7 REPORT ALLEGATION OF SEXUAL ABUSE COMMITTED BY A STUDENT DURING SUPERVISED SCHOOL ACTIVITIES

School counsellors must:

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

School counsellors must not:

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

Guidance

*Sexual abuse of a child by another child is any sexual behaviour that involves the use of bribery, coercion, a threat, exploitation or violence **or** when one child has less power than the other **or** when there is significant disparity in the developmental function or maturity of the children involved. Examples are: unwanted touching, unwanted kissing, exposure to sexual acts, exposure to pornographic materials and sexual penetration of the genitals or mouth.*

Sexual behaviour that is within the normal developmental range is not usually an indicator of child sexual abuse. Sexual behaviour outside of the normal or expected developmental range may be an indicator that the child is or has been the subject of abuse, including child sexual abuse. For more information refer to Ikon: Respond to sexual behaviour in students (staff only).

If school counsellors have any concerns regarding the student and suicidal ideation they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.8 RESPOND 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 counsellors must report this to the principal as a matter of priority.

Guidance

If school counsellors have any concerns regarding the student and suicidal ideation they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

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

School counsellors must report to the principal a concern for a student 18 years or over who discloses 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 (SID). For further information refer to Report staff misconduct in Ikon. (staff only)

If school counsellors have any concerns regarding the student and suicidal ideation they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.10 RESPOND TO STUDENTS IN POSSESSION OF SEXUALLY EXPLICIT OR CHILD EXPLOITATION MATERIAL

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

- report to the principal
- follow reporting procedures in 3.3 or 3.4, as applicable.

School counsellors must not:

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

Guidance

Please refer to the definition of 'Child Exploitation Material' in Section 4 of these procedures

Only 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.

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.*

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

The WA Police will identify whether a child has been exploited and may interview the students, teachers, parents and any other parties involved.

Further information and resources can be found on the website of the Office of the eSafety Commissioner and in Ikon (staff only).

For information related to Western Australia's Intimate Image laws (Chapter XXVA of the Criminal Code) which came into effect on 15 April 2019, please refer to the Frequently Asked Questions.

If school counsellors have any concerns regarding the student and suicidal ideation they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.11 RESPOND TO SPECIFIC CHILD PROTECTION CONCERNS

3.11.1 FEMALE GENITAL MUTILATION/CUTTING

School counsellors must:

- report to the principal all concerns that a student may be subjected to female genital mutilation/cutting (FGM/C) or arrangements are being made to carry out the procedure
- follow reporting procedures in 3.5.

School counsellors must not inform the parent of the concern or the report.

Guidance

The Department of Communities has advised that employees of state government agencies should report the practice or risk of FGM/C as a form of physical abuse. FGM/C is also reported to WA Police as the practice is a criminal offence in Western Australia, as is taking the child from the state with the intention of having the child subjected to FGM/C. Concerns of FGM/C should be reported to WA Police by the principal.

For further information refer to Section 306 of the Criminal Code and Report female genital mutilation of a student in Ikon. (staff only)

3.11.2 FORCED MARRIAGE

School counsellors must:

- document and report to the principal concerns for a student under 18 years of age who is being forced or coerced into a marriage, or who has been forced or coerced into an existing marriage; and
- follow reporting procedures in 3.3 or 3.4.

School counsellors must not inform the parent of the concern or the report.

Guidance

For further information refer to sections 270.7A and 270.7B of the Commonwealth Criminal Code Act (1995), the Australian Federal Police website and Report forced marriage of a student in Ikon (staff only).

3.12 SUPPORT STUDENTS AFFECTED BY ABUSE

School counsellors must:

- support students affected by abuse, including students who are alleged to have committed abuse
- document and report to the principal any further information or observations in respect to the abuse.

Guidance

Staff involved in a supportive role should consider factors such as culture, religion, age, disability and level of maturity of the student. The impact on the student's behaviour of trauma stemming from abuse should also be considered. Refer to Support a student affected by abuse or neglect in Ikon. (staff only).

School counsellors should consult with appropriate school and Education Regional Office staff, including the school psychologist, to develop strategies to support the student, whilst maintaining student confidentiality.

Staff should consult with the Sexual Assault Resource Centre resources when supporting students harmed by sexual assault.

The student and their family may be provided with the option to 'opt out' of support and intervention.

If school counsellors have any concerns regarding the student and suicidal ideation they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.13 COMMUNICATE TO PARENTS

3.13.1 WHEN A MANDATORY REPORT OR CHILD PROTECTION CONCERN REFERRAL HAS BEEN MADE

School counsellors must not:

- inform parents of reports made to the Department of Communities or to WA policer
- disclose the identity of the reporter (if known) or the person alleged to have committed the abuse.

Guidance

No member of staff apart from the principal or their nominee is permitted to inform parents of concerns or reports of child abuse. The parent may be responsible for the abuse and advising them that a mandatory report or child protection concern referral has been made may compromise an investigation by the Department of Communities or WA Police.

3.13.2 WHEN THE BELIEF OR A CONCERN IS HELD BUT A MANDATORY REPORT OR CHILD PROTECTION CONCERN REFERRAL HAS NOT YET BEEN MADE

School counsellors must not inform parents:

- that physical or behavioural indicators have been observed in their child which have led to the belief or concern of child abuse
- of a concern of family violencer
- of an intention to make a report concerning their child to the Department of Communities, WA Police and/or the Department's Standards and Integrity Directorate (SID).

Guidance

No member of staff apart from the principal or their nominee is permitted to inform parents of concerns or reports of child abuse. A parent may be responsible for the abuse. To inform the parent of the belief or concern of child abuse may alert them and pose a further risk to the child and may compromise an investigation by the Department of Communities or WA Police.

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

School counsellors must:

- document the disclosure
- provide a copy to the principal
- follow reporting procedures in 3.3 or 3.4, if applicable.

School counsellors must not interview the child or children involved.

Guidance

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

In Western Australia, under the Criminal Code, the legal age for people to consent to sexual activity is 16 years of age.

When a person engages in sexual behaviour with someone below the age of consent (16 years of age), this is a criminal offence under the Criminal Code and should be reported to WA Police. Sexual behaviour involving students aged 13 to under 16 years of age may not necessarily constitute sexual abuse. Consideration should be given to characteristics of the child that could be exploited - their age and developmental level, their understanding of the consequences of the behaviour and the influence of drugs or alcohol. Refer to Ikon: Form the belief that a child is or has been the subject of sexual abuse (staff only). If a mandatory reporter forms the belief that the child is or has been the subject of sexual abuse, a mandatory report should be submitted.

Students under 13 years of age are deemed under the Criminal Code as incapable of consenting to a sexual relationship and this should be reported to WA Police and obtain a police record number, if a mandatory report of child sexual abuse is not submitted.

If a staff member who is a mandatory reporter forms the belief that a child is or has been the subject of sexual abuse, a mandatory report should be submitted as per the Children and Community Services Act 2004.

The principal 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*
- *a report of child sexual abuse has been made.*

The school psychologist may be consulted on determining the best interests of the child. Refer to the Children and Community Services Act 2004 for further information on 'best interests of the child'.

3.15 RECORDKEEPING AND DOCUMENTATION

School counsellors must:

- document all incidents of possible physical or behavioural indicators and concerns of child abuse
- provide copies to the principal
- securely store all confidential records and information separately from the student's school records.

Guidance

A mandatory reporter should 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. The receipt number issued by the Mandatory Reporting Service (MRS) is proof that a report has been made. The report can be accessed, or additional information added by the reporter later by quoting the receipt number or the name of the child to the MRS. Therefore, it is not necessary to keep a mandatory report and it is strongly advised that a copy of the mandatory report is not stored by the mandatory reporter.

Documentation kept by staff, excluding mandatory reports, may be required by the Department of Communities, WA Police and/or the Department's Standards and Integrity Directorate (SID) in their investigations. For further information refer to Respond to an order to produce documents to a court or WA Police (staff only).

Refer to Appendix C for more information on completing documentation.

3.16 CONFIDENTIALITY

School counsellors must not:

- disclose the identity of a staff member who makes a child protection report

- promise confidentiality when a child discloses information that leads to a concern of child abuse or family violence.

Guidance

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

All staff who report abuse are protected by the Children and Community Services Act 2004 from civil, criminal, and disciplinary liability by providing information in good faith to the Department of Communities, WA Police or Standards and Integrity Directorate. 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 a Department of Communities 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.*

The penalty for disclosing a 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 Respond to student disclosure of abuse in Ikon. (staff only)

For further information, refer to Share confidential child protection information in Ikon (staff only).

3.17 PROTECTION AND SUPPORT FOR SCHOOL COUNSELLORS WHO REPORT CHILD ABUSE

School counsellors 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 a reporter, the principal advises the Department of Communities and/or the WA Police and contacts the Regional Education Office for further advice.

Department of Education staff who require support as a result of reporting child abuse can access the Employee Assistance Program (staff only) for counselling. Third party providers should consult with their employer.

For further information refer to Appendix B and Access support after reporting child abuse in Ikon (Staff only).

4 DEFINITIONS

ALLIED PROFESSIONALS

Allied professionals are those staff employed under s235(1)(a),(c),(d) of the School Education Act 1999.

Allied professionals who are not categorised as school counsellors are non-mandatory reporters. When reporting any type of child abuse, including sexual abuse, these allied professionals are required to follow the procedures for allied professionals.

Allied professionals who fall within the category of school counsellor (see definition) are mandatory reporters of child sexual abuse and are required to follow the procedures for school counsellors.

BELIEF ON REASONABLE GROUNDS

'Believes on reasonable grounds' means that a reasonable person, doing the same work, would have formed the same belief on those grounds. Grounds for forming the belief are matters of which you have become aware, and any opinions in relation to those matters.

A mandatory reporter does not have to be able to prove that harm has occurred. Professional judgement and objective observation help to identify warning signs or possible indicators of child sexual abuse and contribute to a reporter forming the belief on reasonable grounds. Knowledge of child development and consultation with colleagues or other professionals can also contribute to reasonable grounds.

Reasonable grounds may include:

- your own observations of a child's behaviour
- your own observations of the behaviour of an adult interacting with the child
- when a child tells you they, or another child, has been harmed
- when you hear about it from someone who is in a position to provide reliable information, perhaps a relative or friend, neighbour or sibling of a child who is at risk.

Mandatory reporters must specify the grounds on which they formed the belief that a child has been, or is being, sexually abused.

(Mandatory Reporting Guide: Western Australia).

If you are a mandatory reporter and you have not formed the belief that a child has been or is being sexually abused but are sufficiently concerned, it is recommended that you consult with staff with expertise in this area, such as the Department's child protection consultants.

Refer to Ikon: Form the belief that a child is or has been the subject of sexual abuse and Recognise signs of child abuse in Manage child protection at your school (staff only).

BOARDING FACILITY

Means a place used to provide residential accommodation for children while they attend a school as defined in the *School Education Act 1999*. (*Children and Community Services Act 2004* Section 124A).

BOARDING SUPERVISOR

Means a person who holds an office or position in a boarding facility; the duties of which include the supervision of children living at the facility. (*Children and Community Services Act 2004* Section 124A).

Department of Education residential settings commonly use the terms boarding supervisor and residential supervisor to describe a boarding supervisor.

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. (*Children and Community Services Act 2004* Section 124A).

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 significant harm to the child's wellbeing. It may involve ongoing, repeated or persistent abuse, or arise from a single incident.

CHILD EXPLOITATION MATERIAL

Child exploitation material is (a) child pornography; or (b) material that, in a way likely to offend a reasonable person, describes, depicts or represents a person, or part of a person, who is, or appears to be, a child (i) in an offensive or demeaning context; or (ii) being subjected to abuse, cruelty or torture (whether or not in a sexual context).

Child pornography is material that, in a way likely to offend a reasonable person, describes, depicts or represents a person, or part of a person, who is, or appears to be a child (a) engaging in sexual activity; or (b) in a sexual context.

Material includes (a) any object, picture, film, written or printed matter, data or other thing; and (b) anything from which text, pictures, sound or data can be produced or reproduced, with or without the aid of anything else.

(*Child Pornography and Exploitation Material and Classification Legislation Amendment Act 2010 s216*)

Sexting (sex + texting) is the sending and receiving of sexually explicit or sexually suggestive texts or images via phone or internet. (Australian Institute of Family Studies 2018).

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 development of the child
- the physical, emotional, and psychological health of the child
- 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
- responds appropriately to any disclosures, allegations or suspicions of harm.

Refer to Manage child protection at your school in Ikon (staff only).

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 PLAN

Documented Plan is an umbrella term used to describe a range of ways of catering for the educational needs of individual or smaller groups of students with identified needs. It is primarily a teaching and learning planning document and it identifies short to medium term education outcomes.

Documented Plans take a variety of forms, including: Individual education plans (IEPs); Individual behaviour management plans (IBMPs); Individual transition plans (ITP); Risk management plans (RMP); and Documented Education Plans (DEP).

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 family violence.

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

FAMILY VIOLENCE

Family violence is a reference to:

- (a) violence, or a threat of violence, by a person towards a family member of the person; or
- (b) any other behaviour by the person that coerces or controls the family member or causes the member to be fearful.

A child is **exposed to** family violence or personal violence if the child sees or hears the violence or otherwise experiences the effects of the violence.

Examples of behaviour that may constitute family violence include (but are not limited to) the following:

- (a) an assault against the family member
- (b) a sexual assault or other sexually abusive behaviour against the family member
- (c) stalking or cyber-stalking the family member
- (d) repeated derogatory remarks against the family member
- (e) damaging or destroying property of the family member
- (f) causing death or injury to an animal that is the property of the family member
- (g) unreasonably denying the family member the financial autonomy that the member would otherwise have had
- (h) unreasonably withholding financial support needed to meet the reasonable living expenses of the family member, or a child of the member, at a time when the member is entirely or predominantly dependent on the person for financial support
- (i) preventing the family member from making or keeping connections with the member's family, friends or culture
- (j) kidnapping, or depriving the liberty of, the family member, or any other person with whom the member has a family relationship
- (k) distributing or publishing, or threatening to distribute or publish, intimate personal images of the family member
- (l) causing any family member who is a child to be exposed to behaviour referred to in this section.

(Restraining Orders Act 1997 s5A & Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016).

FEMALE GENITAL MUTILATION/CUTTING

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

HARM

Harm, in relation to a child, means any detrimental effect of a significant nature on the child's wellbeing, whether caused by:

- (a) a single act, omission or circumstance
 - (b) a series or combination of acts, omissions or circumstances;
- Children and Community Services Act 2004*

MANDATORY REPORTER

The legislation covering mandatory reporting of child sexual abuse in Western Australia is the Children and Community Services Act 2004.

Under section 124B of the *Children and Community Services Act 2004*, a specified person whose duty to report child sexual abuse (a Mandatory Reporter) is a person who is working in their role either paid or in a voluntary capacity as a Department of Communities assessor or a department officer, midwife, nurse, police officer, boarding supervisor, doctor, minister of religion, out of home care worker, teacher, psychologist or school counsellor.

For the purposes of the legislation, ‘teacher’ is defined as any person registered under the Teacher Registration Act 2012 with the Teacher Registration Board of WA or with Provisional Registration, or Limited Registration and is working as a teacher.

For the purposes of the legislation, ‘boarding supervisor’ is defined as ‘a person who holds an office or position at a boarding facility the duties of which include the supervision of children living at the (boarding) facility’.

For the purposes of the legislation, ‘psychologist’ is defined as a person who is registered under the *Health Practitioner Regulation National Law (WA) Act 2010* in the psychology profession (other than as a student).

For the purposes of the legislation, ‘school counsellor’ is defined as an adult who is employed or engaged in a school (as defined in the *School Education Act 1999* section 4) to provide counselling or pastoral care to children who attend the school. It does not include adults employed or engaged as a student or volunteer.

Staff who are registered under the Teacher Registration Act 2012 with the Teacher Registration Board of WA, and who are not a mandatory reporter of child sexual abuse are required under this policy to report child sexual abuse to the principal.

MANDATORY REPORTING LEGISLATION

Section 124B of the *Children and Community Services Act 2004*

Duty of certain people to report sexual abuse of children

- (1) A person who:
 - (a) is a person specified in the Table (a **specified person**); and

Table

assessor	boarding supervisor
departmental officer	doctor
midwife	minister of religion
nurse	out-of-home care worker
police officer	teacher
school counsellor	psychologist
Early childhood worker (commencement day 1 November 2024)	Youth Justice Worker (commencement day)

	1 May 2025)
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- (b) believes on reasonable grounds that a child:
- (i) has been the subject of sexual abuse that occurred on or after commencement day; or
 - (ii) is the subject of ongoing sexual abuse;
- and
- (c) forms the belief:
- (i) in the course of the person's work (whether paid or unpaid) as a specified person; and
 - (ii) on or after commencement day.

must report the belief as soon as practicable after forming the belief.

Penalty for this subsection: a fine of \$6,000.

Commencement day is the date on which the person becomes a mandatory reporter under the legislation. The duty to report sexual abuse applies if the reporter forms the belief on or after commencement day. Commencement day varies for different reporter groups.

In a school context, the duty to report sexual abuse applies to a teacher, boarding supervisor, psychologist or school counsellor working in their role either in a paid or voluntary capacity.

If the belief that a child is or has been the subject of sexual abuse is formed when not working in their role, then there is no legal duty to report. However, a report to the Department of Communities can be made voluntarily.

NEGLECT

Neglect includes failure by a child's parents to provide, arrange, or allow the provision of —

- (a) adequate care for the child; or
- (b) effective medical, therapeutic or remedial treatment for the child.

Children and Community Services Act 2004.

Omission of care (from the Department of Communities Neglect policy 2021) When a child does not receive adequate food or shelter, medical treatment, supervision, care or nurturance to the extent that their development is harmed, or they are injured.

Cumulative harm (from the Department of Communities Neglect policy 2021) Refers to the effects of multiple adverse or harmful circumstances and events in a child's life. The unremitting daily impact of these experiences on the child can be profound and exponential, and diminish a child's sense of safety, stability and wellbeing.

It is possible to have cumulative abuse (multiple events over time) that results in harm that is cumulative in nature (the impact of the events has been cumulative).

NON-MANDATORY REPORTER

In a school context, all staff who are not working in the role of a teacher, school psychologist, school counsellor or boarding supervisor are non-mandatory reporters.

When reporting child sexual abuse, non-mandatory reporters are required to follow the procedures for allied professionals.

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 scalding; 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.

PSYCHOLOGIST

A psychologist is defined as a person who is registered under the *Health Practitioner Regulation National Law (WA) Act 2010* in the psychology profession (other than as a student).

Psychologists are mandatory reporters. When reporting any type of child abuse, including child sexual abuse, school psychologists are required to follow the procedures for school psychologists.

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.

RESIDENTIAL COLLEGE MANAGER

The residential college manager has the same mandatory reporting responsibilities as a boarding supervisor and is responsible for the line-management of other boarding supervisors and operations in a residential setting. Department of Education residential settings commonly use the terms residential college manager, college manager or head of residence to describe a residential college manager.

RESIDENTIAL SETTING

A place used to provide residential accommodation and related services for students while they attend, and participate in an educational programme of, a school as defined in the *School Education Act 1999 section 4, 213A and 213B*. Also referred to as a student residential college or boarding facility and does not include private arrangements.

RESIDENTIAL SETTING ACTIVITY

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

SCHOOL ACTIVITY

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

SCHOOL COUNSELLOR

A school counsellor is defined as an adult who is employed or engaged in a school (as defined in the *School Education Act 1999 section 4*) to provide counselling or pastoral care to children who attend the school. It does not include adults employed or engaged as a student or volunteer. (*Children and Community Services Act 2004*)

In the Department of Education, school counsellors are allied professionals and third-party providers with either of the terms 'pastoral care' or 'counselling' listed in their job title, JDF or relevant service agreement. This includes Aboriginal and Islander Education Officers and some third-party providers including school chaplains, student wellbeing officers and providers of engagement programs for Aboriginal students, engaged through a formal service agreement with the Department of Education.

School counsellors are mandatory reporters of child sexual abuse. When reporting any type of child abuse, including child sexual abuse, school counsellors are required to follow the procedures for school counsellors.

SEXUAL ABUSE

Sexual abuse, in relation to a child, includes sexual behaviour in circumstances where:

- (a) the child is the subject of bribery, coercion, a threat, exploitation or violence
- (b) the child has less power than another person involved in the behaviour
- (c) there is a significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.

(s124A *Children and Community Services Act 2004*)

Some examples are: letting a child watch or read pornography; allowing a child to watch sexual acts; touching a child's genitals; 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.

SEXUAL HARASSMENT

Sexual harassment under the Equal Opportunity Act occurs when a person makes an unwelcome sexual advance, or request for sexual favours or engages in other unwelcome conduct of a sexual nature, towards another person and that person is disadvantaged, or has reasonable grounds for believing he or she will be disadvantaged, by taking objection. Sexual harassment is unlawful in the areas of employment, education, and accommodation.

STAFF

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

STUDENT RESIDENTIAL COLLEGE

A place used to provide residential accommodation and related services for students while they attend, and participate in an educational programme of a school, as defined in the *School Education Act 1999 section 4, 213A and 213B*. More commonly known as residential setting or residential college.

5 RELATED DOCUMENTS

RELEVANT LEGISLATION OR AUTHORITY

Australian Psychological Society Code of Ethics 2007

Child Pornography and Exploitation Material and Classification Legislation Amendment Act 2010

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 Amendment (Education Standards) Bill 2004 (Cth)

Equal Opportunity Act 1984 (WA)

Freedom of Information Act 1992

Public Sector Management Act 1994 (WA)

Public Interest Disclosure Act 2003 (WA)

Restraining Orders Act 1997 (WA)

Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016)

School Education Act 1999 (WA)

School Education Regulations 2000 (WA)

Sex Discrimination Act 1984 (Cth)

State Records Act 2000 (WA)

Teacher Registration Act 2012 (WA)

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

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

RELATED DEPARTMENT POLICIES

Complaints and Notifications

Duty of Care for Students for Public Schools

- Enrolment in Public Schools
- Equal Opportunity, Discrimination and Harassment
- Incident Management on Department of Education Sites
- Records Management
- Staff Conduct and Discipline
- Student Attendance in Public Schools
- Student Behaviour in Public Schools
- Visitors and Intruders on Public School Premises

OTHER DOCUMENTS

- Memorandum of Understanding between the Department of Communities and the Department of Education 2021 (staff only)
- MOU between the Department of Education and Child and Adolescent Health Service (CAHS) and WA Country Health Service (WACHS): 1 January 2022 – 31 December 2024 (staff only)

6 CONTACT INFORMATION

Policy manager:

Director, Student Engagement and Wellbeing

Policy contact officer:

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T: (08) 9402 6448

7 REVIEW DATE

1 May 2027

8 HISTORY OF CHANGES

Effective date	Last update date	Policy version no.	Ref no.	Notes
1 May 2024		1.0	D24/0134787[v2]	Major changes to reflect <i>Children and Community Services Amendment Act 2021</i> approved by Director General on 11 April 2024



APPENDIX A. CHILD PROTECTION AND ABUSE PREVENTION EDUCATION PROFESSIONAL LEARNING

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

All third-party providers, engaged through a formal service agreement with the Department of Education, who have contact with children and their Department of Education line managers, must complete the online Child Protection and Abuse Prevention course within 1 month 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.

There is an option for staff to retake the online Child Protection and Abuse Prevention course and receive a new date of completion prior to the three year period elapsing. Staff can select “retake” which is located next to the “play” button.

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. LEGAL PROTECTION AND SUPPORT FOR EMPLOYEES WHO REPORT CHILD ABUSE

Under Sections 124F and 240 of the *Children and Community Services Act 2004*, the identity of the person making a report to the Department of Communities is protected.

However, the identity of the reporter may be released under these circumstances:

- for the purpose of assessment by the Department of Communities;
- for investigative purposes by a WA Police officer
- with the written permission of the reporter
- purposes of court protection proceedings.

The WA Police will be aware of the identity of the mandatory reporter as all mandatory reports are sent to them for assessment.

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

All staff and third-party providers, engaged through a formal service agreement with the Department of Education, are protected from civil, criminal and disciplinary liability by providing information to Department of Communities, WA Police or the Department's Standards and Integrity Directorate (SID) for the purpose of investigating child abuse.

Under s129 of the *Children and Community Services Act 2004*, if reports are made in good faith and with the best interests of the child in mind, the Act protects the reporter 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.

Where there is suspected or alleged abuse or misconduct, school counsellors 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*.

A staff member or third-party provider, engaged through a formal service agreement with the Department of Education, who attempts to threaten, intimidate, coerce or take reprisal against an employee or third-party provider, who has disclosed or intends to disclose unethical or unlawful behaviour, may face disciplinary action (refer to the *Staff Conduct and Discipline* policy).

When there is concern for the safety of the reporter, it is important that the school has a risk management plan in place. The principal advises the Department of Communities and/or the WA Police and contacts the Regional Education Office for further advice. Third party reporters should consult with their employer.

Department of Education staff are entitled to seek counselling through the Employee Assistance Program (staff only). Third-party providers may be eligible to seek counselling through their Employers Employee Assistance Program.

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 of Education's Service Response (Child Protection) staff on 08 9402 6124 or the Department of Communities on 1800 708 704 or 1800 273 889.

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

When reporting the belief that a child is or has been the subject of sexual abuse, staff who are mandatory reporters must complete their own documentation. The principal must not do this on their behalf.

The reporter should document, to the best of their ability, observations and factual information about what they have seen or heard, such as:

- relevant dates and times
- the identity of the source of information
- information from a third party that is clearly identified as third party information
- noting of the exact words the child used to describe what happened, even if it's not Standard Australian English e.g. the word or words they used for genitals or other parts of their body, or anything else related to the disclosure or concern
- statements or descriptions made by the child, parent or third party, written **verbatim** and in quotation (" ") marks
- professional judgments informed by professional training, resources and experience
- any other grounds for concern
- your response to the child
- the current situation i.e. Where is the child? Who is the child with?

Do not include:

- your opinions, for example, "the parent used excessive discipline"
- your personal conclusions about the type of abuse suspected
- your interpretation of what the child or others said.

Language:

- use clear, explicit, unambiguous, objective language
- use the first person singular, for example, "I saw..."
- use the names of people involved rather than she, he, etc.
- if the child uses any language other than English to describe an incident, document those words
- avoid jargon used within the organisation that may not be understood by others who read the report
- only use terms such as 'probably' or 'likely' if there is a reasonable degree of certainty.



Department of
Education

CHILD PROTECTION IN DEPARTMENT OF EDUCATION SITES PROCEDURES FOR BOARDING SUPERVISORS

EFFECTIVE: 1 MAY 2024

VERSION: 3.8 FINAL

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1 POLICY SUPPORTED

Child Protection in Department of Education Sites Policy

2 SCOPE

These procedures apply to boarding supervisors in residential settings.

Guidance

These procedures apply to staff who hold an office or position at a boarding facility/residential setting; 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 professional learning every three years from the date of completion.

Guidance

*Enrolment occurs automatically for staff who have an E number.
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 residential college 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.

Refer to: [Access child protection and abuse prevention online professional learning](#) (staff only) for further information.

3.2 CHILD ABUSE PREVENTION EDUCATION

Boarding supervisors in residential settings must implement protective behaviours education for all students.

Guidance

For further information, refer to [Access protective behaviours resources](#) and [Request child protection and abuse prevention training in Ikon](#) (staff only).

3.3 MANDATORY REPORTING OF CHILD SEXUAL ABUSE

If a boarding supervisor believes on reasonable grounds, that a child is or has been the subject of sexual abuse, and forms the belief during the course of paid or unpaid work as a boarding supervisor, and where the residential college 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 residential college manager/principal that a mandatory report has been lodged and provide the receipt number of the report and documentation of the grounds on which they formed the belief
- inform the residential college manager/principal of the advice contained in the feedback letter received from MRS following the mandatory report
- if there is the belief or concern that a child was sexually abused before 1 January 2016 and the abuse is not ongoing, follow procedures in 3.4
- if a decision to make a mandatory report has not been made but a concern is held, follow procedures in 3.4.

If the residential college manager/principal is the person alleged to have committed the abuse or may be biased towards the person alleged to have committed the abuse, boarding supervisors must:

- make a report to the Manager Residential Colleges or in the case of Agricultural Colleges, to the Director of Education who will advise the Department's Standards and Integrity Directorate (SID)
- make an online mandatory report
- make a verbal report to the MRS which must be followed up with an online or written mandatory report.

Boarding supervisors must not provide a copy of their mandatory report to the residential college manager/principal for storage or store their own copy of the report in Department of Education files (refer to procedures 3.14).

Boarding supervisors must not:

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

Guidance

Refer to the relevant services in Ikon including Form the belief that a child is or has been the subject of sexual abuse and Make a mandatory report of child sexual abuse in Manage child protection at your school! (staff only).

*The definition of sexual abuse from the Children and Community Services Act 2004 (s124A):
Sexual abuse, in relation to a child, includes sexual behaviour in circumstances where:
(a) the child is the subject of bribery, coercion, a threat, exploitation or violence
(b) the child has less power than another person involved in the behaviour
(c) there is a significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.*

Children under 13 years of age are deemed to be incapable of consenting to sexual activity.

Prior to lodging a mandatory report, the boarding supervisor may consult with their residential college manager/principal, local Department of Communities office or the MRS duty officer or the Department of Education's Service Response (Child Protection) staff on (08) 9402 6124..

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

The boarding supervisor is not required to make their own mandatory report if a report has already been made by a boarding supervisor or residential college manager for the belief based on the same reasonable grounds and the mandatory report receipt number has been provided to the residential college manager as proof.

A child can be subject to a number of mandatory reports by different mandatory reporters.

Unless a boarding supervisor or residential college manager has proof that a report has been submitted regarding child sexual abuse, mandatory reporting requirements apply. For further explanation, please refer to the Children and Community Services Act 2004 s124B(3):

(3) In a prosecution for an offence under subsection (1) it is a defence for the person charged to prove that he or she honestly and reasonably believed that:

- (a) all of the reasonable grounds for his or her belief were the subject of a report made by another person*
- (b) the CEO had caused, or was causing, inquiries to be made under section 31 about the child's wellbeing*
- (c) the CEO had taken, or was taking, action under section 32 in respect of the child's wellbeing.*

Mandatory reporting requirements apply when working in the role of a boarding supervisor, whether at their own residential setting or another residential setting, in either a paid or unpaid capacity. Mandatory reporting requirements do not apply to a boarding supervisor who is working in another role such as when employed as a cleaner or cook.

If the belief is formed when not working in their role as a boarding supervisor, there is no legal requirement to report. However, the Department of Education strongly recommends a report be made to the Department of Communities

The legal penalties in accordance with the Children and Community Services Act (2004) for a mandatory reporter who fails to report the belief that a child is or has been the subject of 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 the belief formed on reasonable grounds that a child is or has been the subject of 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 boarding supervisor can add information to the mandatory report by quoting the receipt number or the child's name to MRS.

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

Mandatory reporting does not apply to students who are over 18 years of age. Refer to section 3.9.

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

A boarding supervisor may consult with the Manager Residential Colleges or in the case of agricultural colleges, the Director of Education or SID, if the alleged child sexual abuse concerns a residential college manager/principal.

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

When there is a concern for the safety of a mandatory reporter, the residential college manager/principal may contact the relevant Regional Education Office, Manager Residential Colleges, WA Police and/or the Department of Communities to assist. For further information refer to Ikon: Support a staff member who has reported child abuse and Access support after reporting child abuse (staff only).

If boarding supervisors have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.4 REPORT CONCERN OF CHILD SEXUAL ABUSE

If the belief that a child is or has been the subject of sexual abuse is **not** formed, but a child protection concern of child sexual abuse is held, boarding supervisors must:

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

Boarding supervisors must not:

- inform parents that a report has been made
- interview the child or children involved
- investigate the concern
- collect photographic evidence
- keep records or documentation
- inform the person alleged to be responsible for the abuse that a child protection concern is held.

Guidance

If the residential college manager forms the belief that a child is or has been the subject of sexual abuse, mandatory reporting requirements apply even if the staff member providing the information has not formed the same belief.

If boarding supervisors have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.5 REPORT CONCERN OF PHYSICAL OR EMOTIONAL ABUSE, FAMILY 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 residential college manager/principal
- inform the Manager Residential Colleges or, in the case of agricultural colleges, the Director of Education if the residential college manager/principal is the alleged perpetrator.

Boarding supervisors must not:

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

Guidance

Being exposed to family violence is considered to be emotional abuse and may also be physical abuse.

If a boarding supervisor holds a child protection concern involving a child or children, outside of their work role, boarding supervisors may report their concern to the Department of Communities as a private citizen.

If boarding supervisors have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

Refer to Appendix C for more information on completing documentation.

3.6 REPORT AN ALLEGATION OF PHYSICAL, EMOTIONAL OR SEXUAL ABUSE COMMITTED BY STAFF

Boarding supervisors must:

- report all allegations of abuse perpetrated by staff to the residential college manager/principal
- if the residential college manager/principal is the person alleged to have committed the abuse or may be biased towards the staff member alleged to have committed the abuse, make a referral to the Manager Residential Colleges or, in the case of agricultural schools, the Director of Education
- follow the mandatory reporting procedures 3.3 if the belief is formed that a child is or has been the subject of sexual abuse.

Boarding supervisors must not:

- interview the child
- investigate the allegation
- inform the person alleged to have committed the abuse 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 in the residential setting.

The Department's Standards and Integrity Directorate may be consulted prior to reporting.

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

Certain behaviour towards students, while not illegal, may not be within appropriate professional boundaries. Refer to the Code of Conduct and Standards (staff only).

Sexual harassment is dealt with in the Equal Opportunity, Discrimination and Harassment policy. In some cases sexual harassment of students may also be child sexual abuse. Refer to the definition of child sexual abuse in Section 4 of these procedures.

If boarding supervisors have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.7 REPORT AN ALLEGATION OF SEXUAL ABUSE COMMITTED BY A STUDENT DURING SUPERVISED RESIDENTIAL SETTING ACTIVITIES

Boarding supervisors must:

- report all incidents of sexual abuse committed by a student during supervised college activities to the residential college manager/principal
- make a mandatory report if appropriate, following procedures in 3.3.

Boarding supervisors must not:

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

Guidance

Sexual abuse of a child by another child is any sexual behaviour that involves the use of bribery, coercion, a threat, exploitation or violence or when on child has less power than the other or when there is significant disparity in the developmental function or maturity of the children involved.

Examples are: unwanted touching, unwanted kissing, exposure to sexual acts, exposure to pornographic materials and sexual penetration of the genitals or mouth.

Sexual behaviour that is outside of the normal developmental range may be an indicator that child sexual abuse has occurred. Sexual behaviour that is within the normal developmental range is not usually child sexual abuse. For more information refer to Ikon: Respond to sexual behaviour in students(staff only).

If boarding supervisors have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.8 RESPOND 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 outside of residential setting hours, boarding supervisors must inform the residential college manager/principal as a matter of priority.

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

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

Guidance

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

The residential college manager/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 residential college manager/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 reported to the Department's Standards and Integrity Directorate (SID). For further information refer to Report staff misconduct in Ikon (staff only).

If boarding supervisors have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.10 RESPOND TO STUDENTS IN POSSESSION OF SEXUALLY EXPLICIT OR CHILD EXPLOITATION MATERIAL

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

- secure the device (if circumstances permit)
- report the incident to the residential college manager/principal
- follow reporting procedures in 3.3 or 3.4 as applicable.

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
- inform the person alleged to have committed the abuse that an allegation has been made.

Guidance

Please refer to the definition of 'Child Exploitation Material' in Section 4 of these procedures.

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

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*
- *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.

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

If boarding supervisors have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

Further information and resources can be found on the website of the Office of the eSafety Commissioner and in Ikon (staff only).

For information related to Western Australia's Intimate Image laws (Chapter XXVA of the Criminal Code Act) which came into effect on 15 April 2019, please refer to the Frequently Asked Questions.

3.11 RESPOND TO SPECIFIC CHILD PROTECTION ISSUES

3.11.1 FEMALE GENITAL MUTILATION/CUTTING

Boarding supervisors must:

- report to the residential college manager/principal all concerns that a student may be subjected to female genital mutilation/cutting (FGM/C) or arrangements are being made to carry out the procedure
- follow reporting procedures in 3.5.

Boarding supervisors must not inform the parent of the concern or the report.

Guidance

The Department of Communities has advised that employees of state government agencies should report the practice or risk of FGM/C as a form of physical abuse. FGM/C is also reported to WA Police as the practice is a criminal offence in Western Australia, as is taking the child from the state with the intention of having the child subjected to FGM/C. Concerns of FGM/C are reported to WA Police by the residential college manager/principal.

For further information refer to Section 306 of the Criminal Code and Report female genital mutilation/cutting of a student in Ikon (staff only).

3.11.2 FORCED MARRIAGE

Boarding supervisors must:

- report to the residential college manager/principal any concerns for a child under 18 years of age who has been forced or coerced into a marriage or is in an existing marriage
- follow reporting procedures in 3.3.

Boarding supervisors must not inform the parent of the concern or report.

Guidance

If boarding supervisors have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

For further information refer to sections 270.7A and 270.7B of the Commonwealth Criminal Code Act (1995) and to Report forced marriage of a student in Ikon (staff only).

3.12 SUPPORT CHILDREN AFFECTED BY ABUSE

Boarding supervisors must:

- support children affected by abuse, including children who are alleged to have committed the abuse
- 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. Refer to Support a student affected by abuse or neglect in Ikon (staff only).

Staff should consult with appropriate school and Education Regional Office staff to develop strategies to support the student, whilst maintaining student confidentiality.

Staff should consult with the Sexual Assault Resource Centre resources when supporting students harmed by sexual assault.

As appropriate, the student should be provided with the option of who their support person is and involved in decisions that directly affect them and provided with relevant information.

The student and their family may be provided with the option to 'opt out' of support and intervention.

School based strategies and or interventions should not disadvantage the student harmed, for example, the student should not be moved out of their class, unless at the request of the student or family.

In circumstances where the student alleged to have committed the abuse resides at the same residential setting, a safety plan should be developed by the residential college manager in collaboration with the student and their family.

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

If boarding supervisors have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.13 COMMUNICATE TO PARENTS

3.13.1 WHEN A MANDATORY REPORT OR CHILD ABUSE REPORT HAS BEEN MADE

Boarding supervisors must not:

- inform parents of a mandatory report or report of child abuse
- disclose the identity of the mandatory reporter (if known) or the person alleged to have committed the abuse.

Guidance

The parent may be responsible for the abuse and advising them that the residential setting has made a mandatory report or child abuse report may compromise an investigation.

3.13.2 WHEN THERE IS A CONCERN OF CHILD ABUSE AND A MANDATORY REPORT OR CHILD ABUSE REPORT HAS NOT YET BEEN MADE

Boarding supervisors must not inform parents:

- that physical or behavioural indicators have been observed in their child which have led to the belief or concern of child abuse
- of a concern of family violence
- of an intention to make a report concerning their child to the Department of Communities, the Mandatory Reporting Service (MRS), WA Police and/or the Department's Standards and Integrity Directorate (SID).

Guidance

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

3.13.3 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 residential college manager/principal
- follow reporting procedures in 3.3 or 3.4 or 3.7 if applicable.

Boarding supervisors must not interview the child or children involved.

Guidance

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

In Western Australia, the legal age for people to consent to sexual activity is 16 years of age. Sexual behaviour involving students aged 13 to under 16 years of age may not necessarily constitute sexual abuse. If the belief is formed that a child is or has been the subject of sexual abuse, a mandatory report must be submitted as per procedure 3.3. Refer to Ikon: Form the belief that a child is or has been the subject of sexual abuse (staff only). 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 deemed under the Criminal Code as incapable of consenting to a sexual relationship and this should be reported to WA Police and obtain a police record number, if a mandatory report of child sexual abuse is not submitted.

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

- *it is not in the best interests of the child*
- *a report of child sexual abuse or other form of abuse is made.*

If boarding supervisors have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.14 RECORDKEEPING AND DOCUMENTATION

Boarding supervisors must:

- document all child protection concerns
- provide documentation to the residential college manager/principal.

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. 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 Department of Communities, WA Police and/or SID in their investigations. For further information refer to Respond to an order to produce documents to a court or WA Police (staff only).

Refer to Appendix C for more information on completing documentation.

3.15 CONFIDENTIALITY

Boarding supervisors must protect the identity of a staff member who submits a child abuse report.

When a student discloses information that leads to a concern of child abuse boarding supervisors must not promise confidentiality.

Guidance

Boarding supervisors may consult with appropriate school and Education Regional Office staff, as necessary and must at all times maintain confidentiality.

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 to the Department of Communities, WA Police or the Department's Standards and Integrity Directorate (SID).

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. However, 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 Respond to student disclosure of abuse in Ikon (staff only).

Refer to Appendix D and Share confidential child protection information in Ikon (staff only).

3.16 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 residential college manager/principal.

Guidance

Where there is concern for the safety of the boarding supervisor following a report, the residential college manager/principal may consult with the Manager Residential Colleges and/or regional education office to implement a risk management plan. This may include informing WA Police and the Department of Communities.

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

For further information refer to Appendix B and Access support after reporting child abuse in Ikon (Staff only).

3.17 WA POLICE ARRESTING A STUDENT ON A SCHOOL OR RESIDENTIAL COLLEGE SITE

Boarding supervisors must:

- liaise with WA Police to determine whether the arrest of the student on the residential site is justified
- in line with section 242 of the *School Education Act 1999*, share any relevant information with the WA Police including the identity of the student, attendance data and parent information
- arrange a time with WA Police to come on the residential site
- ensure the arrest is conducted discreetly
- phone the Manager, Incident Support Unit at 9264 5393.

Principals must not refuse the arrest of a student on a residential site if it has been established there is an immediate risk of harm to anyone.

Guidance

The Department has a Memorandum of Understanding – Arrests of Students on Department of Education Premises with the WA Police, which specifies the process for WA Police officers to attend a public school site or residential site for the planned arrest of a student.

The officer in charge of the local police station will establish a channel of communication with the school principal/boarding supervisor prior to this occurring.

WA Police will do a risk assessment which considers risk of harm to others, immediacy of resolving an incident, whether evidence may be lost or destroyed or other exceptional circumstances which require immediate police action.

WA Police ensure contact is made with the principal/boarding supervisor of the school/residential site to inform them of the circumstances necessitating the arrest of the student.

WA Police make appropriate arrangements with the principal/boarding supervisor for attending the school/residential site, to ensure the arrest is done in a discreet manner to reduce the impact on the student, the student's family and the school/residential site.

4 DEFINITIONS

ALLIED PROFESSIONALS

Allied professionals are those staff employed under s235(1)(a)(c)-(d) of the School Education Act 1999.

Allied professionals who are not categorised as school counsellors are non-mandatory reporters. When reporting any type of child abuse, including sexual abuse, these allied professionals are required to follow the procedures for allied professionals.

Allied professionals who fall within the category of school counsellor (see definition) are mandatory reporters of child sexual abuse and are required to follow the procedures for school counsellors.

BELIEF ON REASONABLE GROUNDS

'Believes on reasonable grounds' means that a reasonable person, doing the same work, would have formed the same belief on those grounds. Grounds for forming the belief are matters of which you have become aware, and any opinions in relation to those matters.

A mandatory reporter does not have to be able to prove that harm has occurred. Professional judgement and objective observation help to identify warning signs or possible indicators of child sexual abuse and contribute to a reporter forming the belief on reasonable grounds. Knowledge of child development and consultation with colleagues or other professionals can also contribute to reasonable grounds.

Reasonable grounds may include:

- your own observations of a child's behaviour
- your own observations of the behaviour of an adult interacting with the child
- when a child tells you they, or another child, has been harmed
- when you hear about it from someone who is in a position to provide reliable information, perhaps a relative or friend, neighbour or sibling of a child who is at risk.

Mandatory reporters must specify the grounds on which they formed the belief that a child has been, or is being, sexually abused.

(Mandatory Reporting Guide: Western Australia).

If you are a mandatory reporter and you have not formed the belief that a child has been or is being sexually abused but are sufficiently concerned, it is recommended that you consult with staff with expertise in this area, such as the Department's child protection consultants.

Refer to Ikon: Form the belief that a child is or has been the subject of sexual abuse and Recognise signs of child abuse in Manage child protection at your school (staff only).

BOARDING FACILITY

Means a place used to provide residential accommodation for children while they attend a school as defined in the School Education Act 1999 (Children and Community Services Act 2004 Section 124A).

BOARDING SUPERVISOR

Means a person who holds an office or position in a boarding facility; the duties of which include the supervision of children living at the facility (Children and Community Services Act 2004 Section 124A).

Department of Education residential settings commonly use the terms boarding supervisor and residential supervisor to describe a boarding supervisor.

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 (Children and Community Services Act 2004 Section 124A).

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 significant harm to the child's wellbeing. It may involve ongoing, repeated or persistent abuse, or arise from a single incident.

CHILD EXPLOITATION MATERIAL

Child exploitation material is (a) child pornography; or (b) material that, in a way likely to offend a reasonable person, describes, depicts or represents a person, or part of a person, who is, or appears to be, a child (i) in an offensive or demeaning context; or (ii) being subjected to abuse, cruelty or torture (whether or not in a sexual context).

Child pornography is material that, in a way likely to offend a reasonable person, describes, depicts or represents a person, or part of a person, who is, or appears to be a child (a) engaging in sexual activity; or (b) in a sexual context.

Material includes (a) any object, picture, film, written or printed matter, data or other thing; and (b) anything from which text, pictures, sound or data can be produced or reproduced, with or without the aid of anything else (Child Pornography and Exploitation Material and Classification Legislation Amendment Act 2010 s216).

Sexting (sex + texting) is the sending and receiving of sexually explicit or sexually suggestive texts or images via phone or internet.
(Australian Institute of Family Studies 2018).

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 development of the child
- the physical, emotional and psychological health 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
- responds appropriately to any disclosures, allegations or suspicions of harm.

Refer to Manage child protection at your school in Ikon (staff only).

CONFIDENTIALITY

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

DOCUMENTED PLAN

Documented Plan is an umbrella term used to describe a range of ways of catering for the educational needs of individual or smaller groups of students with identified needs. It is primarily a teaching and learning planning document and it identifies short to medium term education outcomes.

Documented Plans take a variety of forms, including: Individual education plans (IEPs); Individual behaviour management plans (IBMPs); Individual transition plans (ITP); Risk management plans (RMP); Risk Assessment and Management Plans (RAMPs) and Documented Education Plans (DEP).

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 family violence.

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

FAMILY VIOLENCE

Family violence is a reference to:

- (a) violence, or a threat of violence, by a person towards a family member of the person
- (b) any other behaviour by the person that coerces or controls the family member or causes the member to be fearful.

A child is **exposed to** family violence or personal violence if the child sees or hears the violence or otherwise experiences the effects of the violence.

Examples of behaviour that may constitute family violence include (but are not limited to) the following:

- (a) an assault against the family member
- (b) a sexual assault or other sexually abusive behaviour against the family member
- (c) stalking or cyber-stalking the family member
- (d) repeated derogatory remarks against the family member
- (e) damaging or destroying property of the family member
- (f) causing death or injury to an animal that is the property of the family member
- (g) unreasonably denying the family member the financial autonomy that the member would otherwise have had
- (h) unreasonably withholding financial support needed to meet the reasonable living expenses of the family member, or a child of the member, at a time when the member is entirely or predominantly dependent on the person for financial support
- (i) preventing the family member from making or keeping connections with the member's family, friends or culture
- (j) kidnapping, or depriving the liberty of, the family member, or any other person with whom the member has a family relationship
- (k) distributing or publishing, or threatening to distribute or publish, intimate personal images of the family member
- (l) causing any family member who is a child to be exposed to behaviour referred to in this section.

(Restraining Orders Act 1997 s5A & Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016).

FEMALE GENITAL MUTILATION/CUTTING

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

HARM

Harm, in relation to a child, means any detrimental effect of a significant nature on the child's wellbeing, whether caused by:

- (a) a single act, omission or circumstance
 - (b) a series or combination of acts, omissions or circumstances;
- Children and Community Services Act 2004.*

MANDATORY REPORTER

The legislation covering mandatory reporting of child sexual abuse in Western Australia is the Children and Community Services Act 2004.

Under section 124B of the *Children and Community Services Act 2004*, a specified person whose duty to report child sexual abuse (a Mandatory Reporter) is a person who is working in their role either paid or in a voluntary capacity as a Department of Communities assessor or a department officer, midwife, nurse, police officer, boarding supervisor, doctor, minister of religion, out of home care worker, teacher, psychologist or school counsellor.

For the purposes of the legislation, 'teacher' is defined as any person registered under the Teacher Registration Act 2012 with the Teacher Registration Board of WA or with Provisional Registration, or Limited Registration and is working as a teacher.

For the purposes of the legislation, 'boarding supervisor' is defined as 'a person who holds an office or position at a boarding facility the duties of which include the supervision of children living at the (boarding) facility'.

For the purposes of the legislation, 'psychologist' is defined as a person who is registered under the *Health Practitioner Regulation National Law (WA) Act 2010* in the psychology profession (other than as a student).

For the purposes of the legislation, 'school counsellor' is defined as an adult who is employed or engaged in a school (as defined in the *School Education Act 1999* section 4) to provide counselling or pastoral care to children who attend the school. It does not include adults employed or engaged as a student or volunteer.

Staff who are registered under the Teacher Registration Act 2012 with the Teacher Registration Board of WA and who are not a mandatory reporter of child sexual abuse are required under this policy to report child sexual abuse to the principal.

MANDATORY REPORTING LEGISLATION

Section 124B of the *Children and Community Services Act 2004*.

Duty of certain people to report sexual abuse of children

- (1) A person who:
- (a) is a person specified in the Table (a **specified person**); and

Table

assessor	boarding supervisor
departmental officer	doctor
midwife	minister of religion
nurse	out-of-home care worker
police officer	teacher
school counsellor	psychologist

Early childhood worker (commencement day 1 November 2024)	Youth Justice Worker (commencement day 1 May 2025)
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- (b) believes on reasonable grounds that a child:
- (i) has been the subject of sexual abuse that occurred on or after commencement day; or
 - (ii) is the subject of ongoing sexual abuse;
- and
- (c) forms the belief:
- (i) in the course of the person's work (whether paid or unpaid) as a specified person; and
 - (ii) on or after commencement day.

must report the belief as soon as practicable after forming the belief.

Penalty for this subsection: a fine of \$6,000.

Commencement day is the date on which the person becomes a mandatory reporter under the legislation. The duty to report sexual abuse applies if the reporter forms the belief on or after commencement day. Commencement day varies for different reporter groups.

In a school context, the duty to report sexual abuse applies to a teacher, boarding supervisor, psychologist or school counsellor working in their role either in a paid or voluntary capacity.

If the belief that a child is or has been the subject of sexual abuse is formed when not working in their role, then there is no legal duty to report. However, a report to the Department of Communities can be made voluntarily.

NEGLECT

Neglect includes failure by a child's parents to provide, arrange, or allow the provision of:

- (a) adequate care for the child
- (b) effective medical, therapeutic or remedial treatment for the child.

Children and Community Services Act 2004.

Omission of care (from the Department of Communities Neglect policy 2021).

When a child does not receive adequate food or shelter, medical treatment, supervision, care or nurturance to the extent that their development is harmed, or they are injured.

Cumulative harm (from the Department of Communities Neglect policy 2021).

Refers to the effects of multiple adverse or harmful circumstances and events in a child's life. The unremitting daily impact of these experiences on the child can be profound and exponential, and diminish a child's sense of safety, stability and wellbeing.

It is possible to have cumulative abuse (multiple events over time) that results in harm that is cumulative in nature (the impact of the events has been cumulative).

NON-MANDATORY REPORTER

In a school context, all staff who are not working in the role of a teacher, school psychologist, school counsellor or boarding supervisor are non-mandatory reporters. When reporting child sexual abuse, non-mandatory reporters are required to follow the procedures for allied professionals.

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 scalding; 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.

PSYCHOLOGIST

A psychologist is defined as a person who is registered under the *Health Practitioner Regulation National Law (WA) Act 2010* in the psychology profession (other than as a student).

Psychologists are mandatory reporters. When reporting any type of child abuse, including child sexual abuse, school psychologists are required to follow the procedures for school psychologists.

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.

RESIDENTIAL COLLEGE MANAGER

The residential college manager has the same mandatory reporting responsibilities as a boarding supervisor and is responsible for the line-management of other boarding supervisors and operations in a residential setting. Department of Education residential settings commonly use the terms residential college manager, college manager or head of residence to describe a residential college manager.

RESIDENTIAL SETTING

A place used to provide residential accommodation and related services for students while they attend, and participate in an educational programme of, a school as defined in the *School Education Act 1999* section 4, 213A and 213B. Also referred to as a student residential college or boarding facility and does not include private arrangements.

RESIDENTIAL SETTING ACTIVITY

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

SCHOOL ACTIVITY

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

SCHOOL COUNSELLOR

A school counsellor is defined as an adult who is employed or engaged in a school (as defined in the *School Education Act 1999* section 4) to provide counselling or pastoral care to children who attend the school. It does not include adults employed or engaged as a student or volunteer (*Children and Community Services Act 2004*).

In the Department of Education, school counsellors are allied professionals and third-party providers with either of the terms 'pastoral care' or 'counselling' listed in their job title, JDF or relevant service agreement. This includes chaplains, wellbeing officers, Aboriginal and Islander Education Officers and some third-party providers.

School counsellors are mandatory reporters of child sexual abuse. When reporting any type of child abuse, including child sexual abuse, school counsellors are required to follow the procedures for school counsellors.

SEXUAL ABUSE

Sexual abuse, in relation to a child, includes sexual behaviour in circumstances where:

- (a) the child is the subject of bribery, coercion, a threat, exploitation or violence
- (b) the child has less power than another person involved in the behaviour
- (c) there is a significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.

(s124A *Children and Community Services Act 2004*).

Some examples are: letting a child watch or read pornography; allowing a child to watch sexual acts; touching a child's genitals; 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.

SEXUAL HARASSMENT

Sexual harassment under the Equal Opportunity Act 1984 (WA) occurs when a person makes an unwelcome sexual advance or request for sexual favours, or engages in other unwelcome conduct of a sexual nature, towards another person and that person is disadvantaged, or has reasonable grounds for believing he or she will be disadvantaged, by taking objection. Sexual harassment is unlawful in the areas of employment, education, and accommodation.

STAFF

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

STUDENT RESIDENTIAL COLLEGE

A place used to provide residential accommodation and related services for students while they attend, and participate in an educational programme of, a school as defined in the School Education Act 1999 section 4, 213A and 213B. More commonly known as residential setting or residential college.

5 RELATED DOCUMENTS

RELEVANT LEGISLATION OR AUTHORITY

Australian Psychological Society Code of Ethics 2007

Child Pornography and Exploitation Material and Classification Legislation Amendment Act 2010

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 Amendment (Education Standards) Bill 2004 (Cth)

Equal Opportunity Act 1984 (WA)

Freedom of Information Act 1992

Public Sector Management Act 1994 (WA)

Public Interest Disclosure Act 2003 (WA)

Restraining Orders Act 1997 (WA)

Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016)

School Education Act 1999 (WA)

School Education Regulations 2000 (WA)

Sex Discrimination Act 1984 (Cth)

State Records Act 2000 (WA)

Teacher Registration Act 2012 (WA)

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

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

RELATED DEPARTMENT POLICIES

Complaints and Notifications

Duty of Care for Students for Public Schools
Enrolment in Public Schools
Equal Opportunity, Discrimination and Harassment
Incident Management on Department of Education Sites
Records Management
Staff Conduct and Discipline
Student Attendance in Public Schools
Student Behaviour in Public Schools
Visitors and Intruders on Public School Premises

OTHER DOCUMENTS

Memorandum of Understanding between the Department of Communities and the Department of Education 2021 (staff only)
MOU between the Department of Education and Child and Adolescent Health Service and WA Country Health Service: 1 January 2022 – 31 December 2024 (staff only)

6 CONTACT INFORMATION

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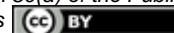
7 REVIEW DATE

25 July 2020

8 HISTORY OF CHANGES

Effective date	Last update date	Policy version no.	Ref no.	Notes
25 July 2017		3.0	D17/0217875	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.
25 July 2017	3 October 2018	3.2	D18/0435871	Minor changes to title D18/0435848, reference to Public Schools D18/0151652 and updated legislation links D18/0207680.
13 August 2019		3.3	D19/0186113	Major changes approved by the Director General on 26 July 2019. D19/0349313.
13 August 2019	19 January 2021	3.4	D21/0028211	Minor changes to replace the Regional Executive Director position title with Director of Education D20/0647278.
13 August 2019	8 July 2022	3.5	D22/0519119	Minor updates to terminology, definitions and links as per D22/0519053
13 August 2019	22 September 2023	3.6	D23/1550843	Minor change to update link to MOU D23/1550610
13 August 2019	6 October 2023	3.7	D23/1590720	Minor changes to update contact details D23/1582068

1 May 2024		3.8	D24/0134523[v2]	Major changes to reflect <i>Children and Community Services Amendment Act 2021</i> approved by Director General on 11 April 2024
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APPENDIX A. CHILD PROTECTION AND ABUSE PREVENTION EDUCATION PROFESSIONAL LEARNING

All Department of Education staff, who have contact with children and line managers of staff must complete the online Child Protection and Abuse Prevention professional learning within 6 months of enrolment in the online course.

All third-party providers, engaged through a formal service agreement with the Department of Education, who have contact with children and their Department of Education line managers must complete the online Child Protection and Abuse Prevention professional learning within 1 month 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.

There is an option for staff to retake the online Child Protection and Abuse Prevention course and receive a new date of completion prior to the three year period elapsing. Staff can select "retake" which is located next to the "play" button.

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 OF EMPLOYEES WHO REPORT CHILD ABUSE

All staff and third-party providers, engaged through a formal service agreement with the Department of Education, are protected from civil, criminal and disciplinary liability by providing information to the Department of Communities, WA Police or the Department's Standards and Integrity Directorate (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 the Department of Communities is protected and can only be released with the permission of the reporter or the court, for investigative purposes.

When there is concern for the safety of the reporter, it is important that the residential setting has a risk management plan in place. The residential college manager/principal advises the Department of Communities and/or the WA police and contacts the Manager Residential Colleges or in the case of WA Colleges of Agriculture, Regional Education Office, for further advice.

Staff are entitled to seek counselling through the Employee Assistance Program (staff only).

An employee or third-party provider, engaged through a formal service agreement with the Department of Education, 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/residential college manager, student services, the Department of Education's Service Response (Child Protection) staff or the Department of Communities on 1800 273 889.

The residential college manager/principal may complete documentation on behalf of the staff member who reports concerns of physical abuse, sexual abuse, emotional abuse or neglect.

When reporting the belief that a child is or has been the subject of sexual abuse, staff who are mandatory reporters must complete a mandatory report. The residential college manager/principal must not do this on their behalf.

The reporter should record observations and factual information about what they have seen or heard such as:

- relevant dates and times
- the identity of the source of information
- information from a third party that is clearly identified as third party information
- noting of the exact words the child used to describe what happened, even if it's not Standard Australian English e.g. the word or words they used for genitals or other parts of their body, or anything else related to the disclosure or concern
- statements or descriptions made by the child, parent or third party, written **verbatim** and in quotation (" ") marks
- professional judgments informed by within teaching professional training, resources and experience
- any other grounds for concern
- your response to the child; and
- the current situation i.e. Where is the child? Who is the child with?

Do not include:

- your opinions, for example, "the parent used excessive discipline"; and
- your personal conclusions about the type of abuse suspected; and
- your interpretation of what the child or others said.

Language:

- use clear, explicit, unambiguous, objective language
- use the first person singular, for example, "I saw..."
- use the names of people involved rather than she, he, etc.
- if the child uses any language other than English to describe an incident, document those words
- avoid jargon used within the organisation that may not be understood by others who read the report
- only use terms such as 'probably' or 'likely' if there is a reasonable degree of certainty.

APPENDIX D. CONFIDENTIALITY AND LEGAL PROTECTION

The identity of the person making a report to the Department of Communities, is protected and can only be released:

- for the purpose of the Department of Communities assessment
- for investigative purposes by a police officer
- with the written permission of the reporter
- for the purposes of court protection proceedings.

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 concerns or the belief of child abuse to the Department of Communities staff 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.

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
- 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 IN DEPARTMENT OF EDUCATION SITES PROCEDURES FOR ALLIED PROFESSIONALS

EFFECTIVE: 1 MAY 2024

VERSION: 3.8 FINAL

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1 POLICY SUPPORTED

Child Protection in Department of Education Sites Policy

2 SCOPE

These procedures apply to allied professionals in Department of Education sites.

Guidance

The procedures for allied professionals are for staff employed under s235(1)(a), (c) and (d) of the School Education Act 1999 who are not categorised as school counsellors and are therefore non-mandatory. This may include but is not limited to: managers corporate services, school officers, education assistants, library officers, laboratory technicians, home economic assistants, participation coordinators, attendance officers, youth support officers, social trainers, school based community liaison officers, home education moderators, public service officers, other officers and wages staff.

3 PROCEDURES

3.1 CHILD PROTECTION AND ABUSE PREVENTION PROFESSIONAL LEARNING

Allied professionals and their Department of Education 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-professional learning every three years from the date of completion.

Guidance

Enrolment occurs automatically for staff who have an E number.

Third-party providers are provided access via an EZ or EV 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 Ikon: [Access child protection and abuse prevention online professional learning \(staff only\)](#).

3.2 CHILD ABUSE PREVENTION EDUCATION

Allied professionals 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 [Access protective behaviours resources](#) and [Request child protection and abuse prevention training in Ikon \(staff only\)](#).

3.3 REPORT CONCERN OF CHILD ABUSE

3.3.1 REPORT SEXUAL, PHYSICAL OR EMOTIONAL ABUSE, FAMILY VIOLENCE OR NEGLECT

Allied professionals must:

- document observations, information and disclosures received, or discussed with staff
- report all child protection concerns to the line manager or principal; and
- make a report to the Director of Education or the Standards and Integrity Directorate (SID) if the principal is the person alleged responsible for the abuse or may be biased towards the person alleged responsible for the abuse.

Allied professionals must not:

- inform parents that a report has been made
- interview the child or children involved
- investigate the concern
- collect photographic evidence
- inform the person alleged to be responsible for the abuse.

Guidance

Please refer to the definition of 'Child Protection Concern' in the Definitions section of these procedures and Manage child protection at your school in Ikon (staff only).

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

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

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

Refer to Ikon: Recognise signs of child abuse and Indicators of abuse - factsheet (staff only).

Emotional abuse includes being exposed to family violence.

Child protection concern referrals are not required for students who are 18 years of age or over.

A principal or teacher may form the belief that a child is or has been subject to sexual abuse even if the allied professional has not formed the same belief.

If allied professionals have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

Allied professionals who provide information will be named in a child abuse report. When there is concern for the safety of a reporter, the principal advises the WA Police and/or Department of Communities office and contacts the relevant Regional Education Office to assist. For further information refer to Ikon: Support a staff member who has reported child abuse and Access support after reporting child abuse (staff only).

All staff are protected from civil, criminal and disciplinary liability by providing information in good faith to the Department of Communities, WA Police and/or the Department's Standards and Integrity Directorate (SID) for the purpose of investigating child abuse.

Refer to procedure 3.12 on Confidentiality.

3.3.2 REPORT ALLEGATION OF PHYSICAL, EMOTIONAL OR SEXUAL ABUSE COMMITTED BY STAFF

Allied professionals must:

- document concerning observations, information and disclosures received, or discussed with staff
- provide this documentation to line manager and principal; or
- make a report to the Director of Education or the Standards and Integrity Directorate (SID) if the principal is the person alleged responsible for the abuse or may be biased towards the person alleged responsible for the abuse.

Allied professionals must not:

- interview the child or children involved
- investigate the allegation
- inform the person alleged to be responsible for the abuse that an allegation has been made.

Guidance

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

An 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. For further information refer to Report staff misconduct in Ikon. (staff only)

Sexual harassment is dealt with in the Equal Opportunity, Discrimination and Harassment policy. In some cases sexual harassment of students may also be child sexual abuse. Refer to the definition of child sexual abuse in Section 4 of these procedures.

Allied professionals 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 the Code of Conduct and Standards (staff only).

If allied professionals have any concerns regarding the student and suicidal ideation they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.4 REPORT ALLEGATION OF SEXUAL ABUSE COMMITTED BY A STUDENT DURING SUPERVISED SCHOOL OR RESIDENTIAL COLLEGE ACTIVITIES

Allied professionals must refer all incidents of sexual abuse allegedly committed by a student during supervised school or residential college activities to the line manager and principal.

Allied professionals must not:

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

- disclose the identity of the alleged victim to the parents of the student alleged to have committed the abuse.

Guidance

*Sexual abuse of a child by another child is any sexual behaviour that involves the use of bribery, coercion, a threat, exploitation or violence **or** when one child has less power than the other **or** when there is significant disparity in the developmental function or maturity of the children involved.*

Examples are: unwanted touching, unwanted kissing, exposure to sexual acts, exposure to pornographic materials and sexual penetration of the genitals or mouth.

Sexual behaviour within the normal developmental range is not usually an indicator of child sexual abuse. Sexual behaviour outside of the normal developmental range may be an indicator that the child is or has been the subject of sexual abuse. For more information, refer to Ikon: Respond to sexual behaviour in students. (staff only)

If allied professionals have any concerns regarding the student and suicidal ideation they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.5 RESPOND 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, allied professionals must inform their line manager and principal as a matter of priority.

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

Allied professionals must report to the principal a concern for a student 18 years or over who discloses 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 (SID). For further information refer to Report staff misconduct in Ikon (staff only.)

If allied professionals have any concerns regarding the student and suicidal ideation they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.7 RESPOND TO STUDENTS IN POSSESSION OF SEXUALLY EXPLICIT OR CHILD EXPLOITATION MATERIAL

Allied professionals must report the misuse of electronic media by members of staff or students for the purposes of producing or distributing sexually explicit or child exploitation material to the line manager and principal.

Allied professionals must not:

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

Guidance

Please refer to the definition of 'Child Exploitation Material' in Section 4 of these procedures. Only 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.

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*
- *image appears to be of a person under 18 years old.*

Further information and resources can be found on the website of the [Office of the eSafety Commissioner](#) and in [Ikon](#) (staff only).

If allied professionals have any concerns regarding the student and suicidal ideation they should seek advice and consultation to increase the safety of the student, and refer to the [School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury](#).

3.8 RESPOND TO SPECIFIC CHILD PROTECTION CONCERNS

3.8.1 FEMALE GENITAL MUTILATION/CUTTING

Allied professionals must report all concerns that a student may be subjected to female genital mutilation/cutting or arrangements are being made to carry out the procedure to the line manager and principal.

Allied professionals must not inform the parent of the concern or referral.

3.8.2 FORCED MARRIAGE

Allied professionals must report to the line manager and principal any concerns for a child under 18 years of age who has been forced or coerced into a marriage or is in an existing marriage.

Allied professionals must not inform the parent of the concern.

3.9 SUPPORT STUDENTS AFFECTED BY ABUSE

Allied professionals must support students affected by abuse, including students who are alleged to have committed 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.

If allied professionals have any concerns regarding the student and suicidal ideation they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.10 COMMUNICATE TO PARENTS

3.10.1 WHEN A CHILD ABUSE REPORT HAS BEEN MADE

Allied professionals must not

- inform parents of child abuse reports made to the Department of Communities or to WA police
- disclose the identity of the reporter (if known) or the person alleged to have committed the abuse.

Guidance

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

3.10.2 WHEN A CHILD ABUSE REPORT HAS NOT BEEN MADE

Allied professionals must not inform parents:

- that physical or behavioural indicators have been observed in their child which have led to a concern of child abuse
- of a concern of family violence
- of an intention to make a report.

Guidance

A parent may be the person alleged responsible for the abuse. To inform the parent of a concern of 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.

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

Allied professionals must report to the principal a concern that a child under 16 years of age is in a sexual relationship.

Guidance

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

In Western Australia, the legal age for people to consent to sexual activity is 16 years of age.

Children under 13 years of age are deemed to be incapable of consenting to sexual activity and this should be reported to WA Police and obtain a police record number, if a mandatory report of child sexual abuse is not submitted.

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*
- *a report of child sexual abuse is made.*

3.12 RECORDKEEPING AND DOCUMENTATION

Allied professionals must:

- document all incidents of possible physical or behavioural indicators and concerns of child abuse
- provide copies to the line manager or principal for secure storage.

Guidance

Documentation kept by staff may be required by the Department of Communities, WA Police and the Department's Standards and Integrity Directorate (SID) in their investigations.

For further information refer to Appendix A.

3.13 CONFIDENTIALITY

Allied professionals must not:

- disclose the identity of a staff member who makes a child protection concern referral
- promise confidentiality when a child discloses information that leads to a concern of child abuse or family violence.

Guidance

Staff may consult with other relevant staff in a confidential manner, subject to the information being relevant to the wellbeing of the child

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

For further information refer to Appendix B.

3.14 PROTECTION AND SUPPORT FOR EMPLOYEES WHO REPORT CHILD ABUSE

Allied professionals 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 advises the Department of Communities and/or the WA Police and and contacts the regional education office for further advice

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

ALLIED PROFESSIONALS

Allied professionals are those staff employed under s235(1)(a), (c) and (d) of the *School Education Act 1999*.

Allied professionals who are not categorised as school counsellors are non-mandatory reporters. When reporting any type of child abuse, including sexual abuse, these allied professionals are required to follow the procedures for allied professionals.

Allied professionals who fall within the category of school counsellor (see definition) are mandatory reporters of child sexual abuse. They are required to follow the procedures for school counsellors.

BELIEF ON REASONABLE GROUNDS

'Believes on reasonable grounds' means that a reasonable person, doing the same work, would have formed the same belief on those grounds. Grounds for forming the belief are matters of which you have become aware, and any opinions in relation to those matters.

A mandatory reporter does not have to be able to prove that harm has occurred. Professional judgement and objective observation help to identify warning signs or possible indicators of child sexual abuse and contribute to a reporter forming the belief on reasonable grounds. Knowledge of child development and consultation with colleagues or other professionals can also contribute to reasonable grounds.

Reasonable grounds may include:

- your own observations of a child's behaviour
- your own observations of the behaviour of an adult interacting with the child
- when a child tells you they, or another child, has been harmed
- when you hear about it from someone who is in a position to provide reliable information, perhaps a relative or friend, neighbour or sibling of a child who is at risk.

Mandatory reporters must specify the grounds on which they formed the belief that a child has been, or is being, sexually abused.

(Mandatory Reporting Guide: Western Australia)

If you are a mandatory reporter and you have not formed the belief that a child has been or is being sexually abused but are sufficiently concerned, it is recommended that you consult with staff with expertise in this area, such as the Department's child protection consultants.

Refer to Ikon: Form the belief that a child is or has been the subject of sexual abuse and Recognise signs of child abuse in Manage child protection at your school (staff only).

FACILITY

Means a place used to provide residential accommodation for children while they attend a school as defined in the School Education Act 1999. (Children and Community Services Act 2004 Section 124A).

BOARDING SUPERVISOR

Means a person who holds an office or position in a boarding facility; the duties of which include the supervision of children living at the facility (Children and Community Services Act 2004 Section 124A).

Department of Education residential settings commonly use the terms boarding supervisor and residential supervisor to describe a boarding supervisor.

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 (Children and Community Services Act 2004 Section 124A).

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 significant harm to the child's wellbeing. It may involve ongoing, repeated or persistent abuse, or arise from a single incident.

CHILD EXPLOITATION MATERIAL

Child exploitation material is (a) child pornography; or (b) material that, in a way likely to offend a reasonable person, describes, depicts or represents a person, or part of a person, who is, or appears to be, a child (i) in an offensive or demeaning context; or (ii) being subjected to abuse, cruelty or torture (whether or not in a sexual context).

Child pornography is material that, in a way likely to offend a reasonable person, describes, depicts or represents a person, or part of a person, who is, or appears to be a child (a) engaging in sexual activity; or (b) in a sexual context.

Material includes (a) any object, picture, film, written or printed matter, data or other thing; and (b) any thing from which text, pictures, sound or data can be produced or reproduced, with or without the aid of anything else.

(*Child Pornography and Exploitation Material and Classification Legislation Amendment Act 2010 s216*).

Sexting (sex + texting) is the sending and receiving of sexually explicit or sexually suggestive texts or images via phone or internet (Australian Institute of Family Studies 2018).

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 development of the child
- the physical, emotional and psychological health 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 Manage child protection at your school in Ikon (staff only).

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 PLAN

Documented Plan is an umbrella term used to describe a range of ways of catering for the educational needs of individual or smaller groups of students with identified needs. It is primarily a teaching and learning planning document and it identifies short to medium term education outcomes.

Documented Plans take a variety of forms, including: Individual education plans (IEPs); Individual behaviour management plans (IBMPs); Individual transition plans (ITP); Risk management plans (RMP); and Documented Education Plans (DEP).

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 family violence.

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

FAMILY VIOLENCE

Family violence is a reference to:

- (a) violence, or a threat of violence, by a person towards a family member of the person
- (b) any other behaviour by the person that coerces or controls the family member or causes the member to be fearful.

A child is **exposed to** family violence or personal violence if the child sees or hears the violence or otherwise experiences the effects of the violence.

Examples of behaviour that may constitute family violence include (but are not limited to) the following:

- (a) an assault against the family member
- (b) a sexual assault or other sexually abusive behaviour against the family member
- (c) stalking or cyber-stalking the family member
- (d) repeated derogatory remarks against the family member
- (e) damaging or destroying property of the family member
- (f) causing death or injury to an animal that is the property of the family member
- (g) unreasonably denying the family member the financial autonomy that the member would otherwise have had
- (h) unreasonably withholding financial support needed to meet the reasonable living expenses of the family member, or a child of the member, at a time when the member is entirely or predominantly dependent on the person for financial support
- (i) preventing the family member from making or keeping connections with the member's family, friends or culture
- (j) kidnapping, or depriving the liberty of, the family member, or any other person with whom the member has a family relationship
- (k) distributing or publishing, or threatening to distribute or publish, intimate personal images of the family member
- (l) causing any family member who is a child to be exposed to behaviour referred to in this section.

(Restraining Orders Act 1997 s5A & Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016).

FEMALE GENITAL MUTILATION/CUTTING

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

HARM

Harm, in relation to a child, means any detrimental effect of a significant nature on the child’s wellbeing, whether caused by:

- (a) a single act, omission or circumstance
- (b) a series or combination of acts, omissions or circumstances;

Children and Community Services Act 2004.

MANDATORY REPORTER

In Western Australia, the legislation covering mandatory reporting of child sexual abuse is the Children and Community Services Act 2004.

Under section 124B of the *Children and Community Services Act 2004*, a specified person whose duty to report child sexual abuse (a Mandatory Reporter) is a person who is working in their role either paid or in a voluntary capacity as a Department of Communities assessor or a department officer, midwife, nurse, police officer, boarding supervisor, doctor, minister of religion, out of home care worker, teacher, psychologist and school counsellor.

For the purposes of the legislation, ‘teacher’ is defined as any person registered under the Teacher Registration Act 2012 with the Teacher Registration Board of WA or with Provisional Registration, or Limited Registration and is working as a teacher.

For the purposes of the legislation, ‘boarding supervisor’ is defined as ‘a person who holds an office or position at a boarding facility the duties of which include the supervision of children living at the (boarding) facility’.

For the purposes of the legislation, ‘psychologist’ is defined as a person who is registered under the *Health Practitioner Regulation National Law (WA) Act 2010* in the psychology profession (other than as a student).

For the purposes of the legislation, school counsellor’ is defined as an adult who is employed or engaged in a school (as defined in the *School Education Act 1999* section 4) to provide counselling or pastoral care to children who attend the school. It does not include adults employed or engaged as a student or volunteer.

Staff who are registered under the Teacher Registration Act 2012 with the Teacher Registration Board of WA, and who are not a mandatory reporter of child sexual abuse are required under this policy to report child sexual abuse to the principal.

MANDATORY REPORTING LEGISLATION

Section 124B of the *Children and Community Services Act 2004*.

Duty of certain people to report sexual abuse of children:

- (1) A person who:
 - (a) is a person specified in the Table (a **specified person**); and

Table

assessor	boarding supervisor
departmental officer	doctor

midwife	minister of religion
nurse	out-of-home care worker
police officer	teacher
school counsellor	psychologist
Early childhood worker (commencement day 1 November 2024)	Youth Justice Worker (commencement day 1 May 2025)

- (b) believes on reasonable grounds that a child:
 - (i) has been the subject of sexual abuse that occurred on or after commencement day; or
 - (ii) is the subject of ongoing sexual abuse
 and
- (c) forms the belief:
 - (i) in the course of the person's work (whether paid or unpaid) as a specified person; and
 - (ii) on or after commencement day.

must report the belief as soon as practicable after forming the belief.

Penalty for this subsection: a fine of \$6,000.

Commencement day is the date on which the person becomes a mandatory reporter under the legislation. The duty to report sexual abuse applies if the reporter forms the belief on or after commencement day. Commencement day varies for different reporter groups.

In a school context, the duty to report sexual abuse applies to a teacher, boarding supervisor, psychologist or school counsellor working in their role either in a paid or voluntary capacity.

If the belief that a child is or has been the subject of sexual abuse is formed when not working in their role, then there is no legal duty to report. However, a report to the Department of Communities can be made voluntarily.

NEGLECT

Omission of care (from the Department of Communities Neglect policy 2021).

When a child does not receive adequate food or shelter, medical treatment, supervision, care or nurturance to the extent that their development is harmed, or they are injured.

Cumulative harm (from the Department of Communities Neglect policy 2021).

Refers to the effects of multiple adverse or harmful circumstances and events in a child's life. The unremitting daily impact of these experiences on the child can be profound and exponential, and diminish a child's sense of safety, stability and wellbeing.

It is possible to have cumulative abuse (multiple events over time) that results in harm that is cumulative in nature (the impact of the events has been cumulative).

NON-MANDATORY REPORTER

In a school context, all staff who are not working in the role of a teacher, school psychologist, school counsellor or boarding supervisor are non-mandatory reporters. When reporting child sexual abuse, non-mandatory reporters are required to follow the procedures for allied professionals.

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 scalding; 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.

PSYCHOLOGIST

A psychologist is defined as a person who is registered under the *Health Practitioner Regulation National Law (WA) Act 2010* in the psychology profession (other than as a student).

Psychologists are mandatory reporters. When reporting any type of child abuse, including child sexual abuse, school psychologists are required to follow the procedures for school psychologists.

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.

RESIDENTIAL COLLEGE MANAGER

The residential college manager has the same mandatory reporting responsibilities as a boarding supervisor and is responsible for the line-management of other boarding supervisors and operations in a residential setting. Department of Education residential settings commonly use the terms residential college manager, college manager or head of residence to describe a residential college manager.

RESIDENTIAL SETTING

A place used to provide residential accommodation and related services for students while they attend, and participate in an educational programme of, a school as defined in the *School Education Act 1999* section 4, 213A and 213B. Also referred to as a student residential college or boarding facility and does not include private arrangements.

RESIDENTIAL SETTING ACTIVITY

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

SCHOOL ACTIVITY

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

SCHOOL COUNSELLOR

A school counsellor is defined as an adult who is employed or engaged in a school (as defined in the *School Education Act 1999* section 4) to provide counselling or pastoral care to children who attend the school. It does not include adults employed or engaged as a student or volunteer. (*Children and Community Services Act 2004*)

In the Department of Education, school counsellors are allied professionals and third-party providers with either of the terms 'pastoral care' or 'counselling' listed in

their job title, JDF or relevant service agreement. This includes chaplains, wellbeing officers, Aboriginal and Islander Education Officers and some third-party providers.

School counsellors are mandatory reporters of child sexual abuse. When reporting any type of child abuse, including child sexual abuse, school counsellors are required to follow the procedures for school counsellors.

SEXUAL ABUSE

Sexual abuse, in relation to a child, includes sexual behaviour in circumstances where :

- (a) the child is the subject of bribery, coercion, a threat, exploitation or violence
- (b) the child has less power than another person involved in the behaviour
- (c) there is a significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.

(s124A Children and Community Services Act 2004).

Some examples are: letting a child watch or read pornography; allowing a child to watch sexual acts; touching a child's genitals; 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.

SEXUAL HARASSMENT

Sexual harassment under the Equal Opportunity Act occurs when a person makes an unwelcome sexual advance or request for sexual favours, or engages in other unwelcome conduct of a sexual nature, towards another person and that person is disadvantaged, or has reasonable grounds for believing he or she will be disadvantaged, by taking objection. Sexual harassment is unlawful in the areas of employment, education, and accommodation.

STAFF

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

STUDENT RESIDENTIAL COLLEGE

A place used to provide residential accommodation and related services for students while they attend, and participate in an educational programme of a school, as defined in the School Education Act 1999 section 4, 213A and 213B. More commonly known as residential setting or residential college.

5 RELATED DOCUMENTS

RELEVANT LEGISLATION OR AUTHORITY

Australian Psychological Society Code of Ethics 2007

Child Pornography and Exploitation Material and Classification Legislation Amendment Act 2010

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 Amendment (Education Standards) Bill 2004 (Cth)
Equal Opportunity Act 1984 (WA)
Freedom of Information Act 1992
Public Sector Management Act 1994 (WA)
Public Interest Disclosure Act 2003 (WA)
Restraining Orders Act 1997 (WA)
Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016)
School Education Act 1999 (WA)
School Education Regulations 2000 (WA)
Sex Discrimination Act 1984 (Cth)
State Records Act 2000 (WA)
Teacher Registration Act 2012 (WA)
Working With Children (Criminal Record Checking) Act 2004 (WA)
Working with Children (Criminal Record Checking) Regulations 2005 (WA)

RELATED DEPARTMENT POLICIES

Complaints and Notifications
Duty of Care for Students for Public Schools
Enrolment in Public Schools
Equal Opportunity, Discrimination and Harassment
Incident Management on Department of Education Sites
Records Management
Staff Conduct and Discipline
Student Attendance in Public Schools
Student Behaviour in Public Schools
Visitors and Intruders on Public School Premises

OTHER DOCUMENTS

Memorandum of Understanding between the Department of Communities and the Department of Education 2021 (staff only)
MOU between the Department of Education and Child and Adolescent Health Service and WA Country Health Service: 1 January 2022 – 31 December 2024 (staff only).

6 CONTACT INFORMATION

Director:

Student Engagement and Wellbeing

Policy contact officer:

Principal Consultant

Student Engagement and Wellbeing

T: (08) 9402 6448

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.
25 July 2017	3 October 2018	3.2	D18/0435859	Minor changes to title D18/0435848, reference to Public Schools D18/0151652 and updated legislation links D18/0207680
13 August 2019		3.3	D19/0186097	Major changes approved by the Director General on 26 July 2019. D19/0349313

13 August 2019	19 January 2021	3.4	D21/0028209	Minor changes to replace the Regional Executive Director position title with Director of Education D20/0647278.
13 August 2019	8 July 2022	3.5	D22/0519111	Minor updates to terminology, definitions and links as per D22/0519053
13 August 2019	22 September 2023	3.6	D23/1550803	Minor change to update link to MOU D23/1550610
13 August 2019	6 October 2023	3.7	D23/1590715	Minor changes to update contact details D23/1582068
1 May 2024		3.8	D24/0138864[v2]	Major changes to reflect <i>Children and Community Services Amendment Act 2021</i> approved by Director General on 11 April 2024

APPENDIX A. CHILD PROTECTION AND ABUSE PREVENTION EDUCATION PROFESSIONAL LEARNING

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

All third-party providers, engaged through a formal service agreement with the Department of Education, who have contact with children and their Department of Education line managers, must complete the online Child Protection and Abuse Prevention course within 1 month 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.

There is an option for staff to retake the online Child Protection and Abuse Prevention course and receive a new date of completion prior to the three year period elapsing. Staff can select "retake" which is located next to the "play" button.

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 and third-party providers, engaged through a formal service agreement with the Department of Education, are protected from civil, criminal and disciplinary liability by providing information to Department of Communities, WA Police or the Department's Standards and Integrity Directorate (SID) for the purpose of investigating child abuse.

If acting in good faith, reporters 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 s129 of the Children and Community Services Act 2004, if reports are made in good faith and with the best interests of the child in mind, the Act protects the reporter 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.

When there is concern for the safety of the reporter, it is important that the school has a risk management plan in place. The principal advises the Department of Communities and/or the WA Police and contacts the Regional Education Office for further advice. Third party reporters should consult with their employer.

Staff are entitled to seek counselling through the Employee Assistance Program (staff only).

An employee or third-party provider, engaged through a formal service agreement with the Department of Education who attempts to threaten, intimidate, coerce or take reprisal against an employee or third-party provider, 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 of Education's Service Response ~~Student Support Services~~ (Child Protection) staff on 08 9402 6124 or the Department of Communities on 1800 273 889.

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

When reporting the belief that a child is or has been the subject of sexual abuse, staff who are mandatory reporters must complete their own documentation. The principal must not do this on their behalf.

The reporter should document, to the best of their ability, observations and factual information about what they have seen or heard, such as:

- relevant dates and times
- the identity of the source of information
- information from a third party that is clearly identified as third party information
- noting of the exact words the child used to describe what happened, even if it's not Standard Australian English e.g. the word or words they used for genitals or other parts of their body, or anything else related to the disclosure or concern
- statements or descriptions made by the child, parent or third party, written **verbatim** and in quotation (" ") marks
- professional judgments informed by professional training, resources and experience
- any other grounds for concern
- your response to the child; and
- the current situation i.e. Where is the child? Who is the child with?

Do not include:

- your opinions, for example, "the parent used excessive discipline"
- your personal conclusions about the type of abuse suspected.; and
- your interpretation of what the child or others said.

Language:

- use clear, explicit, unambiguous, objective language
- use the first person singular, for example, "I saw...".
- use the names of people involved rather than she, he, etc.
- if the child uses any language other than English to describe an incident, document those words
- avoid jargon used within the organisation that may not be understood by others who read the report; and
- only use terms such as 'probably' or 'likely' if there is a reasonable degree of certainty.

APPENDIX D. CONFIDENTIALITY AND LEGAL PROTECTION

The identity of the person making a report to the Department of Communities is protected and can only be released:

- for the purpose of Department of Communities assessment
- for investigative purposes by a WA Police officer
- with the written permission of the reporter
- purposes of court protection proceedings.

Where there is suspected or alleged abuse or misconduct, allied professionals 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 allied professionals provide information in the best interests of the child regarding possible child abuse to Department of Education staff or agencies who are directly involved in responding, investigating or supporting the child.

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.

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.

Staff are entitled to seek counselling through the Employee Assistance Program (staff only).

An employee or third-party provider, engaged through a formal service agreement with the Department of Education 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).



Department of
Education

CHILD PROTECTION IN DEPARTMENT OF EDUCATION SITES PROCEDURES FOR RESIDENTIAL COLLEGE MANAGERS

EFFECTIVE: 1 MAY 2024

VERSION: 1.5 FINAL

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1 POLICY SUPPORTED

Child Protection in Department of Education Sites Policy

2 SCOPE

These procedures apply to residential college managers in residential settings.

Guidance

A residential college manager has the same mandatory reporting responsibilities as a boarding supervisor and is responsible for line management of other boarding supervisors as well as the day to day operations in the residential setting. Department of Education residential settings commonly use the terms residential college manager, college manager or head of residence to describe a residential college manager.

3 PROCEDURES

3.1 CHILD PROTECTION AND ABUSE PREVENTION PROFESSIONAL LEARNING

Residential college managers should:

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

The Child Protection and Abuse Prevention course is optional for gardeners. Cleaners are not required to do the course. There is a [brochure](#) on the website to assist.

For further information refer to [Confirm staff completion of online child protection professional learning in Ikon \(staff only\)](#).

3.2 CHILD ABUSE PREVENTION EDUCATION

Residential college managers in residential settings must implement protective behaviours education for all students.

Guidance

For further information, refer to [Access protective behaviours resources](#) and [Request child protection and abuse prevention training in Ikon \(staff only\)](#).

3.2.1 INFORM STUDENTS ABOUT THE CHILD PROTECTION POLICY

Residential college managers must inform students:

- that all staff are required to follow the procedures set out in the Department's *Child Protection in Department of Education Sites Policy*
- how they can make a disclosure or complaint of abuse
- how they can access the residential student complaint line.

Guidance

Residential college managers 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 or complaint about the behaviour of a member of staff or other adult or child towards them.

3.3 MANDATORY REPORTING OF CHILD SEXUAL ABUSE

When a residential college manager believes on reasonable grounds, that a child is or has been the subject of sexual abuse, and forms the belief during the course of paid or unpaid work as a residential college managers they 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
 - make a verbal report to the MRS which must be followed up with an online or written mandatory report
- 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)
- make an Online Incident Notification and quote the mandatory report receipt number
- seek advice from the MRS prior to communication with parents (refer to procedures 3.13.1)
- provide secure storage for documentation (excluding mandatory reports, copies of which are not kept) in a confidential file, separate from the child's residential setting records (refer to procedures 3.16)
- where the child is enrolled at a WA College of Agriculture, provide the mandatory report receipt number and incident details to the principal **or** where the child is enrolled at a school other than a WA College of Agriculture, provide the mandatory report receipt number and incident details to the Manager Residential Colleges who informs the principal of the school where the child is enrolled
- if a staff member provides information that results in a mandatory report being made, advise the staff member of actions taken
- follow reporting procedures in 3.4 if the belief is formed that a child was the subject of sexual abuse before 1 January 2016 and the abuse is not ongoing
- apply mandatory reporting requirements in circumstances where:
 - a child is enrolled in another residential setting
 - a child is under 13 years of age
 - another agency has previously submitted a report on the same child and the same alleged incident.

Residential college managers must not:

- write a mandatory report on behalf of a 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 of Education documentation
- interview the child or children involved or investigate the report
- authorise or request staff to interview the child or children involved or investigate the report identify the mandatory reporter or children involved when making an Online Incident Notification
- collect photographic evidence
- authorise or request the collection of photographic evidence by staff.

Guidance

Please refer to the relevant service in Ikon including Form the belief that a child is or has been the subject of sexual abuse in Manage child protection at your school (staff only).

The definition of sexual abuse in section 4 of these procedures from the Children and Community Services Act 2004 (s124A):

Sexual abuse, in relation to a child, includes sexual behaviour in circumstances where —

- (a) the child is the subject of bribery, coercion, a threat, exploitation or violence*
- (b) the child has less power than another person involved in the behaviour*
- (c) there is a significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.*

Students under 13 years of age are deemed under the Criminal Code as incapable of consenting to a sexual relationship and this should be reported to WA Police and obtain a police record number, if a mandatory report of child sexual abuse is not submitted.

In Western Australia, the legal age for males and females to consent to sexual activity is 16 years of age.

Sexual behaviour involving students aged 13 to under 16 years of age may not necessarily constitute sexual abuse. If the belief is formed on reasonable grounds that a child is or has been the subject of sexual abuse, a mandatory report should be submitted as per procedure 3.3.1. Consideration should be given to the age of the child, developmental level, any disability or the influence of drugs or alcohol.

When a person engages in sexual behaviour with someone below the age of consent, this is a criminal offence under the Criminal Code and should be reported to WA Police. If the belief is formed that the child is or has been the subject of sexual abuse, a mandatory report must also be submitted as per procedure 3.3.

Prior to submission of a report residential college managers may seek advice from MRS staff and/or Department of Education Service Response (Child Protection) support staff on (08) 9402 6124.

The residential college manager is not required to make their own mandatory report if a report has already been made by a boarding supervisor for the belief based on the same reasonable grounds and the MR receipt number has been provided to the residential college manager as proof.

A child can be subject to a number of mandatory reports by different mandatory reporters.

If the boarding supervisor or residential college manager forms the belief that a child is or has been the subject of sexual abuse, mandatory reporting requirements apply even if the staff member providing the information has not formed the same belief.

Unless a boarding supervisor or residential college manager has proof that a report has been submitted regarding child sexual abuse, mandatory reporting requirements apply. For further explanation, please refer to the Children and Community Services Act 2004 s124B(3):

In a prosecution for an offence under subsection (1) it is a defence for the person charged to prove that he or she honestly and reasonably believed that:

- (a) all of the reasonable grounds for his or her belief were the subject of a report made by another person*
- (b) the CEO had caused, or was causing, inquiries to be made under section 31 about the child's wellbeing*
- (c) the CEO had taken, or was taking, action under section 32 in respect of the child's wellbeing.*

Mandatory reporting requirements apply when working in the role of a boarding supervisor, whether at their own residential setting or another residential setting, in either a paid or unpaid capacity. Mandatory reporting does not apply to a boarding supervisor who is working in another role such as when employed as a cleaner or cook.

If the belief is formed that a child is or has been the subject of sexual abuse when not working in their role as a boarding supervisor, there is no legal requirement to report. However, the Department of Education strongly recommends a report be made to the Department of Communities

The legal penalties in accordance with the Children and Community Services Act (2004) for a mandatory reporter who fails to report the belief formed on reasonable grounds that a child is or has been the subject of 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 the belief formed on reasonable grounds that a child is or has been the subject of 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.

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

If residential college managers have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

When there is a concern for the safety of a mandatory reporter, the residential college manager/principal may contact the relevant Regional Education Office, Manager Residential Colleges, WA Police and/or the Department of Communities-to assist. For further information refer to Ikon: Support a staff member who has reported child abuse and Access support after reporting child abuse (staff only).

3.4 REPORT CONCERN OF CHILD SEXUAL ABUSE

If the belief that a child is or has been the subject of sexual abuse is not formed, but a child protection concern of child sexual abuse is held, residential college managers must:

- report all new child protection concerns which relate to child sexual abuse to the Department of Communities by using the Child Protection Concern Referral Form (staff only)
- report child protection concerns where there is a concern for the immediate safety of the child to WA Police on 13 14 44 prior to making a report to the Department of Communities (refer to procedures in 3.8)
- conduct all consultations in a confidential manner and document concerns in a confidential file separate from the student's residential setting records (refer to procedures in 3.16)
- where appropriate, if information is received from boarding supervisors and other staff, advise them to continue to document concerns and update information as necessary
- advise the staff member of further actions taken
- where the child is enrolled at a WA College of Agriculture, provide the incident details to the principal **or** where the child is enrolled at a school other than a WA College of Agriculture, provide the incident details to the Manager Residential Colleges who informs the principal of the school where the child is enrolled
- make an Online Incident Notification once a report to the Department of Communities is made and, where a report has been made to WA Police, quote the Incident Report number; and
- follow the procedures in 3.13.1 for communication with parents.

Guidance

If the residential college manager forms the belief that a child is or has been the subject of sexual abuse, mandatory reporting requirements apply even if the staff member providing the information has not formed the same belief.

See also Guidance under 3.5.

If residential college managers have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.5 REPORT CONCERN OF PHYSICAL OR EMOTIONAL ABUSE, FAMILY VIOLENCE OR NEGLECT

Residential college managers must:

- report all new child protection concerns which relate to physical abuse, emotional abuse, family violence or neglect of a child to the Department of Communities by using the Child Protection Concern Referral Form (staff only)
- report 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 report to Communities (refer to procedures 3.8)
- conduct all consultations in a confidential manner and document concerns in a confidential file separate from the child's residential setting records (refer to procedures in 3.16)
- where appropriate, if information is received from boarding supervisors and other staff, advise them to continue to document concerns and update information as necessary
- advise the staff member of further actions taken

- where the child is enrolled at a WA College of Agriculture, provide the incident details to the principal **or** where the child is enrolled at a school other than a WA College of Agriculture, provide the incident details to the Manager Residential Colleges who informs the principal of the school where the child is enrolled
- make an Online Incident Notification once a report to the Department of Communities is made and, where a report has been made to WA Police, quote the Incident Report number; and
- follow the procedures 3.13.1 for communication with parents.

Residential college managers must not:

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

Guidance

Residential college managers may:

- seek advice from the Department of Communities-staff and/or Department of Education support staff
- contact the Department of Communities by phone prior to lodging a written report, where there is a significant concern for the wellbeing of the child (refer to procedure 3.8)
- request acknowledgement that the report has been received.

**Perth metropolitan area: Central Intake Team on 1800 273 889 (1800 CP DUTY) or Crisis Care after hours on 1800 199 008.*

**Country areas: the Department of Communities-District Offices or Crisis Care after hours on 1800 199 008.*

If a residential college manager holds a child protection concern involving a child or children enrolled at another residential setting or outside of their work role, college managers may report their concern to the Department of Communities-Central Intake Team or relevant Department of Communities-District Office as a private citizen.

Being exposed to family violence is considered to be emotional abuse and may also be physical abuse. In cases of family violence WA Police may interview students, teachers, boarding supervisors, parents and any other parties involved (refer to procedures 3.15).

If residential college managers have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

Refer to Appendix C for more information on completing documentation.

3.6 REPORT ALLEGATION OF PHYSICAL, EMOTIONAL OR SEXUAL ABUSE COMMITTED BY STAFF

Residential college managers 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)
- if the belief is formed on reasonable grounds that a child is or has been the subject of sexual abuse, submit a mandatory report (refer to procedures 3.3)
- if the belief is not formed but a concern of child sexual abuse is held, submit a child concern report (refer to procedures 3.4)

- if a child protection concern is held related to physical abuse, or emotional abuse, submit a child concern report (refer to procedures 3.5)
- obtain permission from SID prior to informing the parent/carer (refer to procedures 3.13); and
- make an Online Incident Notification and, where a mandatory report has been submitted, quote the receipt number.

Residential college managers must not:

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

Where the student is 18 years of age and over, the residential college manager must also follow procedures in 3.9.

Guidance

An allegation may concern behaviour of a staff member towards a child who does or does not reside in the residential setting.

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

When considering if the submission of a child concern referral is warranted, please refer to the definition of 'Child Protection Concern' in the Definitions section of these procedures.

The content of electronic communication between a staff member and student may also constitute reasonable grounds to form the belief that a child is or has been subject to sexual abuse.

Any concerns regarding an inappropriate relationship between a staff member and a student should be referred to the Department's Standards and Integrity Directorate. For further information refer to Report staff misconduct in Ikon (staff only).

Sexual harassment is dealt with in the Equal Opportunity, Discrimination and Harassment policy. In some cases sexual harassment of students may also be child sexual abuse. Refer to the definition of child sexual abuse in Section 4 of these procedures.

Certain behaviour towards students, while not illegal, may not be within appropriate professional boundaries and should be considered as unsafe practice. Refer to the Code of Conduct and Standards (staff only).

If residential college managers have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.7 REPORT ALLEGATION OF SEXUAL ABUSE COMMITTED BY A STUDENT DURING SUPERVISED RESIDENTIAL SETTING ACTIVITIES

Residential college managers must:

- arrange for the safety and supervision of the alleged victim and the student alleged to have committed 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 parents of the student alleged to have committed the abuse
- if medical attention is required, take reasonable steps to contact the parent prior to contacting emergency services
- support the students involved and affected by the incident as required
- where the child is enrolled at a WA College of Agriculture, provide the mandatory report receipt number and the incident details to the principal **or** where the child is enrolled at a school other than a WA College of Agriculture, provide the mandatory report receipt number and the incident details to the Manager Residential Colleges; who informs the principal of the school where the child is enrolled
- make an Online Incident Notification, quoting the receipt number of the mandatory report
- arrange support for staff affected by the incident.

Residential college managers must not:

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

Guidance

Sexual abuse of a child by another child is any sexual behaviour:

- *that involves the use of bribery, coercion, a threat, exploitation or violence; or*
- *when one child has less power than another person involved; or*
- *when there is significant disparity in the developmental function or maturity of the children involved.*

Examples are: unwanted touching, unwanted kissing, exposure to sexual acts, exposure to pornographic materials and sexual penetration of the genitals or mouth.

Sexual behaviour that is outside of the normal developmental range may be an indicator that child sexual abuse has occurred. Sexual behaviour that is within the normal developmental range may or may not be an indicator of child sexual abuse. For more information, refer to Ikon: Respond to sexual behaviour in students (staff only).

If a report is submitted to the mandatory reporting service (MRS), the MRS will automatically notify WA Police who will assess the need for criminal charges.

Permission to inform parents can be requested or obtained by calling, as relevant: the MRS on 1800 708 704; the the Department of Communities- Central Intake Team in the Perth metropolitan area on 1800 273 889; the relevant the Department of Communities-office in country regions; or WA Police on 13 14 44.

Making a report to WA Police does not preclude the residential college manager from considering taking action in accordance with the Student Behaviour in Public Schools Policy and Procedures.

If residential college managers have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.8 RESPOND WHEN A STUDENT IS AT IMMEDIATE RISK OF HARM

Residential college managers must:

- call the WA Police on 13 14 44 and note the Incident Report number; and
- call the Department of Communities on 1800 273 889 (1800 CP DUTY) or Crisis Care after hours on 1800 199 008; or
- call the Department of Communities District Office responsible if the child is in the care of the CEO of the Department of Communities; or
- call the Mandatory Reporting Service if the belief is formed on that a child is or has been the subject of sexual abuse
- submit a Child Protection Concern Referral Form (staff only) or a written mandatory report, as appropriate
- conduct all consultations in a confidential manner and document concerns in a confidential file separate from the child's residential setting records (refer to procedures in 3.16)
- where appropriate, if information is received from boarding supervisors and other staff, advise them to continue to document concerns and update information as necessary
- advise the staff member of further actions taken
- where the child is enrolled at a WA College of Agriculture, provide the incident details to the principal **or** where the child is enrolled at a school other than a WA College of Agriculture, provide the incident details to the Manager Residential Colleges who informs the principal of the school where the child is enrolled
- lodge an Online Incident Notification once a report to Communities has been made and quote the Incident Report number provided by WA Police or the mandatory report receipt number, as appropriate
- follow the procedures 3.13.1 for communication with parents.

Guidance

If the Department of Communities identifies an immediate risk of harm to the child, the WA Police and the Department of Communities Child Safety Team may be involved.

If residential settings do not receive a response at all from the WA Police, do not receive a response within a reasonable timeframe or are concerned about the response received then the residential college manager can request to speak with the Officer In Charge.

If residential settings do not receive a response from the Department of Communities or remain concerned about the response received, the residential college manager can request to speak with the Department of Communities-Team Leader followed by the Assistant District Director or District Director to discuss the need for immediate assistance.

If the student is in care, contact the Department of Communities-Case Manager or Team Leader.

Perth metropolitan area: the Department of Communities- Central Intake Team on 1800 273 889 (1800 CP DUTY).

Country areas: the Department of Communities- District Office

After hours contact Crisis Care 9223 1111 (1800 199 008 Country Free Call).

Mandatory Reporting Service (1800 708 704 available 24 hours).

If residential college managers have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

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

Residential college managers 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 18 years of age or older are adults and the Department of Communities does not have a role. Concerns for their safety are reported to the WA Police by the student themselves. The residential college manager'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 residential college manager may make a report to WA Police 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 Department's Standards and Integrity Directorate (SID).

If residential college managers have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.10 RESPOND TO STUDENTS IN POSSESSION OF SEXUALLY EXPLICIT OR CHILD EXPLOITATION MATERIAL

When sexually explicit or child exploitation material has been located on a student's mobile phone or other electronic device, or if sexually explicit or child exploitation material is alleged to have been distributed to others, residential college managers must:

- secure the electronic device (if circumstances permit)
- report all concerns about issues involving sexually explicit or child exploitation material allegations to WA Police and note the Incident Report number
- store devices securely until WA Police advise of the course of action
- request confirmation that the report has been received through the provision of a WA Police Incident Report number
- seek advice from the WA Police prior to informing parents/caregivers
- if the belief is formed that a child is or has been the subject of sexual abuse, make a mandatory report as outlined in procedures 3.3
- make an Online Incident Notification and quote the Incident Report number provided by WA Police, as well as the mandatory report receipt number if a mandatory report has been made

- follow the requirements in procedure 3.12 on supporting the children involved
- follow the requirements in procedure 3.13 on informing the parents.

Residential college managers must not:

- 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
- inform the alleged offender that an allegation has been made.

Guidance

Please refer to the definitions of 'Child Exploitation Material' and 'Child Protection Concern' in Section 4 of these procedures.

A residential college manager 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*
- *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 residential college manager should include in the residential setting's mobile phone policy, procedures that permit confiscation of mobile phones and other electronic devices under these circumstances. The WA Police will identify whether or not a child has been exploited and if criminal charges will be made.

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

If residential college managers have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

Further information and resources can be found on the website of the Office of the eSafety Commissioner.

For information related to Western Australia's Intimate Image laws (Chapter XXVA of the Criminal Code Act Compilation Act 1913) which came into effect on 15 April 2019, please refer to the Frequently Asked Questions.

3.11 RESPOND TO SPECIFIC CHILD PROTECTION ISSUES

3.11.1 FEMALE GENITAL MUTILATION/CUTTING

When a concern is formed that a student may be subjected to Female Genital Mutilation/Cutting (FGM/C), or arrangements are being made to carry out the procedure, residential college managers must:

- follow the requirements in procedure 3.5
- make a report to WA Police on 13 14 44.

Residential college managers must not inform the parent of the concern or report.

Guidance

The Department of Communities has advised that employees of state government agencies report the practice or risk of FGM/C as a form of physical abuse. FGM/C is also reported to WA Police as the practice is a criminal offence in Western Australia, as is taking the child from the state with the intention of having the child subjected to FGM/C.

For further information refer to Section 306 of the Criminal Code and Report female genital mutilation of a student in Ikon (staff only).

3.11.2 FORCED MARRIAGE

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

- follow procedures 3.3 where the belief is formed that a child is or has been the subject of sexual abuse; or
- follow procedures 3.4 where there is a concern of sexual abuse.

Residential college managers must not inform the parent of the concern or report.

Guidance

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

Residential college managers may consult with WA Police (Child Abuse Squad 9428 1500) or the Department of Communities.

3.12 SUPPORT CHILDREN AFFECTED BY ABUSE

Residential college managers must:

- support children affected by abuse (Ikon link, staff only), including children who are alleged to have committed the abuse
- in cases where the parties remain on residential setting grounds, where practicable, remove the student alleged to have committed the abuse from contact with the alleged victim.

Guidance

In cases where criminal conduct has been reported, the support of regional office staff, the Manager Residential Colleges and the lead school psychologist should be accessed by the residential college manager.

In circumstances where the student alleged to have committed the abuse resides in the same residential setting, a safety 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 residential college manager may request a staff member to undertake the support role but it remains the responsibility of the residential college manager. Refer to Support a student affected by abuse or neglect in Ikon (staff only).

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

If residential college managers have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.13 COMMUNICATE TO PARENTS

3.13.1 WHEN A MANDATORY REPORT OR CHILD ABUSE REPORT HAS BEEN MADE

Residential college managers must inform parents of a mandatory report or child abuse report:

- when permission has been given by the Department of Communities, or WA Police
- 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 by the residential college manager.

Residential college managers must not inform parents of a mandatory report or child abuse report:

- without prior permission from the Department of Communities or WA Police
- when it is considered to be not in the best interests of the child and consultation has been conducted with appropriate staff and this is documented by the residential college manager.

When informing the parents, residential college managers 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
- inform the parents of the support available to them and their child.

Residential college managers 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 report

- offer personal opinions
- question the family about matters that are unrelated to the situation.

Guidance

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

Permission to inform parents can be requested or obtained by calling, as relevant, the MRS on 1800 708 704, the the Department of Communities Central Intake Team in the Perth metropolitan area on 1800 273 889, the relevant the Department of Communities office in country regions or WA Police on 13 14 44.

The identity of the person alleged to have committed the abuse is not disclosed as release of these details may compromise the investigation by the Department of Communities or WA Police.

Where a face-to-face meeting with parents is impractical e.g. if parents live considerable distance from the residential college, a residential college manager may inform parents by phone.

3.13.2 WHEN A CONCERN IS HELD BUT A MANDATORY REPORT OR CHILD ABUSE REPORT HAS NOT YET BEEN MADE

Residential college managers must not inform parents:

- that physical or behavioural indicators have been observed in their child which have led to a concern of child abuse
- of a concern of family violence
- of an intention to make a report concerning their child to the Department of Communities, the Mandatory Reporting Service (MRS), WA Police and/or SID.

Guidance

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

Residential college managers 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 report is required. Document questions and responses verbatim. The WA Police and the Department of Communities may use this information in their investigations.

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

Residential college managers must:

- inform parents of the disclosure unless
 - it is not in the best interests of the child
 - a report of child sexual abuse or other form of abuse is made
 and
- follow procedures 3.3, 3.4 or 3.8, if applicable.

Residential college managers must not inform the parents where the disclosure is viewed as possible child abuse without seeking prior permission from the Department of Communities, or WA Police.

Guidance

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

In Western Australia, the legal age for males and females to consent to sexual activity is 16 years of age.

Sexual behaviour involving students aged 13 to under 16 years of age may not necessarily constitute sexual abuse. If the belief is formed on reasonable grounds that a child is or has been the subject of sexual abuse, a mandatory report should be submitted as per procedure 3.3.1. 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 deemed under the Criminal Code as incapable of consenting to a sexual relationship and this should be reported to WA Police and obtain a police record number, if a mandatory report of child sexual abuse is not submitted.

When a person engages in sexual behaviour with someone below the age of consent, this is a criminal offence under the Criminal Code and should be reported to WA Police. If the belief is formed that the child is or has been the subject of sexual abuse, a mandatory report must also be submitted as per procedure 3.3.

If the student is a child in the care of the CEO of the Department of Communities, the matter should also be referred to the Department of Communities.

Residential setting psychologists may be consulted on determining the best interests of the child and the availability of appropriate support options, including implementation of protective behaviours education.

If residential college managers have any concerns regarding the student and suicidal ideation, they should seek advice and consultation to increase the safety of the student, and refer to the School Response and Planning Guidelines for Students with Suicidal Behaviour and Non-Suicidal Self Injury.

3.14 THE DEPARTMENT OF COMMUNITIES ON RESIDENTIAL SETTING GROUNDS

When the Department of Communities is on residential setting grounds to interview a student, residential college managers must sight the authorised officer identity card of the Department of Communities-worker to interview the child before access to the child is given.

Residential college managers must not inform the parents that the Department of Communities-have interviewed the student as this is the responsibility of the Department of Communities.

When the Department of Communities-removes a student from the residential setting, residential college managers must:

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

Guidance

The Department of Communities-has 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 Department of Communities-officer is required to notify the residential college manager 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 Department of Communities-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*
- *the child has requested that the parents are not informed and the Department of Communities-officer believes on reasonable grounds that this is in the best interests of the child.*

In some cases the Department of Communities-determines if a residential setting staff member is present during the interview to support the child.

The Department of Communities' officers may remove a child from the residential setting for an interview if they have the permission of the parent.

If parental permission is not given and the child is at immediate and substantial risk of harm the child will be taken into provisional protection and care under s37 of the Children and Community Services Act 2004 by the Department of Communities or the WA Police. Residential college managers should check that these conditions have been met before allowing the removal of a child from the residential setting. Verbal communication is adequate as long as it is documented by the residential college manager.

Refer to Sections 32, 35 and 37 of the Children and Community Services Act 2004 and the Memorandum of Understanding between the Department of Communities and the Department of Education 2021 (staff only).

3.15 WA POLICE ON RESIDENTIAL SETTING GROUNDS

When WA Police request permission to interview a student on residential setting grounds, residential college managers must:

- sight the WA Police officer's identification
- establish the purpose of the interview
- confirm that parental consent has been obtained.

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

Guidance

WA Police rely on the cooperation of the residential college manager to grant access to a student for the purposes of carrying out a child interview on the residential setting site.

When making a decision concerning WA Police requests to interview a student or remove them from the residential setting grounds, residential college managers 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 the Department of Communities.

3.16 RECORDKEEPING AND DOCUMENTATION

Residential college managers must store, in perpetuity, all confidential child protection information securely and separately from the student's residential setting records. Confidential information includes:

- child protection referrals to the Department of Communities
- written and electronic records of all communication with the Department of Communities, WA Police, the Department's Standards and Integrity Directorate (SID) or other authorities and subsequent actions.
- Mandatory Report receipt numbers.
- Online Incident Notification (staff only) numbers.

Residential college managers must not:

- keep or store copies of mandatory reports
- record or disclose information that may identify the mandatory reporter other than to the Department of Communities-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.

For further information, please contact the Records Management (staff only) area and refer to the Records Management policy and Manage confidential child protection records (staff only).

Documentation kept by staff, excluding mandatory reports, may be required by Department of Communities WA Police and/or and Integrity Directorate in their investigations. For further information refer to the Respond to an order to produce documents to a court or WA Police (staff only).

Refer to Appendix C for more information on completing documentation.

3.17 CONFIDENTIALITY

Residential college managers must protect the identity of a staff member who submits a report of child abuse.

When a student discloses information that leads to a concern of child abuse residential college managers 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 the Department of Communities, WA Police or the Department's Standards and Integrity Directorate (SID).

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. However, 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 Respond to student disclosure of abuse in Ikon (staff only).

For further information refer to Appendix D.

3.18 PROTECTION AND SUPPORT FOR EMPLOYEES WHO REPORT CHILD ABUSE

Where there are concerns for the safety of a staff member, residential college managers must:

- advise the Department of Communities-and/or the WA Police
- contact either the Manager Residential Colleges or, for WA Schools of Agriculture, the Regional Education Office for further advice if required
- provide information on counselling support through the Employee Assistance Program (staff only) 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.

4 DEFINITIONS

ALLIED PROFESSIONALS

Allied professionals are those staff employed under s235(1)(a)(c) (d) of the School Education Act 1999.

Allied professionals who are not categorised as school counsellors are non-mandatory reporters. When reporting any type of child abuse, including sexual abuse, these allied professionals are required to follow the procedures for allied professionals.

Allied professionals who fall within the category of school counsellor (see definition) are mandatory reporters of child sexual abuse and are required to follow the procedures for school counsellors.

BELIEF ON REASONABLE GROUNDS

'Believes on reasonable grounds' means that a reasonable person, doing the same work, would have formed the same belief on those grounds. Grounds for forming the belief are matters of which you have become aware, and any opinions in relation to those matters.

A mandatory reporter does not have to be able to prove that harm has occurred. Professional judgement and objective observation help to identify warning signs or possible indicators of child sexual abuse and contribute to a reporter forming the belief on reasonable grounds. Knowledge of child development and consultation with colleagues or other professionals can also contribute to reasonable grounds.

Reasonable grounds may include:

- your own observations of a child's behaviour
- your own observations of the behaviour of an adult interacting with the child
- when a child tells you they, or another child, has been harmed
- when you hear about it from someone who is in a position to provide reliable information, perhaps a relative or friend, neighbour or sibling of a child who is at risk.

Mandatory reporters must specify the grounds on which they formed the belief that a child has been, or is being, sexually abused.

(Mandatory Reporting Guide: Western Australia).

If you are a mandatory reporter and you have not formed the belief that a child has been or is being sexually abused but are sufficiently concerned, it is recommended that you consult with staff with expertise in this area, such as the Department's child protection consultants.

Refer to Ikon: Form the belief that a child is or has been the subject of sexual abuse and Recognise signs of child abuse in Manage child protection at your school (staff only).

BOARDING FACILITY

Means a place used to provide residential accommodation for children while they attend a school as defined in the School Education Act 1999. (Children and Community Services Act 2004 Section 124A).

BOARDING SUPERVISOR

Means a person who holds an office or position at a boarding facility; the duties of which include the supervision of children living at the facility (Children and Community Services Act 2004 Section 124A).

Department of Education residential settings commonly use the terms boarding supervisor and residential supervisor to describe a boarding supervisor (Children and Community Services Act 2004 Section 124A).

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 (Children and Community Services Act 2004 Section 124A).

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 significant harm to the child's wellbeing. It may involve ongoing, repeated or persistent abuse, or arise from a single incident.

CHILD EXPLOITATION MATERIAL

Child exploitation material is (a) child pornography; or (b) material that, in a way likely to offend a reasonable person, describes, depicts or represents a person, or part of a person, who is, or appears to be, a child (i) in an offensive or demeaning context; or (ii) being subjected to abuse, cruelty or torture (whether or not in a sexual context).

Child pornography is material that, in a way likely to offend a reasonable person, describes, depicts or represents a person, or part of a person, who is, or appears to be a child (a) engaging in sexual activity; or (b) in a sexual context.

Material includes (a) any object, picture, film, written or printed matter, data or other thing; and (b) anything from which text, pictures, sound or data can be produced or reproduced, with or without the aid of anything else (Child Pornography and Exploitation Material and Classification Legislation Amendment Act 2010 s216).

Sexting (sex + texting) is the sending and receiving of sexually explicit or sexually suggestive texts or images via phone or internet (Australian Institute of Family Studies 2018).

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 development of the child
- the physical, emotional and psychological health of the child
- 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
- responds appropriately to any disclosures, allegations or suspicions of harm.

Refer to Manage child protection at your school in Ikon (staff only).

CONFIDENTIALITY

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

DOCUMENTED PLAN

Documented Plan is an umbrella term used to describe a range of ways of catering for the educational needs of individual or smaller groups of students with identified needs. It is primarily a teaching and learning planning document and it identifies short to medium term education outcomes. Documented Plans take a variety of forms, including: Individual education plans (IEPs); Individual behaviour management plans (IBMPs); Individual transition plans (ITP); Risk management plans (RMP); and Documented Education Plans (DEP).

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 family violence.

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

FAMILY VIOLENCE

Family violence is a reference to:

- (a) violence, or a threat of violence, by a person towards a family member of the person
- (b) any other behaviour by the person that coerces or controls the family member or causes the member to be fearful.

A child is **exposed to** family violence or personal violence if the child sees or hears the violence or otherwise experiences the effects of the violence.

Examples of behaviour that may constitute family violence include (but are not limited to) the following:

- (a) an assault against the family member
- (b) a sexual assault or other sexually abusive behaviour against the family member
- (c) stalking or cyber-stalking the family member
- (d) repeated derogatory remarks against the family member
- (e) damaging or destroying property of the family member
- (f) causing death or injury to an animal that is the property of the family member
- (g) unreasonably denying the family member the financial autonomy that the member would otherwise have had
- (h) unreasonably withholding financial support needed to meet the reasonable living expenses of the family member, or a child of the member, at a time when the member is entirely or predominantly dependent on the person for financial support;

- (i) preventing the family member from making or keeping connections with the member's family, friends or culture
- (j) kidnapping, or depriving the liberty of, the family member, or any other person with whom the member has a family relationship
- (k) distributing or publishing, or threatening to distribute or publish, intimate personal images of the family member
- (l) causing any family member who is a child to be exposed to behaviour referred to in this section.

(Restraining Orders Act 1997 s5A & Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016)

FEMALE GENITAL MUTILATION/CUTTING

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

HARM

Harm, in relation to a child, means any detrimental effect of a significant nature on the child's wellbeing, whether caused by:

- (a) a single act, omission or circumstance
 - (b) a series or combination of acts, omissions or circumstances;
- Children and Community Services Act 2004.*

MANDATORY REPORTER

The legislation covering mandatory reporting of child sexual abuse in Western Australia is the Children and Community Services Act 2004.

Under section 124B of the *Children and Community Services Act 2004*, a specified person whose duty to report child sexual abuse (a Mandatory Reporter) is a person who is working in their role either paid or in a voluntary capacity as a Department of Communities assessor or a department officer, midwife, nurse, police officer, boarding supervisor, doctor, minister of religion, out of home care worker, teacher, psychologist or school counsellor.

For the purposes of the legislation, 'teacher' is defined as any person registered under the Teacher Registration Act 2012 with the Teacher Registration Board of WA or with Provisional Registration, or Limited Registration and is working as a teacher.

For the purposes of the legislation, 'boarding supervisor' is defined as 'a person who holds an office or position at a boarding facility the duties of which include the supervision of children living at the (boarding) facility'.

For the purposes of the legislation, 'psychologist' is defined as a person who is registered under the *Health Practitioner Regulation National Law (WA) Act 2010* in the psychology profession (other than as a student).

For the purposes of the legislation, school counsellor' is defined as an adult who is employed or engaged in a school (as defined in the *School Education Act 1999* section 4) to provide counselling or pastoral care to children who attend the school. It does not include adults employed or engaged as a student or volunteer.

Staff who are registered under the Teacher Registration Act 2012 with the Teacher Registration Board of WA and who are not a mandatory reporter of child sexual abuse are required under this policy to report child sexual abuse to the principal.

MANDATORY REPORTING LEGISLATION

Section 124B of the *Children and Community Services Act 2004*

Duty of certain people to report sexual abuse of children

- (1) A person who:
 - (a) is a person specified in the Table (a **specified person**); and

Table

assessor	boarding supervisor
departmental officer	doctor
midwife	minister of religion
nurse	out-of-home care worker
police officer	teacher
school counsellor	psychologist
Early childhood worker (commencement day 1 November 2024)	Youth Justice Worker (commencement day 1 May 2025)

- (b) believes on reasonable grounds that a child:
 - (i) has been the subject of sexual abuse that occurred on or after commencement day
 - (ii) is the subject of ongoing sexual abuse.
 and
- (c) forms the belief —
 - (i) in the course of the person's work (whether paid or unpaid) as a specified person; and
 - (ii) on or after commencement day.

must report the belief as soon as practicable after forming the belief.

Penalty for this subsection: a fine of \$6,000.

Commencement day is the date on which the person becomes a mandatory reporter under the legislation. The duty to report sexual abuse applies if the reporter forms the belief on or after commencement day. Commencement day varies for different reporter groups.

In a school context, the duty to report sexual abuse applies to a teacher, boarding supervisor, psychologist or school counsellor working in their role either in a paid or voluntary capacity.

If the belief that a child is or has been the subject of sexual abuse is formed when not working in their role, then there is no legal duty to report. However, a report to the Department of Communities can be made voluntarily.

NEGLECT

Neglect includes failure by a child's parents to provide, arrange, or allow the provision of:

- (a) adequate care for the child
- (b) effective medical, therapeutic or remedial treatment for the child.

Children and Community Services Act 2004.

Omission of care (from the Department of Communities Neglect policy 2021).

When a child does not receive adequate food or shelter, medical treatment, supervision, care or nurturance to the extent that their development is harmed, or they are injured.

Cumulative harm (from the Department of Communities Neglect policy 2021).

Refers to the effects of multiple adverse or harmful circumstances and events in a child's life. The unremitting daily impact of these experiences on the child can be profound and exponential, and diminish a child's sense of safety, stability and wellbeing.

It is possible to have cumulative abuse (multiple events over time) that results in harm that is cumulative in nature (the impact of the events has been cumulative).

NON-MANDATORY REPORTER

In a school context, all staff who are not working in the role of a teacher, school psychologist, school counsellor or boarding supervisor are non-mandatory reporters.

When reporting child sexual abuse, non-mandatory reporters are required to follow the procedures for allied professionals.

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 scalding, 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.

PSYCHOLOGIST

A psychologist is defined as a person who is registered under the *Health Practitioner Regulation National Law (WA) Act 2010* in the psychology profession (other than as a student).

Psychologists are mandatory reporters. When reporting any type of child abuse, including child sexual abuse, school psychologists are required to follow the procedures for school psychologists.

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.

RESIDENTIAL COLLEGE MANAGER

A residential college manager has the same mandatory reporting responsibilities as a boarding supervisor and is responsible for line management of other boarding supervisors as well as the day-to-day operations in the residential setting. Department of Education residential settings commonly use the terms residential college manager, college manager or head of residence to describe a residential college manager.

RESIDENTIAL SETTING

A place used to provide residential accommodation and related services for students while they attend, and participate in an educational programme of, a school as defined in the School Education Act 1999 section 4, 213A and 213B. Also referred to as a boarding facility or student residential college and does not include private arrangements.

RESIDENTIAL SETTING ACTIVITY

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

SCHOOL ACTIVITY

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

SCHOOL COUNSELLOR

A school counsellor is defined as an adult who is employed or engaged in a school (as defined in the *School Education Act 1999* section 4) to provide counselling or pastoral care to children who attend the school. It does not include adults employed or engaged as a student or volunteer (*Children and Community Services Act 2004*).

In the Department of Education, school counsellors are allied professionals and third-party providers with either of the terms 'pastoral care' or 'counselling' listed in their job title, JDF or relevant service agreement. This includes chaplains, wellbeing officers, Aboriginal and Islander Education Officers and some third-party providers.

School counsellors are mandatory reporters of child sexual abuse. When reporting any type of child abuse, including child sexual abuse, school counsellors are required to follow the procedures for school counsellors.

SEXUAL ABUSE

Sexual abuse, in relation to a child, includes sexual behaviour in circumstances where:

- (a) the child is the subject of bribery, coercion, a threat, exploitation or violence
- (b) the child has less power than another person involved in the behaviour;
- (c) there is a significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.

(s124A Children and Community Services Act 2004)

Some examples are: letting a child watch or read pornography; allowing a child to watch sexual acts; touching a child's genitals; 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.

SEXUAL HARASSMENT

Sexual harassment under the Equal Opportunity Act 1984 (WA) occurs when a person makes an unwelcome sexual advance or request for sexual favours, or engages in other unwelcome conduct of a sexual nature, towards another person and that person is disadvantaged, or has reasonable grounds for believing he or she will be disadvantaged, by taking objection. Sexual harassment is unlawful in the areas of employment, education, and accommodation.

STAFF

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

STUDENT RESIDENTIAL COLLEGE

A place used to provide residential accommodation and related services for students while they attend, and participate in an educational programme of a school, as defined in the School Education Act 1999 section 4, 213A and 213B. More commonly known as residential setting or residential college.

5 RELATED DOCUMENTS

RELEVANT LEGISLATION OR AUTHORITY

Australian Psychological Society Code of Ethics 2007

Child Pornography and Exploitation Material and Classification Legislation Amendment Act 2010

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 Amendment (Education Standards) Bill 2004 (Cth)

Equal Opportunity Act 1984 (WA)

Freedom of Information Act 1992

Public Sector Management Act 1994 (WA)

Public Interest Disclosure Act 2003 (WA)

Restraining Orders Act 1997 (WA)

Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016)

School Education Act 1999 (WA)

School Education Regulations 2000 (WA)

Sex Discrimination Act 1984 (Cth)

State Records Act 2000 (WA)

Teacher Registration Act 2012 (WA)

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

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

RELATED DEPARTMENT POLICIES

Complaints and Notifications

Duty of Care for Students for Public Schools

Enrolment in Public Schools

Equal Opportunity, Discrimination and Harassment

Incident Management on Department of Education Sites

Records Management

Staff Conduct and Discipline

Student Attendance in Public Schools

Student Behaviour in Public Schools

Visitors and Intruders on Public School Premises

OTHER DOCUMENTS

Memorandum of Understanding between the Department of Communities and the Department of Education 2021 (staff only)
MOU between the Department of Education and Child and Adolescent Health Service and WA Country Health Service: 1 January 2022 – 31 December 2024 (staff only).

6 CONTACT INFORMATION

Policy manager:

Director, Student Engagement and Wellbeing

Policy contact officer:

Principal Consultant Student Engagement and Wellbeing

T: (08) 9402 6448

7 REVIEW DATE

25 July 2020

8 HISTORY OF CHANGES

Effective date	Last update date	Policy version no.	Ref no.	Notes
13 August 2019		1.0	D19/0186110	These new procedures support the <i>Child Protection in Department of Education Sites Policy</i> . Approved by the Director General on 26 July 2019.
13 August 2019	14 February 2022	1.1	D22/0091794	Minor change to update links for CPFS Child Protection Concern Referral Form D22/0091413
13 August 2019	8 July 2022	1.2	D22/0519201	Minor updates to terminology, definitions and links as per D22/0519053
13 August 2019	22 September 2023	1.3	D23/1550829	Minor change to update link to MOU D23/1550610

13 August 2019	5 October 2023	1.4	D23/1587860	Minor change to update reporting process in s3.4, 3.5, 3.8 to Dept Communities D23/1586024 and contact details D23/1582068
1 May 2024		1.5	D24/0134663[v2]	Major changes to reflect <i>Children and Community Services Amendment Act 2021</i> approved by Director General on 11 April 2024

APPENDIX A. CHILD PROTECTION AND ABUSE PREVENTION EDUCATION PROFESSIONAL LEARNING

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

All third-party providers, engaged through a formal service agreement with the Department of Education, who have contact with children and their Department of Education line managers must complete the online Child Protection and Abuse Prevention course within 1 month 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 residential college managers/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.

There is an option for staff to retake the online Child Protection and Abuse Prevention course and receive a new date of completion prior to the three year period elapsing. Staff can select "retake" which is located next to the "play" button.

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 OF EMPLOYEES WHO REPORT CHILD ABUSE

All staff and third-party providers, engaged through a formal service agreement with the Department of Education, are protected from civil, criminal and disciplinary liability by providing information to the Department of Communities, WA Police or the Department's Standards and Integrity Directorate (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 s129 of the Children and Community Services Act 2004, if reports are made in good faith and with the best interests of the child in mind, the Act protects the reporter 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.

When there is concern for the safety of the reporter, it is important that the residential setting has a risk management plan in place and the residential college manager should contact the Manager Residential Colleges and/or the Regional Education Office for support.

Staff are entitled to seek counselling through the Employee Assistance Program (staff only).

An employee or third-party provider, engaged through a formal service agreement with the Department of Education, 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 residential college manager/principal, student services staff, the Department of Education's Service Response (Child Protection) staff or the Department of Communities on 1800 273 889

The residential college manager may complete documentation on behalf of the staff member who reports concerns of physical, sexual abuse, emotional abuse or neglect.

When reporting the belief that a child is or has been the subject of sexual abuse, staff who are mandatory reporters must complete their own documentation. The residential college manager must not do this on their behalf.

The reporter should record observations and factual information about what they have seen or heard such as:

- relevant dates and times
- the identity of the source of information
- information from a third party that is clearly identified as third party information
- noting of the exact words the child used to describe what happened, even if it's not Standard Australian English e.g. the word or words they used for genitals or other parts of their body, or anything else related to the disclosure or concern
- statements or descriptions made by the child, parent or third party, written **verbatim** and in quotation (" ") marks
- professional judgments informed by within teaching professional training, resources and experience;
- any other grounds for concern
- your response to the child
- the current situation i.e. Where is the child? Who is the child with?

Do not include:

- your opinions, for example, "the parent used excessive discipline"
- your personal conclusions about the type of abuse suspected
- your interpretation of what the child or others said.

Language:

- use clear, explicit, unambiguous, objective language
- use the first person singular, for example, "I saw..."
- use the names of people involved rather than she, he, etc.
- if the child uses any language other than English to describe an incident, document those words
- avoid jargon and used within the organisation that may not be understood by others who read the report
- only use terms such as 'probably' or 'likely' 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
- a breach of professional ethics or any principles of conduct applicable to the person's employment
- a breach of professional conduct.

Professional confidentiality is protected when staff provide information in the best interests of the child regarding concerns or the belief of child abuse to the Department of Communities - 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 a Department of Communities 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.

Disclosure of a mandatory 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 WA Police because the Mandatory Reporting Service must send a copy of every mandatory report to the WA Police for assessment.

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*.