

Procedures for Responding to and Reporting Allegations of Child Abuse

Child abuse can take many forms. The abuser may be a parent, carer, staff member, volunteer, another adult or even another child. Unfortunately the nature of child abuse is complex. The abuse may occur over time and potential risk indicators are often difficult to detect. Even our legal obligations for reporting allegations of child abuse can vary depending on the circumstances of the incident.

Firbank will take appropriate, prompt action in response to all allegations of disclosure of abuse, neglect, in appropriate behaviour or concerns about child safety by reporting all matters to the Victorian Child Protection Service or the Police, depending on the allegation or disclosure made.

Firbank has developed and implemented procedures for Board members, staff and direct contact volunteers for responding to allegations and disclosures of child abuse, or suspected child abuse, including procedures for support following a disclosure by a student.

Reporting procedures for third party contractors, external education providers, indirect contact volunteers, parents/carers and other community members are also included in our Child Protection and Safety Policy which is available on our public website.

Age appropriate reporting procedures for students are developed through our pastoral care program.

All of the School's procedures for reporting and responding to allegation of child abuse are designed and implemented taking into account the diverse characteristics of the School community.

Firbank will respond to all allegations of child abuse in an appropriate manner including;

- Informing the appropriate authorities and fully cooperating with any resulting investigation
- Protecting any child connected to the allegation until it is resolved and providing ongoing support to those affected
- Taking particular measures in response to an allegation that concerns a culturally diverse child or a child with a disability
- Securing and retaining records of the allegation and the School's response to it

Managing the Initial Response to a Child Protection Incident

The following outlines the four ways that a person may become aware that a child may be experiencing abuse and strategies for managing each situation and supporting and assisting children involved in the disclosure or report.

1. Observation of Risk Indicators

The different types of child abuse and their risk indicators are set out in detail in Child Abuse Definition and Key Risk Indicators document which is available on our public website. The process of identifying child abuse purely through observation of risk indicators can be complex and may occur over time. The complexity is magnified by the fact that many of the

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key risk indicators described may also occur as a result of other factors, not related to child abuse. If a concern is formed that a child may be being abused, make written notes of observations recording both dates and times. Report the matter internally to one of the School's Child Safety Officers.

2. Private Disclosure by a Child

If a student discloses a situation of abuse or neglect privately, stay calm and do not display expressions of panic or shock. Reassure and support the child by:

- Stating clearly that the abuse is not the child's fault
- Reassuring the child that you believe them
- Telling the child that disclosing the matter is the right thing to do

Be patient and allow the child to talk at their own pace. When responding, use the child's language and vocabulary. Sometimes a student may try to elicit a promise not to tell anyone about the allegation. Do not make this promise. Your role is not to investigate the allegation. Do not interrogate the child and pressure them to tell more than they want to. Once a disclosure is made, report the matter internally to the School's Child Safety Officer as soon as possible. Make written notes of the circumstances of the disclosure recording both dates and times.

3. Public Disclosure by a Child

Public disclosure occurs where there is an observation of a child disclosing to another child or group of children. In this circumstance, use a strategy of "protective interrupting". The aim of "protective interrupting" is to prevent a child from disclosing details of abuse in front of other children, whilst at the same time providing the child with the opportunity to disclose later, in a safe and confidential manner.

This can be done by;

- Asking the child if you can talk privately; and
- Moving the child away from the other students to a quiet space; and then following the guidelines with respect to managing a private disclosure

4. Third Party Disclosure

A third party such as a friend of the child, a relative or another parent may provide information relating to child abuse. In this situation;

- Listen to the person's concerns seeking clarification where required
- Thank the person for raising their concern
- Advise the person that Firbank has procedures for dealing with situations like this; and
- Advise the person that their concerns will be discussed with relevant authorities

Sometimes a person may try to elicit a promise that the allegation will not be reported. Do not make this promise as the disclosure must be reported internally to the School's Child Safety Officer as soon as possible. Make written notes of the circumstances of the disclosure recording both dates and times.

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Support Following Disclosure

Take the following steps to support and assist a child after a disclosure of child abuse or neglect is made. The range of measure employed will depend on;

- The degree of severity of the situation
- The risk of harm to the child; and
- The capability and willingness of the parent to protect the child from harm

After the disclosure is made:

- Do not promise the child you will not tell anyone about the allegation
- Reassure the child that it was the right thing to do to tell an adult
- Tell the child what you plan to do next
- Do not confront the person believed to be the perpetrator
- Report the matter to the School's Child Safety Officer who will be able to assist in developing additional support strategies; and
- Whenever there are concerns that a child is in immediate danger, call the Police on 000

Reporting a Child Abuse Concern Internally

Child abuse situations can be very complex, not only from the perspective of ascertaining where abuse has occurred but also in understanding what steps to take to protect a child.

It is important to remember at all times that the safety and welfare of the child is paramount. Therefore, if there is a concern that a child may be experiencing abuse, whether or not a belief on reasonable grounds that the abuse has occurred, immediately raise the concern with one of the School's Child Safety Officers who will be able to assist in clarifying the concerns and managing the next step.

Note that reporting the matter internally does not release you from other legal and regulatory obligations you may have, namely:

- The obligation to report a sexual offence
- The obligation to act to protect; and
- The obligation to make a mandatory report

General Legal Obligation to Report Child Sexual Abuse and "Act to Protect"

In Victoria there are specific criminal offences which impose general obligations on persons:

- Aged 18 years or over to report any belief that a sexual offence has been committed, against a child under the age of 16 years, by a person over the age of 18 years (Crimes Act (Vic) s327); and
- In authority within a school to act to remove or reduce a substantial risk that a sexual offence will be committed against a child (Crimes Act (Vic) s49C)

Conduct that is Reportable to the Victorian Institute of Teaching

Reportable Conduct

The School has a duty of care to investigate and act on allegations of employee misconduct or conviction which relate to their ability to perform their functions. Under the Education and Training Reform Act 2006 (Victoria) the School must notify the Victorian Institute of Teaching (VIT) once the School has taken action against a register teacher. The VIT then has powers to investigate and take further action.

Internal Reporting of Allegations of Misconduct

The Reportable Conduct obligation covered in this policy is separate and distinct from the Mandatory Reporting obligation under the Children, Youth and Families Act 2005 (Victoria).

Any allegation of staff misconduct must be immediately reported to the Principal, or the Chair of Board should the allegation involve the Principal.

Internal Investigation of Allegations of Misconduct

Once an allegation of misconduct has been made (which does not require reporting to Department of Health and Human Services (DHHS) Child Protection under the Mandatory Reporting obligations) an internal investigation, led by the Principal, or the Chair of the Board if the allegation relates to the Principal, will be conducted in such a manner as the particular circumstances demand. It is important to note that an internal investigation must not be conducted in relation to an allegation that is subject of Mandatory Reporting until clearance is given by the relevant authorities (Police or DHHS Child Protection).

Reporting Obligation to the VIT

The School must notify the VIT if the School has taken action against a registered teacher in response to:

- Allegations of serious misconduct
- Serious incompetence
- Fitness to teach (which relates to character, reputation and conduct, and whether the teacher is physically and mentally able to teach) or
- A registered teacher's ability to practice as a teacher is seriously detrimentally affected or likely to be seriously affected because of an impairment.

The School must also notify the VIT if the School becomes aware that a teacher;

- Has been charged with or committed for trial for a sexual offence (including grooming and child pornography offences)
- Has been convicted or found guilty of an indictable offence (offences detailed in the Crimes Act and the Wrongs Act, including offences which carry prison sentences of 5 years or more or penalties over a threshold level).

The School should also notify the VIT if a teacher takes action against them in another forum such as the Fair Work Commission.

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What “Action” Must Be Reported

“Action” which will be reported by the School to the VIT include (but are not limited to);

- Disciplinary action taken by the School; or
- Where a teacher resigns after being advised by the School that it is inquiring into allegations

When to Notify the VIT

The VIT should be notified of the action taken against a teacher once the process initiated by the School has been initiated.

VIT Response

On receiving the notification, the VIT has the power to;

- Ensure that it has obtained all relevant information from the School and may request further information
- Decide whether the matter does not reach the threshold required for it to proceed
- Conduct an investigation, an informal hearing or a formal hearing; or
- Summarily suspend the teacher on an interim basis pending an investigation, if the VIT forms a reasonable belief that the teacher poses an unacceptable risk of harm to children and believes that suspension is necessary to protect children.

A formal hearing may result in findings which can result in cautions, reprimands, conditions imposed including counselling and further education, suspension, cancellation of registration and/or period of disqualification.

Impact on Working with Children Check

Where an employee, volunteer or contractor has been charged with or found guilty of a serious sexual, violent or drug related offence (including grooming and child pornography offences) (Category 1 or Category 2 offence in the Working with Children Act 2005) their Working with Children card will be revoked and they will not be able to work or volunteer to work with children.

Confidentiality and Privacy

Confidentially of Information Relating to Child Protection Matters

Anyone who has access to information regarding a case of suspected child abuse must keep such information confidential and secure and must only disclose or discuss this information with those involved in the situation.

You must not provide undertakings that are inconsistent with their reporting obligations in the School’s Child Protection Program. In particular, you must not promise a student that you will not tell anyone about the student’s disclosure.

Students and any other parties who become involved in the investigation (this may include other students) should be informed of the reporting process and be required to maintain confidentiality.

Inappropriate disclosure will be subjected to disciplinary action.

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Protection of Reporter's Identity

Reports of referral made to DHHS Child Protection or Child FIRST are confidential and the reporter's identity is generally protected by law. Exceptions include if:

- The reporter chooses to inform the child or family of the report
- The reporter consents in writing to their identity being disclosed
- A court or tribunal decides the reporter is required to attend court to provide evidence

The identity of the person who makes a report to the Police, including reports under s327 of the Crimes Act (Obligation to Report a Sexual Offence), will remain confidential unless:

- The person themselves discloses their identity or they consent in writing to their identity being disclosed, or
- A court or tribunal decides that it is necessary in the interest of justice for the person's identity to be disclosed.

Reporter Liability

A person who makes a mandatory report in accordance with the Children, Youth and Families Act will not be held liable for the eventual outcome of any investigation. If a report is made in good faith it does not constitute a breach of professional ethics on the part of the reporter and the reporter cannot be held legally liable in respect of the report.

Protection of Staff's WWCC Status

The School will only be informed of whether an individual passes or fails the Check. None of the information gathered for the Check, such as criminal or professional records, will be passed on to Firbank Grammar.

Protection of Personal Information

How Firbank handles the information collected about individuals (referred to in the Privacy Act as personal information) is very important, as the people we deal with expect the School to handle their personal information properly and the School has a legal obligation to do so. Personal information is information, or an opinion, about an identified individual, or an individual who is reasonably identifiable:

- Whether the information, or opinion, is true or not; and
- Whether the information, or opinion, is recorded in a material form or not.

The Privacy Act only applies to personal information that is captured in a record.

Obligation to Act to Protect

Source of Obligation

Where a person in a position of authority at the School becomes aware that a staff member, volunteer (direct or indirect), contractor, or other person associated with the School poses a substantial risk of committing a sexual offence against a student or students, the person has a duty of care to take immediate action to ensure that the student or students are protected from that risk.

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The School has a duty of care which entails protecting all students from foreseeable risks while at school or engaging in School activities.

In addition, under section 49C of the Crimes Act 1958 (Vic) (Crimes Act) a person who:

- By the reason of position they occupy at the School, has the power or responsibility **to reduce or remove a substantial risk** that a relevant child (under the age of 16) will become the victim of a sexual offence committed by a person of or over the age of 18 years who is **associated with the School**; and
- **Knows that there is a substantial risk** that the person will commit a sexual offence against a relevant child;

must not negligently fail to reduce or remove that risk.

Who is Responsible for Acting to Protect?

The person responsible for taking steps to remove or reduce the risk to the student will depend upon the source of the risk. In a normal school context usually a member of the school leadership team would have the necessary degree of supervision, power and authority to remove or reduce the risk. On tours, excursions or camps, a teacher or a volunteer coach could have the requisite power and responsibility.

Examples of people in a position of authority include:

- Members of the School Board
- The Principal
- Members of the School Leadership Team
- Teachers; and
- Volunteers where they are in a position of supervision

When Should Action be Taken?

A person in a position of authority at Firbank is required to act if they know that there is a substantial risk that a student or students may become the victim of a sexual offence and the risk is caused by a person associated with the School.

Knowledge is more than holding a tentative belief or a mere suspicion.

If a person in authority has a suspicion or belief that students are at risk of harm, they must take steps to follow up on that suspicion or belief by investigating further and should raise the issue with one of the School's Child Safety Officers.

The duty to act extends to situations where the students at risk or the person in authority is outside Victoria.

What is a Substantial Risk?

A risk will be a substantial risk if a reasonable person would have judged the risk of a sexual offence being committed against the student as being substantial.

It is not necessary to prove that a sexual offence was committed in order for a substantial risk to exist ie. A person in a position of authority should not wait for a student to be harmed before acting.

A number of factors will contribute to determining if a risk is a substantial risk including;

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- The likelihood or probability that a child will become the victim of a sexual offence
- The nature of the relationship between a child and the adult who may pose a risk to the child
- The background of the adult who may pose a risk to the child, including any past or alleged misconduct
- Any vulnerabilities particular to a child which may increase the likelihood that they may become the victim of a sexual offence; and
- Any other relevant fact which may indicated a substantial risk of a sexual offence being committed against a child.

Procedure to Reduce or Remove a Substantial Risk

Where any staff member, volunteer or other person in a position of authority at the time, becomes aware of a risk of a sexual offence against a student or students under their care, they should immediately:

- Take reasonable steps which would remove or reduce the risk to the student or students, which may include immediately removing the person from contact with the student or students
- Report the matter to one of the School's Child Safety Officers and the Principal as soon as practicable
- Conduct an investigation unless this is related to a Mandatory Reporting situation; and
- Make the appropriate report

Whenever there are concerns that a child is in danger, call the Police on 000.

Record Keeping

Documenting a suspicion or belief of abuse

Where a staff member, Board member or direct contact volunteer forms a belief on reasonable grounds that a student is in need of protection, written and dated notes of their observation and concerns should be recorded to assist in a referral/report of child abuse.

All verbal and written communications regarding child protection matters (including notes of observations, student disclosures, meeting and telephone calls) must be properly documented. The documented records should include dates and times and enough detail to record key conversations, especially those relating to the student's disclosure.

The records of the child protection must be stored securely.