

Responding and Reporting Obligations

Berengarra takes a zero-tolerance approach to child abuse and is fully committed to ensuring that its strategies, policies, procedures and practices meet all Child Safety Standards as specified in Ministerial Order No. 870 (2015)

PURPOSE

The purpose of this policy is to ensure that all staff and members of the school community understand the various legal and other reporting obligations related to child safety that apply to Berengarra School. The specific procedures that are applicable at the school are contained in the Child Safe Reporting Obligation Procedures at Berengarra School.

SCOPE

This policy applies to all school staff, volunteers and school community members. It also applies to all staff and students engaged in any school events, activities and services.

POLICY

All children and young people have the right to protection in their best interests.

Berengarra School understands the important role the school plays in protecting children and young people from abuse including:

- Physical abuse
- Sexual abuse (including sexual exploitation)
- Family violence
- Emotional abuse
- Neglect (including medical neglect)
- Grooming

The staff are required by law to comply with various child safety reporting obligations. We also recognise the diversity of the students at Berengarra School and take account of their individual needs and backgrounds when considering the safety of children and young persons.

Mandatory Reporting

Principals, registered teachers, registered medical practitioners, nurses and all members of the police force are mandatory reporters under the Children, Youth and Families Act 2005 (Vic).

As a result of changes to mandatory reporter groups, registered psychologists have been mandatory reporters from 1 March 2019, and from 21 January 2020, school counsellors have been mandatory reporters.

All mandatory reporters must make a report to DHHS Child Protection as soon as practicable if, during the course of carrying out their professional roles and responsibilities, they form a belief on reasonable grounds that:

- a child or young person has suffered, or is likely to suffer, significant harm as a result of physical abuse and/ or sexual abuse, and
- the child or young person's parents have not protected, or are unlikely to protect, the child or young person from harm of that type.

A mandatory reporter who fails to comply with this legal obligation may be committing a criminal offence. It is important for all staff at Berengarra School to be aware that they are legally obliged to make a mandatory report on each occasion that they form a reasonable belief that a child or young person is in need of protection and they must make a mandatory report even if the Principal does not share their belief that a report is necessary.

At the school, all mandated school staff must undertake the Mandatory Reporting and Other Obligations eLearning Module annually. Other staff are also encouraged to undertake this module, even where they are not mandatory reporters.

Child/young person in need of protection

Any person can make a report to DHHS Child Protection (131 278 for 24-hour service) if they believe on reasonable grounds that a child or young person is in need of protection.

Berengarra School requires all staff who form a reasonable belief that a child or young person is in need of protection to report their concerns to DHHS or Victoria Police, and discuss their concerns with the Principal and the school leadership/wellbeing team.

At Berengarra School staff are also encouraged to make a referral to Child FIRST when they have significant concern for a child or young person's wellbeing.

Reportable Conduct

The Principal must notify the Board if he becomes aware of an allegation of 'reportable conduct'.

There is an allegation of reportable conduct where a person has formed a reasonable belief that there has been:

- a sexual offence (even prior to criminal proceedings commencing), sexual misconduct or physical violence committed against, with or in the presence of a child or young person;
- behaviour causing significant emotional or physical harm to a child or young person;
- significant neglect of a child or young person; or
- misconduct involving any of the above.

The Principal must notify the Board of any reportable conduct allegations involving current or former teachers, contractors, volunteers (including parents), allied health staff and other employees.

If school staff become aware of reportable conduct by any person in the above positions, they should notify the Principal immediately. If the allegation relates to the Principal, they should notify the Board.

Failure to disclose offence

Reporting child sexual abuse is a community-wide responsibility. All adults (i.e. persons aged 18 years and over), not just professionals who work with children, have a legal obligation to

report to Victoria Police, as soon as practicable, where they form a 'reasonable belief' that a sexual offence has been committed by an adult against a child or young person under the age of 16 by another person aged 18 years or over.

Failure to disclose information to Victoria Police (by calling 000 or local police station) as soon as practicable may amount to a criminal offence unless a person has a 'reasonable excuse' or exemption from doing so.

"Reasonable belief" is not the same as having proof. A 'reasonable belief' is formed if a reasonable person in the same position would have formed the belief on the same grounds.

For example, a 'reasonable belief' might be formed when:

- a child or young person states that they have been sexually abused
- a child or young person states that they know someone who has been sexually abused (sometimes the child or young person may be talking about themselves)
- someone who knows a child or young person states that the child or young person has been sexually abused
- professional observations of the child or young person's behaviour or development leads a mandated professional to form a belief that the child or young person has been sexually abused
- signs of sexual abuse leads to a belief that the child or young person has been sexually abused.

"Reasonable excuse" is defined by law and includes:

- fear for the safety of any person including yourself or the potential victim (but not including the alleged perpetrator or an organisation)
- where the information has already been disclosed, for example, through a mandatory report to DHHS Child Protection.

Failure to protect offence

This reporting obligation applies to school staff in a position of authority. This can include principals and heads of campus. Any staff member in a position of authority who becomes aware that an adult associated with their school (such as an employee, contractor, volunteer or visitor) poses a risk of sexual abuse to a child or young person under the age of 16 under their care, authority or supervision, must take all reasonable steps to remove or reduce that risk.

This may include removing the adult (i.e. persons aged 18 years and over) from working with children pending an investigation and reporting your concerns to Victoria Police.

If a school staff member in a position of authority fails to take reasonable steps in these circumstances, this may amount to a criminal offence.

Grooming

Grooming is a criminal offence under the Crimes Act 1958 (Vic). This offence targets predatory conduct undertaken by an adult to prepare a child or young person, under the age of 16, to engage in sexual activity at a later time. Grooming can include communicating and/or attempting to befriend or establish a relationship or other emotional connection with the child/young person or their parent/carer.

References:

Related legislation

- Children, Youth and Families Act 2005
- Crimes Act 1958
- Education and Training Reform Act 2006
- Victorian Institute of Teaching Act 2001

DET resources

- [PROTECT](#)
- [Protecting the safety and wellbeing of children and young people](#)
- [Protecting Children - Mandatory Reporting and Other Obligations](#) - elearning module log-in

Other resources

- Non-government schools, see: [Scootle](#)
- Parents, see: [Daniel Morcombe Child Safety Curriculum Parent Guides - Queensland Department of Education, Training and Employment.](#)
- Department of Health and Human Services:
 - [Child Protection](#)
 - [Child FIRST](#)
- [Victoria Police Sexual Offences and Child Abuse Investigation Teams \(SOCIT\)](#)
- Department of Justice and Regulation:
 - [Failure to disclose offence](#)
 - [Failure to protect offence](#)
 - [Grooming offence](#)

RELATED POLICIES:

SEE BERENGARRA SCHOOL CHILD SAFE POLICIES ACROSS 7 STANDARDS

This policy is to be reviewed as part of the school review process, as the result of a mandatory reporting incident and in response to changing legal and legislative requirements.

Dec 2019 Endorsed by Board: May 2020 Review date: May 2023

(Replaces previous Child Safe Mandatory Reporting policy – Aug 2016; Feb 2018; Aug 2018)