



WARRAH SCHOOL CHILD PROTECTION POLICY

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PART A: CHILD PROTECTION POLICY FRAMEWORK

1. General Introduction

Warrah School recognizes the right of all children and young people to live free from harm, abuse and exploitation, and on this basis, strives to provide a safe and supportive educational environment for all students attending the School. Warrah School recognizes it has a Duty of Care towards its students, and on this basis has relevant Policies and Procedures to uphold the principles of a safe and supportive environment for all children and adults who access the School services.

Warrah Society requires all staff and volunteers to undertake an appropriate level of screening and training to support Warrah School to fulfil its duty of care Responsibilities to its students. Warrah Society also provides the opportunity through induction and training for all staff and volunteers to be aware of relevant School Child Protection Policy and Procedures to uphold the principles of a safe and supportive environment for all children and adults who access the School services. **Employees and volunteers working in the adult services at Warrah should immediately notify any Child Protection matters to their Unit Coordinator, Manager or directly to the School Principal.**

2. Definitions

A. The "Head of Agency" for Warrah School is the Principal

B. An "Allegation" is the disclosure of any reportable conduct to any member of the School community

C. "Reportable conduct" means:

- a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence); or
- b) any assault, ill-treatment or neglect of a child; or
- c) any behaviour that causes psychological harm to a child

N.B. The Child Protection Legislation Amendment Act 2003 establishes employee behaviour that, in certain circumstances, will not be considered to be reportable conduct. Examples of this behaviour include:

- Conduct that is reasonable for the purposes of discipline, management or care of children.
- Use of physical force that is trivial or negligible.
- Class or Kind exemptions (under certain circumstances).

D. "Relevant employment proceedings" - are those where an employer (or professional or other supervising body) has found:

- a) reportable conduct; or
- b) that an act of violence committed by an employee in the course of employment and in the presence of a child has occurred, or there is some evidence it occurred, however the finding is inconclusive.

E. 'procedural fairness' - or Natural Justice is a philosophy used in the determination of just or fair processes. The *principles of procedural fairness* are two fundamental principles widely held to be legally necessary to a fair trial or valid decision in a legal system. These are:

- "nobody shall be a judge in his own cause", invalidating any judgment where there is a bias or conflict of interest or duty; and
- "hear the other side", giving at least a fair opportunity to present one's case.

F. 'risk assessment' - is a step in a risk management process. Risk assessment consists in an objective evaluation of risk in which assumptions and uncertainties are clearly considered and presented. Risk assessment is the determination of quantitative or qualitative value of risk related to a concrete situation and a recognized threat (also called hazard). *Quantitative risk assessment* requires calculations of two components of risk: R , the magnitude of the potential loss L , and the probability p , that the loss will occur.

G. 'child' - means a person who is under the age of 16 years;

H. 'young person' - means a person who is aged 16 years or above but who is under the age of 18 years.

I. 'risk of significant harm' - uses "significant" as in the phrase "to a significant extent" to mean that which is sufficiently serious to warrant a response by a statutory authority, irrespective of a family's consent. What is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child's or young person's safety, welfare or wellbeing. In the case of an unborn child, what is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child.

3. Legislative Requirements

The Principal is the designated Head of Agency (HOA) of Warrah School and is responsible for reporting to the various external agencies (Community Services, Ombudsman and Commission for Children and Young People). However, it is acknowledged that under the Child Protection Legislation, Class teachers are also required report children at risk of harm of DoCS and may do so in their own right. Such reports are to be notified immediately to the Principal (Head of Agency). To fully meet legislative requirements, it is the policy of Warrah School that all staff of Warrah School, including Specialist teachers, therapists and volunteers are to be aware of Child Protection procedures and are required to notify any concerns regarding the well-being of a child at the School to the Principal (H.O.A.).

Relevant legislation governing this policy include:

- The Child Protection (prohibited Employment) Act 1998
- The Commission for Children and Young People Act 1998, Section 7, Employment Screening
- The Child Protection Legislation Amendment Act 2003
- The Keep Them Safe Reforms April 2009.

The legislation for the Keep Them Safe reforms passed through Parliament and was assented to on 7 April 2009. A staged approach to commencement of the [Children Legislation Amendment \(Wood Inquiry Recommendations\) Act 2009](#) has been taken to ensure that training and support tools are in place before the legislation takes effect.

What is Keep Them Safe?

Keep Them Safe: A shared approach to Child Wellbeing is the NSW Government's response to the Report of the Special Commission of Inquiry into Child Protection Services in NSW, led by the Honourable James Wood AO QC and released in November 2008. *Keep Them Safe* recognises the importance of the wellbeing of all children and young people, with the aim of providing appropriate support to families earlier, to prevent children and young people requiring statutory child protection intervention. To achieve this *Keep Them Safe* encourages families and communities, government agencies and non-government organisations (NGOs) to work together to support children, young people and families.

Provisions proclaimed in June/July 2009:

- Establish the position and functions of the new President of the Children's Court
- Change the reviewable deaths definition and the Ombudsman's reporting period, implementing two specific Wood recommendations.

Provisions proclaimed on 30 October 2009:

- Establish a scheme for the exchange of information between government agencies and non-government organisations involved in the safety, welfare or wellbeing of children and young people.

Provisions proclaimed on 24 January 2010:

- Raise the mandatory threshold for reporting to Community Services from "risk of harm" to "risk of significant harm"
- Include two new grounds that indicate a child may be at risk of significant harm:
 - 1. parents or carers have not made proper arrangements and are unable or unwilling for their child to receive an education;
 - 2. a series of acts or omissions that when viewed together may establish a pattern of risk of significant harm (cumulative impact)
- Set up an alternative reporting process for mandatory reporters in major government reporting agencies (establishing Child Wellbeing Units in the agencies that the Wood report found made over 60 per cent of all reports) and remove penalties for not reporting
- Allow disclosure of reporter identity to a law enforcement agency investigating a serious offence against a child or young person, in limited circumstances
- Simplify and streamline the Children's Court process, making it more user-friendly
- Clarify the Court's role regarding children in out-of-home care
- Establish a new approach to out-of-home care based on children being in statutory, supported and voluntary out-of-home care.

Provisions proclaimed on 31 March 2010:

- Expand the categories of people subject to "working with children" background checks.

4. Prevention Strategies

Warrah School uses proactive strategies to promote the awareness of students, staff and the community regarding child protection issues.

These include:

- As far as possible and with regard to the age, development and level of ability of enrolled students at any time, Class teachers include elements of child protection within the school's curriculum and program of activities. This could include assisting students, at their level of understanding, to recognise abuse and/or power in relationships, appropriate protection strategies, the right of children to say 'no' and communication strategies for children, as provided in the Board of Studies syllabus.
- The professional development program for staff includes relevant and timely training sessions in current Child Protection matters and the provision of appropriate support documentation on child Protection procedures within the School
- Warrah School staff abide by the Warrah 'Code of Ethics'. (see Appendix A)
- Families receive information on the child protection strategies at the school as part of the Policy and Procedure documentation at the completion of the enrolment process. This documentation clearly identifies for families and the community how to raise child protection issues at the School and includes identification of the person to who concerns should be reported.

5. Investigation Processes

In the case of an allegation of abuse is received by the School against an employee of the School, the person subject to the allegation will be properly informed of the process to be followed. This process is detailed in the following document (page 30) titled:

PROCEDURES FOR HANDLING ALLEGATIONS AND CONVICTIONS OF CHILD ABUSE AGAINST EMPLOYEES

In developing this procedure Warrah School has been guided by 'The Association of Independent Schools NSW and The NSW/ACT Independent Education Union - Recommended Protocols for Internal Investigation and Disciplinary Proceedings'.

6. Documentation

Copies of and/or website links for relevant documentation, such as the Prohibited Employment Declaration, Notification to Ombudsman, Completed Relevant Disciplinary Proceedings and Employee Notification Advice to the Commission for Children and Young People are attached. (See Appendix B)

Part B: CHILD CARE AND PROTECTION LEGISLATION

1. RELEVANT LEGISLATION governing this policy include:

- The Child Protection (prohibited Employment) Act 1998
- The Commission for Children and Young People Act 1998, Section 7, Employment Screening
- The Child Protection Legislation Amendment Act 2003
- The Keep Them Safe Reforms April 2009.

These can be cited at the following websites:

2. EMPLOYMENT SCREENING

Employment screening at Warrah School is a nine-step process.

Step 1: Identification

As Warrah School is an organization whose main service is service to children, all employees (including appropriate volunteers) will be subject to screening.

As an independent school, the Commission for Children and Young People is the Approved screening agency.

Step 2: Current Employers

At any given time, all current employees, including those in position before the commencement of the Child Care and Protection (Employment) Act, have provided a declaration that they are not a prohibited person. All current employees also voluntarily undertook relevant screening.

Warrah School requires all current employees to disclose whether or not they are a prohibited person.

Warrah School requires that any employee, who is a prohibited person, must disclose that to the Warrah School and such an employee may not remain employed in an area where they have unsupervised contact with children.

Step 3: Recruitment (Child-related Position)

As Warrah School is an organization whose main service is service to children, all employees (including appropriate volunteers) will be subject to screening.

As an independent school, the Commission for Children and Young People is the Approved screening agency.

- a. Any advertisement for a position in the School (where there is one) must indicate that prohibited persons are not permitted to apply.
- b. All successful applicants must complete a Prohibited Person Declaration and consent to employment screening prior to completion of the employment process.

Step 4: Request for Screening

- a. The employment screening request is submitted by the Education Director or delegate to the Approved Screening Agency (Commission for Children and Young People). For independent schools the Commission for Children and Young People is the Approved

Screening Agency and you may request screening for your preferred applicant or for a short list of applicants and there will be no charge for screening.

- b. A detailed reference check is conducted by the Principal or delegate with at least the immediate past employer. Employers are required by the Act to provide to another employer details of an employee for the purpose of employment screening.

Step 5: Screening

- a. Criminal records: Police undertake checks on criminal records and apprehended violence orders (taken out by a police officer or other public official to protect a child) and advise the Approved Screening Agency of findings.
- b. Apprehended Violence Order: The Commission for Children and Young People undertakes checks on completed disciplinary proceedings (various forms of misconduct that occurred in the presence of children or were directed at children) and advises the Approved Screening Agency of findings.
- c. Disciplinary proceedings.

Step 6: Verification

- a. If disciplinary proceedings are identified, the Approved Screening Agency (Commission for Children and Young People) investigates the details of the disciplinary action.

Step 7: Risk Assessment

- a. If any information is identified during the screening process, the Approved Screening Agency (Commission for Children and Young People) will undertake a risk assessment to determine the suitability of the applicant for child-related employment and make an appropriate recommendation to the employer.
- b. Approved Screening Agencies must contact the applicant to discuss any information, which may arise during the screening process before making its recommendation.
- c. Risk assessment profiles are likely to be advised as High, Medium, Low or No greater than average.

Step 8: Employment

- a. Other than where 'Prohibited Employment Status' is advised, Warrah School will determine whether it is appropriate to employ an applicant based on:
 - Findings of the screening process;
 - Reference checks;
 - Risk assessment (if undertaken).

Step 9: Notification of Rejected Applicant

- a. If the employer chooses not to employ an applicant because of findings made during any part of the screening process, the employer must notify the Commission for Children and Young People of the name and other identifying particulars of that applicant.

Warrah School is aware that here are sensitive issues regarding employment screening which may require further clarification, and that dialogue from the AIS on behalf of the independent schools sector continues with the Commission for Children and Young People whenever necessary. Any questions regarding screening or other child protection matters will be referred to relevant authorities and/or Geoff Newcombe at the NSW AIS office.

Part C: CHILD ABUSE AND NEGLECT

AIMS: Warrah School strives to ensure that staff are aware of their responsibilities to children in relation to physical, emotional and sexual abuse and neglect.

Warrah School strives to minimize the opportunities for abuse to occur between a staff member and child/children through employment procedures and working practices.

IMPLEMENTATION:

Implementation of Child Protection strategies at Warrah is proactive, and concentrates on both prevention and appropriate response.

1. PREVENTION:

a) STAFF RECRUITMENT

When staff have been assessed as suitable for employment, reference checks must be carefully carried out before the applicant is formally offered the position. These reference checks must be done by contacting the referee verbally. Applicants should provide two suitable referees who can be contacted in this way.

Similarly, Criminal record checks should be carried out via the Department of Community Services prior to successful applicants being offered positions. The Criminal Record Check must be carried out with applicant's knowledge and written consent, and only when the applicant has been assessed as suitable for employment.

b) WORKING PRACTICES-STRATEGIES FOR STAFF AND CHILD PROTECTION

Warrah School is aware that in carrying out strategies such as these we need to be careful that we do not withdraw all physical contact from the children. The loss of spontaneous affection would be a detriment to both children and staff. Physical contact can be part of the nurturing of children and helps to create and sustain trusting relationships and adds to feelings of security.

Warrah School is aware of the individual child's stage of development and particular needs and strives to plan the curriculum accordingly, with awareness that unrealistic challenges in curriculum can create unnecessary stress for a child.

Warrah School encourages staff to be aware of their own personal level of tolerance and stress factors and to acknowledge that there may be some children that they will find more difficult to relate to than others. Staff are encouraged to discuss this honestly with other School colleagues.

Class Teachers and therapists are advised to maintain up to date developmental records on all children, which will also include note of relevant conversations with parents that may relate to a child's behaviour change (e.g. parents separating, new baby in the family, etc.)

Class Teachers are advised to develop open communication with parents regarding all aspects of their child's development, acknowledging that discussion regarding children's behaviour should be a two-way communication and less threatening to all concerned. If there are language barriers

hindering communication, assistance can be sought through colleagues, the Principal or relevant specialist advice.

As children with special needs may need more physical contact and physical guidance than other children, Warrah School informs parents that in an emergency situation it might be necessary to physically guide or restrain a child to maintain their safety and the safety of others. Such a situation would be reported to parents/guardians via the "Accident/Incident Reporting Policy" and appropriate risk assessment and program adjustment would be undertaken as required.

c) PROTECTIVE BEHAVIOURS

Warrah School is aware that any Protective Behaviours Programs undertaken need to be carefully considered, taking into account the ages, abilities and developmental stages of the children. It must be recognized that while such programs can help most children to develop useful skills, it is not reasonable or realistic to expect students with an intellectual disability to be able to guarantee their own safety in most cases. The safety of children remains at all times an adult responsibility. This responsibility should not be implicitly placed on children.

The following practices can however be usefully integrated into day to day practices:

- Encouraging the use of correct terminology for all body parts.
- Encouraging children to identify and discuss feelings in a variety of situations.
- Encouraging questioning and decision making skills.
- Guiding students to make appropriate decisions and choices about touch and encouraging them to respect other student's appropriate choices.
- Encouraging children to distinguish between situations where they feel safe and don't feel safe.
- Provide an environment where children know that their questions and concerns are listened to.

2. APPROPRIATE RESPONSE

A.ROLE OF STAFF MEMBERS IN RECOGNISING AND NOTIFYING CHILD ABUSE AND NEGLECT

All staff should have appropriate knowledge of:

- a) The injuries, behaviours and presentations which may indicate that a child is being abused or neglected.
- b) The necessary procedures to follow if staff suspect abuse or neglect, and;
- c) Appropriate ways to support children who are victims of abuse.

B.INDICATORS OF ABUSE AND NEGLECT

There are many indicators of child abuse and neglect.

The following information is presented in this manual as a guide to assist teachers, staff, parents and members of the Warrah School community in recognizing the child abuse and neglect. It cannot be considered to be comprehensive listing of all harms, behaviours or presentations that give rise to a concern or suspicion of child abuse or neglect. Each sign needs to be considered in the context of the child's personal circumstances and concerns should always be referred for appropriate specialist support.

Contextual factors, which relate to all types of abuse and neglect, are described. They are of assistance when considering the likelihood that and injury, behaviour or disclosure of a child is related to or caused by abuse or neglect. The indicators of the child abuse and neglect are grouped by neglect, followed by physical, emotional and sexual abuse. The indicators are described in terms of the child's presentation and behaviours of those that abuse and neglect them.

One indicator in isolation may not imply abuse or neglect. Each indicator needs to be considered in the context of other indicators and the child's circumstances.

SETTING THE CONTEXT

The following contextual factors in the life circumstances of the child are relevant when considering indicators of abuse and neglect:

- history of previous harm to the child
- social or geographic isolation of the child or family; including lack of access to extended family
- abuse or neglect of sibling
- family history of violence including injury to children
- domestic violence
- physical or mental health issues for the parent or care giver affecting their ability to care for the child
- the parent's or care givers' abuse of alcohol or other drugs affecting their ability to care for the child
- parent or care giver is experiencing significant problems in managing the child's behaviour
- the parent or care giver has unrealistic expectations of age appropriate behaviour in the child.

D. GENERAL INDICATORS OF ABUSE OR NEGLECT

- marked delay between injury and presentation for medical assistance
- history of injury which is inconsistent with the physical findings
- history of injury which is vague, bizarre or variable
- where the child tells you when he/she has been abused
- when the child tells you she/he knows someone who has been abused, may be referring to herself/himself
- someone else tells you, such as a relative, friend, acquaintance or sibling of the child that the child may have been abused.

a) INDICATORS OF NEGLECT

Indicators in children:

- poor standards of hygiene leading to social isolation
- scavenging or stealing food
- extended stays at school, public places, others homes
- being focused on basic survival
- extreme longing for adult affection
- a flat and superficial way of relating, lacking of a sense of genuine interaction
- anxiety about being dropped or abandoned
- self comforting behaviour, e.g. rocking, sucking
- non-organic failure to thrive
- delay in developmental milestones
- loss of 'skin bloom'

- poor hair texture
- untreated physical problems.

Indicators in parents or care givers:

- failure to provide adequate food, shelter, clothing, medical attention, hygienic home conditions or leaving the child inappropriately without supervision
- inability to respond emotionally to a child
- child abandoned
- depriving of or withholding physical contact or stimulation for prolonged periods
- failure to provide psychological nurturing
- treating one child differently from the others.

b) INDICATORS OF PHYSICAL ABUSE

Indicators in children:

- facial, head and neck bruising
- lacerations and welts from excessive discipline or physical restraint
- explanation offered by the child is not consistent with the injury
- other bruising and marks which may show the shape of the object that caused it (e.g. A handprint, buckle)
- bite marks and scratches where the bruise may show a print of teeth and experts can determine whether or not it is an adult bite
- multiple injuries or bruises
- ingestion of poisonous substances, alcohol or other harmful drugs
- ruptured internal organs without a history of major trauma
- dislocations, sprains, twisting
- fractures of bones, especially in children under 3 years
- burns and scalds
- head injuries where the child may have indicators of drowsiness, vomiting, fits or retinal hemorrhages suggesting the possibility of the child having been shaken
- general indicators of female genital mutilation which could include: having a special operation associated with celebrations; reluctance to be involved in sport or other physical activities when previously interested; difficulties with toileting.

Indicators in parents or caregivers:

- direct admissions by parents or care givers that they fear they may injure the child
- family history of violence, including previous harm to children
- history of their own maltreatment as a child
- repeated presentations of the child to health or other services with injuries, ingestions or with minor complaints.

c) INDICATORS OF EMOTIONAL ABUSE

Indicators in children:

- feelings of worthlessness about life and themselves
- inability to value others
- lack of interpersonal skills necessary for adequate functioning
- extreme attention seeking behaviour
- other behavioural disorders (e.g. disruptiveness, aggressiveness, bullying.)

Children sustain emotional harm from all types of abuse.

Indicators in parents or caregivers:

- constant criticism, belittling, teasing of a child, or ignoring or withholding praise and affection
- excessive or unreasonable demands
- persistent hostility and severe verbal abuse, rejection and scapegoating
- belief that a particular child is bad or 'evil'
- using inappropriate physical or social isolations as punishment
- situations here an adult's behaviour harms a child's wellbeing
- exposure to domestic violence

d) INDICATORS OF SEXUAL ABUSE

Indicators in children:

- describes sexual acts (e.g. Daddy hurts my wee-wee)
- direct or indirect disclosures
- age inappropriate behaviour and/or persistent sexual behaviour
- self-destructive behaviour, drug dependency, suicide attempts, self mutilation
- persistent running away from home
- anorexia, overeating
- going to bed fully clothed
- regression in developmental achievements in younger children
- child being in contact with a known or suspected perpetrator of sexual assault
- unexplained accumulation of money and gifts
- bleeding from the vagina or external genitalia or anus
- injuries such as tears or bruising to the genitalia, anus or perineal region
- sexually transmitted diseases
- adolescent pregnancy
- trauma to the breasts, buttocks, lower abdomen or thighs

General indicators of child stress should be considered such as:

- marked changes in behaviour or mood, tantrums, aggressiveness, withdrawal
- poor concentration at school
- sleeping/bedtime problems, e.g. nightmares, bed wetting
- child complains of stomach aches and headaches with no physical findings

Indicators in parents, care givers, siblings, relatives, acquaintances or strangers:

- exposing the child to prostitution or child pornography or using a child for pornographic purposes
- intentional exposure of child to sexual behaviour of others
- having committed/been suspected of child sexual abuse
- inappropriate curtailing or jealousy regarding age-appropriate development of independence from the family
- coercing child to engage in sexual abuse
- verbal threats of sexual abuse
- denial of adolescent's pregnancy by family

- perpetration of spouse abuse or physical abuse.

Offenders use a range of tactics including force, threats, and tricks to engage children in sexual contact and to try to silence the child. They may also try to gain the trust and friendship of parents in order to obtain access to children.

3. REPORTING AND NOTIFYING CHILD ABUSE AND NEGLECT

Understanding the new reporting framework

This section provides advice on:

- reporting risk of significant harm to children and young people
- mandatory reporters
- what constitutes significant harm
- who to report
- when to report
- allegations involving agency employees

Reporting risk of significant harm

Everyone in the Warrah community should be alert to signs of abuse or neglect in children and young people. Their safety, welfare and well-being are a community responsibility. An injury, concerning behaviour or a disclosure may be a trigger to consider whether you should report a child or young person, or whether you or your agency can offer support to prevent significant harm from occurring or continuing.

Any member of the Warrah community, including mandatory reporters, who suspect, on reasonable grounds, that a child or young person is at risk of significant harm should report their concerns to the Child Protection Helpline on 133 627.

The Principal is the designated Head of Agency (HOA) of Warrah School and is responsible for reporting to the various external agencies (Community Services, Ombudsman and Commission for Children and Young People). However, it is acknowledged that under the Child Protection Legislation, Class teachers are also required to report children at significant risk of harm of and may do so in their own right. Such reports are to be notified immediately to the Principal (Head of Agency). To fully meet legislative requirements, it is the policy of Warrah School that all staff of Warrah School, including Specialist teachers, therapists and volunteers are aware of Child Protection procedures and are required to notify any concerns regarding the well-being of a child at the School to the Principal (H.O.A.).

Mandatory reporters at Warrah School should telephone **133 627**. Non mandatory reporters, including the general public, should phone **132 111**.

Non- English speaking reporters

Reporters who cannot speak English can make a report to the Helpline using a professional phone interpreter. Reporters requiring the assistance of a translator are advised to contact the Translation and Interpreting Service on 131 450. The reporter will need to indicate the language they speak and that they wish to contact the Child Protection Helpline. There is no cost to the reporter for this service.

Mandatory reporters

A mandatory reporter is an individual required by law to report to Community Services when they have reasonable grounds to suspect that a child, or class of children, is at risk of significant harm from abuse or neglect and that those grounds are identified during the course of, or from the person's work.

Mandatory reporting responsibilities are set out in the [Children and Young Persons \(Care and Protection\) Act 1998](#) (the Act). Mandatory reporters should also consult their own agency's policies and procedures on making a child protection report.

Note that while it is mandatory to report children aged 0-15 years at risk of significant harm, it is not mandatory to report young people aged 16-17 years or unborn children. Professional judgement should be used in deciding whether concerns about the safety, welfare or wellbeing of an unborn child or a young person warrant a report to Community Services.

The definition of mandatory reporters in the Act has not changed. Mandatory reporters are those who deliver the following services wholly or partly to children as part of their paid or professional work:

- health care (e.g. doctors, nurses, dentists and other health workers)
- welfare (e.g. psychologists, social workers and youth workers)
- **education (e.g. teachers, aides)**
- children's services (e.g. child care workers, family day carers and home based carers)
- residential services (e.g. refuge workers, community housing providers)
- law enforcement (e.g. police).

Managers - including both paid employees and volunteers - who supervise those providing direct services to children are also mandated to report.

Mandatory reporters will be guided by the *Mandatory Reporter Guide*, as an interactive online tool and in a hard copy format.

Mandatory reporters employed in government agencies that have a Child Wellbeing Unit can call that unit for help to determine whether a case meets the new threshold of risk of significant harm and to discuss options to assist the child or young person and family.

Mandatory reporters should note that the legislation requires that they continue to respond to the needs of the child or young person (within the terms of their work role) even after a report to the Child Protection Helpline has been made.

The provision for a criminal penalty to be imposed on mandatory reporters for failing to report concerns about risk of harm will be removed from the legislation in January 2010. The legal obligation to report remains in place.

What constitutes significant harm

A child or young person is at risk of significant harm if the circumstances that are causing concern for the safety, welfare or well being of the child or young person are present to a significant extent.

This means the concern is sufficiently serious to warrant a response by a statutory authority (such as NSW Police Force or Community Services) irrespective of a family's consent.

What is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare or wellbeing, or in the case of an unborn child, after the child's birth.

The significance can result from a single act or omission or an accumulation of these.

Who to report

The Act provides for reports being made about:

- children and young people at risk of significant harm
- unborn children at risk of significant harm
- homeless children and young people.

This includes children who were the subject of a prenatal report under section 25 of the Act and whose birth mother has not engaged with support services to eliminate or minimise the risk that gave rise to the report.

When to report

The Mandatory Reporter Guide has been developed to assist reporters to decide if any of the following conditions are present to a significant extent:

- physical abuse
- neglect
 - supervision
 - physical shelter/environment
 - food
 - medical care
 - mental health care
 - education
- sexual abuse
- problematic sexual behaviour
- psychological harm
- relinquishing care
- carer concerns
 - parent/carer substance abuse
 - parent/carer mental health
 - parent/carer domestic violence
- unborn child.

Where a person has reasonable grounds to suspect risk of significant harm, they should first use the Mandatory Reporter Guide to assess whether their concerns meet the threshold of risk of significant harm. However, if there is an immediate danger to the child or young person the Police and/or the Helpline should be contacted directly.

Reasonable grounds refers to the need to have an objective basis for suspecting that a child or young person may be at risk of significant harm, based on:

- first hand observations of the child, young person or family
- what the child, young person, parent or another person has disclosed
- what can reasonably be inferred based on professional training and / or experience.

It does not mean that reporters are required to confirm their suspicions or have clear proof before making a report.

Concerns must be current - that is, significant harm arising from abuse or neglect is recent or likely in the foreseeable future should circumstances continue unchanged. Current concerns may also arise from a child or young person having contact with someone who is known to be responsible for causing harm to a child in the past.

Current concerns also refer to situations where the abuse or neglect of the child or young person occurred some time in the past but continue to have an impact on the child or young person's safety, welfare or wellbeing.

Where use of the *Mandatory Reporter Guide* advises risk of significant harm, mandatory reporters must make a report to the Child Protection Helpline. Other reporters should also report a child or young person to the Helpline where the *Mandatory Reporter Guide* confirms risk of significant harm. A report to the Helpline starts the process of assessing whether statutory child protection is needed.

Legal Aspects of notifying Neglect or Abuse

A report of suspected abuse/neglect to the Community Services does not constitute grounds for:

- breach of professional ethics or conduct
- civil proceedings for malicious prosecution or conspiracy
- a defamation claim

The contents of the report are not admissible as evidence in court proceedings, except in care application in children's court.

As far as possible the anonymity of the notifier will be protected.

Staff member's role in supporting the child

Warrah School staff should be supportive of and understanding towards any child who may be a victim of abuse/neglect.

Under no circumstances should the child be made to feel responsible for the abuse.

If a child volunteers information about the circumstances of abuse the staff should:

- listen sympathetically and reflectively
- use a calm reassuring tone and talk at child's level
- believe the child
- not make promises they cannot keep
- comfort the child
- avoid expressing doubt, judgment or shock
- convey messages; it is not their fault it was right to tell, it is not OK for adults to harm children no matter what
- tell them you will need to talk to other people whose job it is to help children be Safe
- in sexual abuse cases - do not alert the alleged offender about disclosure
- report to the Principal and/or follow appropriate mandatory reporter reporting protocols as soon as possible on that day.
- understand that it is not their responsibility to investigate. It is the role of Community Services and the Police.

Allegations involving agency employees

Special procedures are in place to deal with allegations of reportable conduct or convictions against employees of all government and certain non-government agencies in NSW.

The [*Ombudsman Act 1974*](#) requires these designated agencies to notify the Ombudsman of allegations against employees that constitute sexual offences, misconduct, assault, ill-treatment, neglect and behaviour that causes psychological harm to children.

There are two groups of people who are considered to be employees:

- any employee of the agency, whether or not employed in connection with any work or activities of the agency that relate to children, and
- any individual engaged by the agency to provide services to children

(This includes contractors, subcontractors, foster carers, volunteers and kinship carers where the Minister holds parental responsibility for a child in their care).

Some matters are notifiable to the Ombudsman as an allegation of reportable conduct, but are only reportable to the Child Protection Helpline if there are also current concerns that a child or young person is at risk of significant harm.

The responsibility for conducting investigations into allegations against employees lies with the employing agency. In some circumstances statutory agencies may undertake a parallel investigation for other purposes - such as assessing risk and care issues or conducting a criminal investigation.

See www.ombo.nsw.gov.au for further information.

4. CHILD WELLBEING AND CHILD PROTECTION - NSW INTERAGENCY GUIDELINES

These provide information and guidance to all agencies involved in the delivery of child wellbeing and child protection services in NSW.

The Guidelines are one of the *Keep Them Safe* mechanisms that support collaborative practice. They apply to government and non government agencies alike.

Each section contains detailed guidance and a fact sheet that summarises the section for handy reference.

Each section of the Guidelines is developed collaboratively by the *Keep Them Safe* Senior Officers Group, which includes representatives of government human services and justice agencies. A wide range of non government organisations also contribute to the development of each section of the Guidelines.

The Guidelines are based on the [*NSW Interagency Guidelines for Child Protection Intervention 2006*](#), reviewed and updated in 2009

KEEP THEM SAFE AND INTERAGENCY COLLABORATION

Keep Them Safe is the NSW Government's five year action plan to reform child protection in NSW. The central vision of *Keep Them Safe* is that child wellbeing and child protection is a collective or shared responsibility. In recognition that child protection is not the sole responsibility of Community Services, *Keep Them Safe* has changed the way that child abuse and neglect concerns are reported and responded to in NSW.

This change represents an important step towards an integrated system that is concerned both with child safety and the promotion of child wellbeing. All stakeholders - government, non-government, community, families and parents must work together to support vulnerable children, young people and their families.

Keep Them Safe principles

The collaborative approach of *Keep Them Safe* is underpinned by eight principles set down by Justice Wood in the final report of the *Special Commission of Inquiry into Child Protection Services in NSW*:

1. Child protection is the collective responsibility of the whole-of-government and the community.
2. Primary responsibility for rearing and supporting children should rest with families and communities, with government providing support where it is needed, either directly or through the funded non-government sector.

3. The child protection system should be child focused, with the safety, welfare and wellbeing of the child or young person being of paramount concern, while recognizing that supporting parents is usually in the best interests of the child or young person.
4. Positive outcomes for children and families are achieved through development of a relationship with the family that recognizes their strengths and their needs.
5. Child safety, attachment, wellbeing and permanency should guide child protection practice.
6. Support services should be available to ensure that all Aboriginal and Torres Strait Islander children and young persons are safe and connected to family, community and culture.
7. Aboriginal and Torres Strait Islander people should participate in decision making concerning the care and protection of their children and young persons with as much self-determination as is possible, and steps should be taken to empower local communities to that end.
8. Assessments and interventions should be evidence based, monitored and evaluated.

Legislative framework

The [Children and Young Persons \(Care and Protection\) Act 1998](#) (the Act) provides the framework for promoting a partnership approach to child protection. The legislation recognises that this responsibility is shared.

The principles contained in Sections 9 and 10 of the Act guide government and non-government agencies in exercising their responsibilities under the Act, and in dealing with each other and with children, young people, their families and communities.

Sections 11 to 14 of the Act contain important additional principles for government and non government agencies in relation to Aboriginal and Torres Strait Islander children and young people, their families and communities.

The foundation for the mandatory reporting framework is provided by [Section 27 of the Act](#). Mandatory reporting places an obligation on a range of professionals who work with children to [report concerns of risk of significant harm](#).

The Act also provides for the development of coordinated strategies for the care and protection of children and young people. This includes strategies such as the provision of assessment and support services to strengthen families to look after children and young people.

Finally, the Act introduces new provisions for the [exchange of information](#) among agencies. Chapter 16A allows prescribed bodies to directly exchange information relating to the safety, welfare and wellbeing of a child or young person without relaying this information through Community Services.

A collaborative approach and an integrated service system

Working together is crucial to achieving positive outcomes for vulnerable children, young people and their families. No single worker, agency, service, program or profession has the knowledge, skills or mandate to promote the safety, welfare and wellbeing of children and young people and protect them from harm.

An integrated system relies on individual agencies and professionals working in collaboration with others in the service system, regardless of differences in size, individual philosophies, and structures or funding sources.

Strengthening the role and capacity of non-government agencies in providing services to children, young people and their families is a critical component of *Keep Them Safe*.

This is about making sure that there are responsive and sustainable services in place to support them. Significant funding has been provided to support the expanded role of non-government agencies in delivering early intervention and prevention services as well as out-of-home care.

In order to facilitate collaboration and create an integrated system across government and non-government agencies, *Keep Them Safe* has introduced new reporting and referral arrangements that provide an alternative way for children and families to access the support that is appropriate to meet their needs.

All mandatory reporters in NSW, regardless of whether they work for government or non-government agencies have access to the [Mandatory Reporter Guide](#) to help them assess whether a report to the Child Protection Helpline is required, or whether some other form of action would

better assist the child or young person that they are concerned about. The use of this common tool is fundamental to facilitating a shared approach.

In addition, all government agencies with a role in child protection are developing five-year plans to move towards more collaborative agency and interagency cultures. This includes a plan to strengthen workforce development across child and family services.

Collaboration in child protection occurs on three levels:

- **policy level** – where agencies at all levels of government (state, federal and local) work together with non-government stakeholders to establish clear goals and objectives for the prevention of harm to children. Policy can be delivered through legislative change, the development of statements and principles that set out the responsibilities and actions of all stakeholders, and guidelines to apply those statements and principles in practice.
- **program level** – where service delivery is managed by more than one agency, with each of the participating agencies bringing their expertise and skills so that clients receive a coordinated and integrated service response without the need to move between agencies and programs. Joint Investigation Response Teams (JIRTs) are an example of interagency practice through cross-agency programs. They link the risk assessment and protective interventions of Community Services with criminal investigations conducted by NSW Police and medical examination, counseling and therapeutic services from NSW Health.
- **direct service level** – where agencies work together to address the needs of individual children, young people and families through shared case planning, management and coordination efforts. The practice of interagency case management to build a common case plan and goal improves the quality of the service outcomes received by the child, young person and family, and are an example of interagency practice at the direct service level.

Other ways in which government and non-government agencies can facilitate an integrated service system include:

- **building better local networks** which foster an understanding of the agencies that are operating in the local area. Getting to know the types of services they offer and the expertise of their workforce could be achieved by establishing a program of interagency network meetings, or information bulletins to share information; identifying interagency issues early; and to gain a better understanding of roles and responsibilities.
- **agreeing on better ways to work together to support shared clients** might involve establishing a formal or informal network of service providers in a local area and actively undertaking joint case planning, case conferencing, or cross-agency referrals. These types of activities help providers to consider information about a child or a family from their respective professional disciplines, and to work out the best mix of supports for those clients.
- **establishing partnerships** to develop integrated responses and address service delivery gaps. Through these partnerships a number of organisations can pool their resources and consolidate their efforts to responding to complex client programs that one agency alone cannot resolve. Existing partnerships can be built on to incorporate the principles of *Keep Them Safe*.
- **establishing formal protocols** to ensure that the roles and responsibilities of all parties are clear in supporting children and families in the local community by using Memoranda of Understanding to establish the basis for interagency collaboration where the interdependencies between agencies are accounted for and facilitated. Protocols can provide guidance for workers to engage with one another across agency and program boundaries. Further information is available at the section on [exchanging information](#).

- **creating opportunities for shared training** which provide a strong foundation for interagency practice would improve understanding of agencies' respective roles and responsibilities, as well as promoting a shared language, knowledge and awareness between agencies.
- **recognizing the function of strengthening relationships** between agency partners within 'position descriptions'. For instance, Community Services requires that managers in Community Services Centers establish and facilitate collaborative and innovative partnerships with community partners towards an integration of service delivery at the local level.

Working in partnership with Aboriginal families and communities

Keep Them Safe incorporates a number of strategies designed to reduce the over-representation of Aboriginal children and young people in the child protection system, and to secure greater participation of Aboriginal agencies in child wellbeing services.

Key principles in *Keep Them Safe* include:

- Empowerment of local Aboriginal communities to participate in decision-making concerning the care and protection of their children,
- A focus on local circumstances including the composition of individual Aboriginal communities,
- The strength and capacity of local leadership and the physical availability of government and non-government resources; and
- The need for integrated locally based services being able to provide a full continuum of care - ranging from prevention/early intervention through to targeted and specialist support services.

To monitor *Keep Them Safe's* activities the Government has developed an [Aboriginal Impact Statement](#) that will be used by all government agencies to assess how each action under *Keep Them Safe* will contribute to improving outcomes for Aboriginal children and young persons and their families.

The Statement aims to ensure that NSW Government agencies incorporate the needs and interests of Aboriginal children and young people in the implementation of *Keep Them Safe* actions and that, as a result, the current over-representation of Aboriginal children and young people in the child protection system is reversed and the outcomes for Aboriginal children and young people are improved.

Resolving differences between agencies

Effective collaboration requires all partners to be committed to working together and being open to challenges and feedback received from interagency partners.

Different perspectives and competing priorities will occur from time to time, for example:

- decisions in relation to a particular child or young person
- roles, professional and organizational philosophies, priorities and cultures
- systems issues
- status and real or perceived power issues
- communication
- level of commitment to the interagency approach and group dynamics
- attitudes and beliefs about families and community standards.

Where differences arise, these should be acknowledged and discussed as soon as possible so that each party can consider ways of resolving the issue that is in the best interests of the children or young persons concerned and that may inform more effective practices and procedures.

Where a fundamental difference is identified, an interagency review of the matter may be necessary. It is expected that all agencies will have clear policies and procedures on review and resolution of concerns raised by or in relation to agency partners.

Effective collaboration requires that resolution is reached and agencies work together in the best interests of children and young people.

The flowchart, [A model for resolving interagency differences](#), provides a generic model for resolving differences between agencies (noting that other dispute resolution processes may need to be followed depending on the nature of the dispute). The model is not designed to assign fault but rather to improve both processes and outcomes.

The key proposed steps are:

- Identify the issue and the outcome sought. This may be done in consultation with your line manager.
- As appropriate to the circumstances, approach the worker concerned and talk directly with them about the dissatisfaction. Personal skills of negotiation and active listening will assist in developing a timely resolution.
- If there is still dissatisfaction or complaint, then consider an approach to the worker's line manager. This may be undertaken by the respective line managers. If a review of a decision is being sought, it may be appropriate to document the issues and/or concerns in writing so that the process has added clarity and accountability.
- If this doesn't help, then approach the next most relevant senior officer in the organization or that agency's specialist complaints officer or unit, if and where this option exists. Chief Executive Officer (CEO) level resolution should be considered in cases where protracted cross-agency differences are impeding the ability to deliver an efficient and effective response to clients.
- If this doesn't help, then CEOs may consider it appropriate to go to an independent body or a mediation process.

Complaints by children, young people and their families

Children, young people and their families must be fully informed of how they can make complaints. Agencies must have open and transparent complaints processes. They must promote these processes within their agencies and demonstrate how they follow due process and ensure procedural fairness. The NSW Ombudsman provides guidelines on effective complaint handling. These include a useful complaints handling system checklist. The Ombudsman also has guidelines to assist with dealing with youth complaints.

Children, young people and their families may also choose to take their complaint to the NSW Ombudsman's Office.

It should be noted that complaints can be a useful source of information and are an opportunity to learn from service users and clients to improve practice.

INFORMATION EXCHANGE

Exchanging information about children and young people to support child wellbeing

What's New?

- A new **Chapter 16A** in the *Children and Young Persons (Care and Protection) Act 1998* authorises agencies and NGOs to share information that helps deliver services and supports to promote the safety, welfare and wellbeing of a child or young person.
- Prescribed bodies can exchange information relating to a child or young person's safety, welfare or wellbeing, whether or not the child or young person is known to Community Services. Chapter 16A allows for the exchange of information between prescribed bodies without any Community Services involvement. Up until now information exchange has generally only been possible where the information was sent to or received from Community Services.
- Amendments to **Section 29** will allow agencies, in certain circumstances, to disclose a reporter details to a law enforcement agency in connection with an investigation into a serious offence alleged to have been committed against a child or young person.
- Direct information sharing will enable greater collaborative decision-making between agencies.

What is information exchange in a child wellbeing context?

Information exchange or information sharing involves providing details about services, individual clients or groups of clients and their needs to another practitioner or agency and communicating with other practitioners to provide the best service possible to children and families in need.

When are the laws around information exchange changing?

The new Chapter 16A came into force at the end of October 2009 and amendments to Section 29 of the *Children and Young Persons (Care and Protection) Act 1998* will come into force at the end of January 2010.

Why are the rules around information exchange changing?

Up until now information exchange has generally only been possible where the information was sent to or received from Community Services. The Special Commission of Inquiry (SCI) found that the capacity of agencies to exchange information about concerns for the wellbeing of children and young people is essential to ensure interagency cooperation and the provision of effective services. For example, sometimes it only becomes clear that a child or young person is at risk, or has been harmed, when information from a number of sources is combined to create a complete picture about the child or young person and their circumstances. Sharing information also helps to work out how best to help a child or family.

What are the new rules around information exchange?

The new rules contained in **Chapter 16A** of the *Children and Young Persons (Care and Protection) Act 1998* (the Act) allow government agencies and NGOs who are "prescribed bodies" to exchange information that relates to a child or young person's safety, welfare or wellbeing, whether or not the child or young person is known to Community Services and whether or not the child or young person consents to the information exchange.

These new rules will operate in addition to the existing rules of information exchange between Community Services and other government agencies and NGOs contained in **Section 248**. So there will be two schemes for the exchange of information, **Chapter 16A** and **Section 248**.

Will Section 248 provisions on exchange of information still be used?

The provisions in Chapter 16A are facilitative in nature and apply only to NGOs and NSW government agencies, whereas **Section 248** also applies to certain Commonwealth bodies. Section

248 centres on Community Services role in information exchange and contains stronger powers of direction and discretion which are appropriate to Community Services' statutory role in relation to child safety, welfare and wellbeing.

It also still applies to the exchange of information between Community Services, in exercising its statutory powers, and other relevant human services and justice agencies and non-government organisations.

Community Services will continue to use Section 248 for the purposes of exchanging information concerning statutory cases with a prescribed body and in these circumstances may:

- supply the prescribed body with information relating to the safety, welfare and well-being of a particular child or young person or class of children or young persons,
- direct the prescribed body to furnish Community Services with information relating to the safety, welfare and well-being of a particular child or young person or class of children or young persons.

Community Services will respond to all requests for information from Child Wellbeing Units and in connection with the Family Case Management project under Chapter 16A. Community Services will also apply the objects and principles applicable to exchanges of information under Chapter 16A when responding to any requests for information under section 248. This will enable the implications of this arrangement to be tested in relation to information held by Community Services.

What does Chapter 16A do?

- Provides a scheme for information sharing among human services and justice agencies and NGOs ("prescribed bodies")
- Allows information to be exchanged between organisations working with or providing services to children and young people (where there are concerns about their safety, welfare and wellbeing) and their families
- Provides a scheme for information sharing in relation to children and young persons who may be either above or below the statutory reporting threshold. For example: A child below the statutory reporting threshold may need some form of assistance even though they do not need statutory intervention. There is no need for a child or young person to be reported to the Community Services' Helpline for the provisions to apply.
- Overrides other laws that prohibit or restrict the disclosure of personal information such as the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002*.

Who can exchange information under the new rules?

NGOs and NSW government agencies who are identified as "prescribed bodies". The new rules permit authorised staff in prescribed bodies to exchange information. If you are unsure whether you are working for a prescribed body or whether you are authorised to exchange information, you should ask your agency or organisation contact or legal adviser.

A "**prescribed body**" is any organisation specified in section 248 (6), *Children and Young Persons (Care and Protection) Act 1998* or in clause 7, *Children and Young Persons (Care and Protection) Regulation 2000*. 'Prescribed bodies' under the legislation are:

- NSW Police Force
- a NSW government department or public authority
- a government school or a registered non-government school or a TAFE
- a public health organisation or a private hospital
- a private fostering agency or a private adoption agency
- a designated agency which is a department of the Public Service or an organisation that arranges out of home care
- agencies that conduct residential child care centre or a child care service under the 1987 Act any other organisations that have direct responsibility for, or direct supervision of, the

provision of health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly to children.

- the Family Court of Australia (for the purposes of section 248 but not Chapter 16A)
- Centrelink (for the purposes of section 248 but not Chapter 16A)
- the Commonwealth Department of Immigration and Multicultural and Aboriginal Affairs (for the purposes of section 248 but not Chapter 16A).
- NGOs wishing to exchange information under Chapter 16A would normally be caught under the "any other organisations" provision above.

If you are unsure whether you are working for a prescribed body or whether you are authorised to exchange information, you should ask your organisation contact or legal adviser.

What type of information can or should be shared?

A government agency or NGO may request information, already held by another agency or NGO that relates to the safety, welfare or wellbeing of a child or young person and includes information that may assist the agency to:

- make a decision or undertake an assessment or plan
- initiate or conduct an investigation (for example a Joint Investigation Response Team investigation)
- provide a service where there is a concern relating to the safety, welfare or wellbeing of a child or young person, or to
- manage any risk to the child or young person.

Unless an exemption applies, a government agency or NGO is obliged to comply with a request for information that meets the above criteria if they reasonably believe that the provision of the information may assist the recipient agency or NGO for any purpose referred to above.

Depending on what information is requested, it may include relevant, factual information held on:

- a child or young person's circumstances or history
- a parent or other family member
- people having a significant or relevant relationship with a child or young person
- the other agencies' dealings with the child or young person, including past support or service arrangements.

Information does not have to be shared if an exemption in section 245D applies, such as when it would prejudice an investigation of a possible breach of a law, care proceedings or a coronial inquest, endanger a person's life or is not in the public interest.

Is the consent of the child, young person or family necessary to exchange information?

No. Consent is not necessary for the exchange of information under Chapter 16A. However it is important that organisations providing a service to a child, young person or their parents inform them early on that information about them may be provided, or is being provided, to other organisations. Keeping the client informed is part of best practice case management and helps to maximise client engagement.

Circumstances in which you would **not** seek to inform the child/young person or their parent/carer about exchanging information include:

- where you believe it is likely to further jeopardise a child or young person's safety, welfare or wellbeing,
- where you believe it would place you or another person at risk of harm
- where you are unable to contact a parent and the matter is urgent.

An example of circumstances where this might be the case is: a school seeking information over the phone from an agency that is working with the family about whether it is safe to permit the child to be collected from the school by family members; or a request for access to a student on school grounds; and/or information relating to a student from a parent that the student does not reside with.

What about privacy and client confidentiality - what cannot be shared?

The new legislation overrides all other legislation concerning privacy where the requirements of the legislation are in conflict. The needs and interests of the child or young person take precedence over the protection of confidentiality or of an individual's privacy.

A "prescribed body" requesting information under the new legislation must not use or disclose the information for any purpose that is not associated with the safety, welfare or wellbeing of the child or young person except as otherwise permitted or required by law. This means that the information should be shared only with practitioners within that prescribed body who "need to know" in order to do their job to protect or support a child or young person. An agency is not required to disclose information in certain circumstances, such as if it believes it would prejudice an investigation of a possible breach of a law, care proceedings or a coronial inquest, endanger a person's life, or is not in the public interest (a full list of the exemptions can be found at section 245D(4)).

Can the reporter's details be exchanged?

The reporter's details cannot be exchanged without their permission (whether a report has been made to a Child Wellbeing Unit or directly to the Community Services Helpline and whether or not it meets the mandatory reporting threshold).

Section 29 of the *Children and Young Persons (Care and Protection) Act 1998* places an important restriction on information exchange by protecting the identity of people who report concerns about children and young people to the Community Services' Helpline. A person who acts in good faith to provide information in accordance with the legislation is not liable to any legal or disciplinary action and cannot be held to have breached any professional ethics, code or standards.

From the end of January 2010, a new exception to the provisions that protect the identity of reporters will come into effect under amendments to **Section 29**. Disclosure of the reporter's details will be allowed where the disclosure is made in connection with the investigation of a serious offence alleged to have been committed against a child or young person and where the disclosure is necessary to safeguard or promote the safety, welfare or wellbeing of any child or young person (whether or not the victim of the alleged offence).

However this disclosure without the consent of the reporter is not permitted unless a senior officer of the law enforcement agency to which the disclosure is to be made has certified in writing that obtaining the reporter's consent would prejudice the investigation of the serious offence or the person or body that makes the disclosure has certified in writing that it is impractical to obtain the consent of the reporter.

How is the information exchanged?

Agencies and organisations should have plans and procedures to support implementation of Chapter 16A, covering how information is shared and stored in a secure way and who in the agency or organisation is designated to exchange information.

Exchange of information can be written or oral. Standard forms, letters, emails and other forms of electronic communication can be used. Information may be exchanged orally, for example where there is an established arrangement between agencies or at a case conference. However, a written

record of the verbal exchange must be made and stored securely on file consistent with your organisation's policies and procedures.

What do I do if I get a request to provide information under the Act?

Authorised staff of government agencies and NGOs are obliged to comply with requests for information that meet the criteria under the Act. Agencies are not obliged to collect new information, but rather to provide information already held. If a "prescribed body" has any doubt about the identity or authority of a person requesting information on behalf of an agency or NGO, it is essential that they confirm the person's identity or authority by contacting the agency before providing the information.

How do I request information under the Act?

The authorised agency or NGO officer requesting information should:

- **identify** the subject of the information request/direction and, if it is not the child or young person, identify the subject's relationship to the child or young person - provide any particular identifying information so that agencies can be sure that they are talking about the same person
- **explain how** the request/direction for information relates to the safety, welfare or wellbeing of the child or young person (or class of children or young person)
- **explain why** the information will assist it to make a decision, assessment or plan, or to initiate or conduct an investigation, or to provide any service, or to manage any risk to the child or young person (for requests under Chapter 16A)
- provide a sufficient level of **detail** to assist the other agency to understand the purpose of the request and to locate the relevant information in an efficient manner
- provide a **background** to the request/direction, including whether or not the agency has informed a child, young person or parent that the information has been sought and if not, why not (for example, where there are safety concerns)
- indicate the **time period** for which the information is sought (e.g. for the last 6 months, three years) and the type of information sought.
- provide a **realistic time frame** for the agency to provide the information noting that communicating/negotiating a due date is best practice as it promotes collaboration and can ensure urgent matters are prioritised (unless the information is required for court proceedings where a more limited time frame may be required).
- preferably **contact** the providing agency by phone before making the request to discuss your needs and ensure the request is well targeted, that is ask for the relevant information and avoid requesting all files/documents.

Where can I find more information about the exchange of information?

More detailed guidance "*Exchanging information relating to children or young people in a child wellbeing context*" is available on the Keep Them Safe website (see address below). The legislation can be found in Chapter 16A *Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009*.

Other relevant information:

- Fact sheets, guidance and form letters to request and provide information are available at the Keep Them Safe website www.keepthemsafe.nsw.gov.au
- The Council of Social Service of NSW (NCOSS) website at: <http://www.ncoss.org.au> for information about NGOs and privacy.

5. PROCEDURES FOR HANDLING ALLEGATIONS AND CONVICTIONS OF CHILD ABUSE AGAINST EMPLOYEES

AIM OF POLICY:

1. To uphold our commitment to the safety, welfare and well-being of children.
2. To meet obligations specified in the Ombudsman Amendment (child protection and community services) Act.

DEFINITIONS

Employee:

Any persons who might be engaged by the school to work with the children, including:

- teachers,
- administration staff,
- maintenance workers,
- volunteers,
- work experience participants,
- student placements.

Allegation:

An allegation of child abuse can be made against a current employee or an allegation may be about alleged conduct that happened before the employee commenced work at the school.

Staff, parents/users of the service, other agencies, or the Ombudsman, can make allegations.

Convictions:

Any conviction of a current employee in this State or elsewhere of an offence involving child abuse. The Ombudsman must be notified of any convictions for child abuse against an employee.

PROCEDURES

- 1) Any allegation or information regarding a conviction for, child abuse against an employee is to be made directly to the authorized supervisor (Principal).

Any allegation of, or information of conviction for, child abuse against the Authorized Supervisor is to be made directly to Warrah C.E.O.

- 2) Once an allegation or conviction has been made it is important that any risk to children is removed, or minimized, but as far as possible, the rights of the employee who is the subject of the allegation should be protected.

IT IS THE ROLE OF THE AUTHORISED SUPERVISOR (Principal) TO:

- Notify the NSW Ombudsman of any child abuse allegation or conviction against an employee. Such notification is to be made as soon as practicable, and within 30 days of the Authorized Supervisor becoming aware of the allegation.
- Notification is to be made using the Child Protection Notification Form (attached) (contact NSW Ombudsman on 1800 451 524 for more forms or information).
- Seek advice/information from the NSW Ombudsman about the process of investigation of the allegations made.

- Protect/maintain the confidentiality of the identity of persons the subject of the allegations, as far as possible, given the considerations relating to any care and protection intervention.
 - Assess allegations impartially.
 - Act fairly to persons the subject of an allegation.
 - Assess any immediate care and protection issues.
- 3) The Authorized Supervisor will be advised in writing of the action the ombudsman will be taking.
- 4) The Authorized Supervisor should contact the NSW Ombudsman on 1800 451 524 for further advice and information on any issues relating to allegations of and convictions for child abuse against an employee.

Part C: CHILD PROTECTION TRAINING AND DEVELOPMENT

All staff should be trained in child protection and be aware of their rights and responsibilities. Below is information which will support the training and development of staff. It is the responsibility of Warrah School to provide Child Protection Training to all new staff and to provide regular updates to existing staff.

SUMMARY INFORMATION TO ASSIST STAFF AND FAMILIES:

1. TYPES OF ABUSE:

Below are the four types of child abuse as described by professionals, academics and practitioners. These behaviours may occur in the child's home or in other settings, for example school.

<u>PHYSICAL ABUSE</u>	<u>SEXUAL ABUSE</u>
Behaviours/actions	Behaviours/actions
<ul style="list-style-type: none"> • Pinching, punching • Hitting, slapping • Burning, scalding • Twisting limbs 	<ul style="list-style-type: none"> • Actual sexual acts: <ul style="list-style-type: none"> -fondling of genitals -touching breasts -inappropriate kissing • Threats of sexual acts • Exposure to pornography
<u>EMOTIONAL ABUSE</u>	<u>NEGLECT</u>
Behaviours/actions	Behaviours/actions
<ul style="list-style-type: none"> • Rejection, humiliation • Verbal abuse • Isolation • Intimidation 	<ul style="list-style-type: none"> • Not feeding child • Insufficient supervision • Inadequate clothing • Lack of medical attention

2. INFORMATION TO SUPPORT TEACHERS, STAFF, AND FAMILIES TO UNDERSTAND IMPORTANT ASPECTS OF PROACTIVE CHILD PROTECTION:

1. WHAT SORT OF BEHAVIOUR DO THE DEPARTMENT OF EDUCATION AND TRAINING CONSIDER PHYSICALLY ABUSIVE?

The Department of Education and Training subscribes to the definitions of physical abuse as found in the inter-agency guidelines. The Department of Education and Training also has an explicit policy

against the use of physical punishment on children and young people. Physical contact between teachers and staff is not encouraged unless a child is requiring support and/or comfort and is in distress.

2. CAN TEACHERS TOUCH CHILDREN?

There is a conditional yes answer to this question.

Contact between teachers and children and young people needs to be respectful of the child or young person's personal space, their need for individuality and autonomy and teachers need to know the cultural implications of touch. However, to not comfort a distressed child, to not offer a reassuring pat on the hand or the shoulder is also problematic. In any other circumstance, to not provide comfort to a distressed child would be considered emotionally neglectful.

Teachers need to show good professional judgment about any physical contact between themselves and the students in their care. Directions from supervisors should be encouraged. Refer to article: PDHPE: *A touchy subject*.

3. WHAT FORM OF ABUSE IS THE MOST DAMAGING?

All forms of abuse are damaging to children and young people.

Abuse encompasses not only the physical harming of a child but also the psychological and emotional harming of the child's sense of self, sense of self-esteem and integrity. So although all forms of physical abuse, including sexual abuse, are damaging and harmful, the emotionally abusive component of abuse often is the most harmful.

The old saying "sticks and stones may break my bones but names will never hurt me" is a non-sense. Most of us can recall having had unkind, unfair or abusive things said to us when we were children. A question to pose is: Why is it that we can remember such things?

4. WHO SEXUALLY ABUSES CHILDREN?

The sexual abuse of children is overwhelming perpetrated by men. Current statistics show that between 95% and 97% of sex offenders are male. This is not to deny that women and adolescent girls sexually abuse children. However, they are in the very small proportion of the offending population.

Much of the research about offending behaviour shows that most offenders commence their offending behaviour during adolescence and some continue into adulthood. However, much more research is needed to understand the triggers for offending behaviour.

5. HOW DO OFFENDERS ABUSE?

Offenders use a number of strategies to set up the abuse dynamic between themselves and the child. These tactics that are used often groom the child into a trusting relationship or by virtue of the offender's position the child or the young person has a quasi or automatic trusting relationship with the adult offender.

Trust and coercion are very common in the dynamics of sexual abuse. Unlike physical abuse which is often the result of a spontaneous reaction to stress, sexual abuse is a very planned process. Grooming the child into a relationship by special attention, special privileges, gift giving, or sometimes threats are common strategies. Many offenders then maintain the relationship by using threats, by imposing the rules of secrecy and often by isolating the child either physically or

emotionally from any ally who may assist that child. Very often this is the child's mother or other professionals whom the child may call upon for assistance.

6. DO MOTHERS KNOW ABOUT ABUSE?

There is a common misunderstanding in the community that mothers must know when their children are being sexually abused.

Recent research around mothers' experiences of their children disclosing sexual abuse often reports mothers to be shocked, highly distressed and feeling guilt-ridden that they didn't know about the abuse.

Most mothers do not know their children are being harmed. This is not difficult to comprehend when we think about the nature of adult intimate relationships. Adult intimate relationships are based on love, respect and mutual trust. For example; a child may think the sexual abuse is horrible and terrifying but an offender may continually remind the child how good the abuse contact feels.

We must remind ourselves that it feels good to the offender, not necessarily to the child. So the internalized voice of the offender are the messages the child receives either verbally or non-verbally that influence the beliefs that they have about themselves, the offender and those people around them.

7. ARE THE EFFECTS OF ABUSE THE SAME AS THE INDICATORS OF ABUSE?

The effects of abuse are NOT the same as the indicators of abuse. The effects of abuse refer to the psychological and emotional impact that abuse has on a child. It is the internal interpretation that the child makes of their experience. Indicators are an expression or a manifestation of the effects of the abuse.

For example; A child may become depressed at their abuse so the emotional impact is depression. The indicators of depression in children may be withdrawn behaviour, sleep disturbances, eating disorders, isolating behaviour or even oppositional behaviour in the classroom.

Violet Oaklander stated that *behaviour is the window to children's souls*. Indicators are the behaviour. The effect is the emotional and psychological component.

8. HOW SHOULD I MANAGE AN ABUSED CHILD IN MY CLASS?

This is a very complex issue. Children need boundaries to be clearly defined. Children need to know what is OK and not OK in the classroom, in the playground and in various other settings. Teachers have an important role in helping children develop a clear understanding of boundaries. Having an understanding of boundaries helps children and young people develop their own sense of boundaries and helps them learn how to relate to others in a helpful and respectful way. Many abused children have not learnt about boundaries because their boundaries were often violated.

For example: they may need to have personal boundaries around touch and space explained to them. They may need to know that they should not assume that it is OK or safe to hug a person they have just met.

Teachers should be encouraged to promote children's self-worth, their sense of accomplishment and their sense of being able to take some control in their lives but abused children are still children. They need clear adult direction, which is imparted in a caring and sensitive way.

9. HOW DO I KNOW IF A CHILD IS BEING ABUSED WHEN THERE AREN'T ANY PHYSICAL INDICATORS?

This is a difficult question. Behavioural indicators are simply a child expressing through their behaviour how they feel.

Behavioural indicators should alert teachers to entertain the possibility that the child may be being abused or that they are being affected by a range of life experiences which are outside abuse dynamics but may be equally upsetting. This includes divorce in the family, a death in the family, or some other significant life event.

Behavioural indicators are individual and vary with age, gender and situation. It is not safe to assume there is a set way for children or young people who are maltreated to behave. It is important not to discount abuse as a possible cause and to be alert to further signs.

10. WHO SHOULD I CONSULT WITH IF I SUSPECT A CHILD IS BEING ABUSED?

Consultation is often essential. It is important for staff to consult with other professionals in their school or teaching institution when they become concerned about a child. These might include other teachers, therapist, the Principal, the Warrah C.E.O. or other professionals working with the child.

11. HOW DOES PROFESSIONAL CONSULTATION DIFFER FROM INVESTIGATION?

Professional consultations are dialogue between professionals. Some staff may be concerned about confidentiality. The sharing of known information is essential to promote the protection of students and to resist collusion with abuse. Indicators are not like a checklist, they only give us pieces of information about what the child might be feeling.

It is up to you to discuss with other professionals your concerns and see whether they are founded. Relevant professionals from Community Services and/or the police conduct investigations.

12. WHAT SHOULD I DO IF A CHILD DISCLOSES TO ME AT SCHOOL?

This information needs to be reported immediately to the Principal. The Principal has the responsibility to notify Community Services. As a mandatory reporter, any teacher, aid, therapist or other staff at Warrah School may decide to make a report under the Keep Them Safe protocols. However it is a requirement of the Warrah School Child Protection protocols that a notification is also made to the Head of Agency (Principal) if there is a concern about the well being of a student at Warrah School.

It is the responsibility of the teacher or staff member to report. It is not their responsibility to determine what action needs to be taken.

13. WHAT CONSTITUTES "EVIDENCE" OF REASONABLE GROUNDS?

Some staff may feel they need unequivocal evidence that a child is being abused before they bring this to the attention of the principal or their supervisor. Remind staff that it is not their role to gather unequivocal evidence; they only need to form an opinion on reasonable grounds that a child may be or is being abused. The responsibility to investigate and gather evidence lies with Community Services and the Police.

Some staff at this point of the training may realize that they have in the past missed possible indicators of abuse. They may feel a sense of guilt or responsibility. Encourage staff to be alert from now on to the possibilities of abuse.

This kit nominates behaviours in carers or professionals that may indicate abuse. Supervisors may need to bear in mind that there are situations where staff may be abusing children. Some indicators could be:

- isolating a student or students from their peer for no justifiable reason
- a staff member constantly being alone with a student or range of students without explanation
- a staff member minimising concerns expressed about their behaviour towards children or young people
- disclosures of abuse by children
- inappropriate sexual innuendo or touching of students
- ongoing inappropriate behaviour even after concerns have been raised with the staff member.

These issues should be reported to the Principal as soon as possible.

14. WHAT DOES THE TERM 'REASONABLE GROUNDS' MEAN?

Reasonable Grounds is not legally defined in law. Reasonable grounds refer to a judgment made based on observation and discussion about the wellbeing of a child. Unequivocal proof that child abuse is occurring is not required. Reasonable grounds involve your observations of a child, your knowledge of their family and their social context and information gathered by other professionals about the child and the family. Concerns about a child must then be referred to the principal and then to the Department of Community Services.

Community Services can be accessed as part of a consultation process. The Department of Community Services Intake Officers will be able to assist you in deciding whether your concerns are well founded or whether more information is required for a decision to be made about the risk to a child.

15. AM I A MANDATORY NOTIFIER?

Legally teachers are mandatory notifiers if they have reason to believe a child or young person is at significant risk of harm. However, Warrah School also requires all staff, including teachers, to inform the Principal if they have reasonable grounds to suspect that a student under the age of 18 years has experienced any form of abuse or neglect or is at risk of abuse or neglect. All staff must comply with the direction to inform the Principal about all forms of abuse.

The provision for a criminal penalty to be imposed on mandatory reporters for failing to report concerns about risk of harm was removed from the legislation in January 2010. The legal obligation to report remains in place.

16. WHAT IS THE PROCESS IN MAKING A NOTIFICATION?

Where a staff member becomes aware that a child is being, has been or is danger of being abused, the staff member needs to notify the Principal immediately. The Principal must then follow the Keep Them Safe protocols, including the Mandatory Reporters Guide to determine if a child is at

'risk of significant harm' and a report to Community Services should be made. If the child is not deemed to be 'at risk of significant harm' there may be other appropriate referrals for support. Teachers are also able to follow the Keep them Safe protocols for mandatory reporters directly themselves.

All staff receive training and documentation to ensure they are clear with the notification process.

17. WHAT FEEDBACK CAN I EXPECT FROM THE COMMUNITY SERVICES WHEN I NOTIFY?

Community Services has changed their policy and procedures to accommodate the need for other professionals to receive feedback of their actions to be taken after a notification has been made.

The amount of information that notifiers receive depends on their status and their relationship with the child and the family and the role they are to play in the future protection of the child or young person.

Problems with feedback should be directed to the Principal who then may negotiate with the Community Services, for appropriate feedback.

18. HOW WILL THE ROLE OF MANDATORY REPORTERS CHANGE AND WHAT ARE THEY EXPECTED TO DO?

If you are a mandatory reporter, you will consult the [Mandatory Reporter Guide \(MRG\)](#) and **report to Community Services those matters which reach the threshold of risk of significant harm** (prior to these changes the threshold was risk of harm). If the risk is below the threshold, then services should be provided to the family at the local level and you are not required to report to Community Services.

Where a mandatory reporter still has concerns about the safety, welfare or wellbeing of a child and the concerns do not reach the new threshold for reporting to Community Services, there are a range of options including:

- talking to the family/child to see what the issues are, whether you are able to assist them or to help them to access other support services such as Family Referral Services or local support services
- it may be you are aware that another agency is working with the family and you can contact them to seek information and to work together to support the family (new exchange of information provisions)
- if after talking to the other agency there is further information which suggests cumulative risk, the MRG should be used again and if indicated, the child or young person should be reported to the Child Protection Helpline

19. WILL THE IDENTITY OF REPORTERS BE PROTECTED UNDER THE NEW SYSTEM?

The reporter's details cannot be exchanged without their permission (whether a report has been made to a CWU or directly to the Child Protection Helpline and whether or not it meets the reporting threshold). From the end of January 2010, a new exception to the provisions that protect the identity of reporters came into effect under amendments to **Section 29** of the *Children and Young Persons (Care and Protection) Act 1998*.

Disclosure of the reporter's details is now allowed where the disclosure is made in connection with the investigation of a serious offence alleged to have been committed against a child or young person and where the disclosure is necessary to safeguard or promote the safety, welfare or wellbeing of any child or young person (whether or not the victim of the alleged offence).

However, this disclosure without the consent of the reporter is not permitted unless a senior officer of the law enforcement agency to which the disclosure is to be made has certified in writing that obtaining the reporter's consent would prejudice the investigation of the serious offence or the person or body that makes the disclosure has certified in writing that it is impractical to obtain the consent of the reporter.

20. WHAT PROTECTION DO I HAVE IF I NOTIFY?

Any person who makes a notification is afforded the following protection *under 'The Children (care and Protection) Act of 1987'*.

- The notifications shall not be held to be a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct.
- No liability for defamation is incurred because of the making of a notification.
- The notification is not admissible as evidence in any court proceedings, except in care proceedings, before the children's court.
- A person cannot be compelled by a court to produce the notification or give any evidence as to its contents. In other words, the notification is privileged information.

21. MALICIOUS ALLEGATIONS

Some issues are very concerning for teachers and staff members. One is the malicious allegations made by students against teachers. It is not the role of a teacher or the principal to decide whether or not an allegation of child abuse is founded or unfounded. Again, that is the role of the Community Services, the Police Service or the Case Management Unit.

The policy documents '*Child Protection - Procedures for Recognising and Notifying Child Abuse and Neglect*' and the document '*Child Protection - Procedures to be Followed in Response to Allegations Of Improper Conduct of a Sexual Nature by a Staff Member Against a Student*' both released in March 1997 make explicit the procedures to follow. Principals must notify the Department of Community Services and the Case Management Unit for direction. Attempting to resolve an allegation made against a teacher within the school setting without outside assistance is to be strongly discouraged.

22. PERSONAL SAFETY

Another issue is that of personal fear staff members may have about making a notification. This is particularly pertinent for staff in small settings. Staff must be encouraged to embrace their responsibilities in assisting in the protection of children but must be reminded that they as community members also have avenues for protection. If a staff member is concerned about intimidation or retribution, this issue must be discussed with their supervisor for an appropriate strategy to be developed.

23. TEACHER/PARENT RELATIONSHIPS

Another issue concerning teachers is the impact making a notification has on their relationship with the child's parent/s. Staff need to consider the consequences of not making a notification. This often results in a child being left at risk of further abuse or actually experiencing further abuse. All parents need to be made aware that Child Protection Policy procedures and education exist. It is

much more helpful for parents to be aware of the school's obligations in child protection at the beginning of the relationship with the parent and the child rather than after a notification is made. Honesty with parents often alleviates the feelings of betrayal parents may have. Secrecy and collusion in abuse is strongly discouraged in all staff.

The protection of children is difficult work and staff need to be supported through their policies, procedures and the administration of the school to fulfill those responsibilities.

Enquiries from parents about specific abuse situations should be directed to Community Services.