



MANDATORY REPORTING GUIDELINES

Purpose:

To -

- ensure all staff are aware of and understand the responsibilities of mandatory reporting;
- provide procedures for staff to follow based on government mandates and Church guidelines.

Relevant to: All Staff

Responsible Officer(s): Principal

Date of Introduction: May 2013

Date of Review:

Modification History:

Related Documents:

- The Children and Young Persons (Care and Protection) Act, 1998
- Trinity Catholic College, Child Protection Policy
- Trinity Catholic College Lismore, Guidelines for Investigating Child Protection Matters
- Trinity Catholic College Lismore, Staff Code of Professional Standards/Conduct

Related Forms:

Who must report to Community Services / what must be reported to Community Services?

Under section 27 of the Child Protection Act a report must be made to Community Services regarding a child (as opposed to a young person) who is suspected on reasonable grounds of being at "risk of significant harm".

The mandatory provisions in section 27 of the Child Protection Act apply to:

- a) *A person who, in the course of his or her professional work or other paid employment delivers health care, education, children's services, residential services or law enforcement, wholly or partly, to children, and*
- b) *A person who holds a management position in an organisation the duties of which include direct responsibility for, or direct supervision of, the provision of health care, education, children's services, residential services or law enforcement, wholly or partly, to children.*

Pursuant to section 27 (2) of the Child Protection Act, a person must make a report to Community Services where they have reasonable grounds to suspect that a child is at risk of significant harm, and those grounds arise during the course or, or from, the person's work.

Persons should be alert to the possibility that a homeless child may also be at risk of significant harm.

A failure to comply with mandatory reporting requirements can leave a mandatory reporter, as defined in the Child Protection Act, open to prosecution. Penalties apply for non-compliance.

What may I report to Community Services?

Under section 24 of the Child Protection Act, a person who has reasonable grounds to suspect that young person (as opposed to a child) is at risk of significant harm may voluntarily report the young person to Community Services.

When deciding to report a young person to Community Services, consideration needs to be given to the young person's wishes, their level of maturity and their personal situation.

It is strongly recommended that the young person be informed and, if appropriate consent sought, if a report is being made.

Definitions – 'child' & 'young person'

Underpinning all reports to Community Services and subsequent interventions made by Community Services are the respective definitions of 'child' and 'young person' in section 3 of the Child Protection Act.

- a) Child is defined as meaning a person who is under the age of 16 years.
- b) A young person is defined as meaning a person who is aged 16 years or above but who is under the age of 18 years.

Suspected risk of significant harm

Suspected risk of significant harm is the ground for making a report to Community Services in relation to the safety, welfare or well-being of a child or young person.

Pursuant to section 23 of the Child Protection Act

“a child or young person is at ‘risk of significant harm’ if current circumstances exist for the safety, welfare or well-being of the child or young person because of the presence of any one of the following circumstances”:

- a) *The child or young person’s basic physical or psychological needs are not being met or are at risk of not being met;*
- b) *The parents or other caregivers have not arranged and are unable or are unwilling to arrange for the child or young person to receive necessary medical care;*
- c) *The child or young person has been, or is at risk of being, physically, sexually abused or ill-treated;*
- d) *The child or young person is living in a household where there have been incidents or domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm;*
- e) *A parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm*

NB: Physical or sexual abuse may include an assault and can exist despite the fact that consent has been given.

The Child Protection Act does not define the term ‘current concerns’. Given its ordinary everyday meaning the term would simply suggest that at the time of making a report to Community Services, the person concluded that the safety, welfare or well-being of the child or young person may be at risk because of the presence of one or more of the circumstances outlined above.

A current concern may also include a past event where there may be ongoing effects of the earlier harm.

Definition of ‘Significant Harm’

The legislation does not define significant harm.

Something that is significant is not minor or trivial. It may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person’s safety, welfare or well-being, and it can result from a single act or an accumulation of these.

Risk of significant harm

Risk of significant harm refers to the likelihood that the child or young person may suffer physical, psychological or emotional harm as a result of what is done (physical, sexual or psychological harm) or not done (neglect) by another person, often an adult responsible for their care. Risk of significant harm can also refer to a young person who may suffer physical, psychological, sexual or emotional harm as a result of environmental factors – for example homelessness or self-harming behaviours.

Professionals are required to make judgments about the risk of significant harm or neglect to a child or young person. When making a determination about the likelihood of a child or young person being at risk of significant harm the following factors may be of some assistance:

- a) The age, development, functioning and vulnerability of the child or young person;
- b) The behaviour of the child or young person which suggests they may have been or are being harmed by another person;
- c) Behaviour from another person, that has had or is having, a demonstrated negative impact on the healthy development, safety, welfare and well-being of the child or young person: for example – drugs and alcohol abuse or domestic violence.
- d) Contextual factors: for example – recent harm or neglect of a sibling, or a parent recently experiencing significant problems in managing the child or young person's behaviour.
- e) Indications that the child or young person's emotional, physical or psychological well-being is significantly affected are a result of abuse or neglect.

In making judgement of risk of significant harm, consideration needs to be given to factors that may increase the risk of significant harm such as poverty, social isolation, presence of a disability, or absence of educational opportunities. These factors may influence a judgement on both the level of risk and the degree of harm that may occur.

Additionally, there are factors that may help reduce the risk of significant harm and provide protective factors for children and young people: for example – nurturing and secure relationships with at least one parent, a positive school environment, positive personal achievements and involvement in positive social peer groups.

A child or young person does not need to have actually sustained abuse, harm or injury in order to be reported to Community Services. It is sufficient that on the evidence available they are likely to suffer any harm of the kind specified in the section '*Suspected risk of significant harm*' above.

Timeframes when making a report

For mandatory reportable matters, reports must be made as soon as practicable, which implies a relatively short timeframe from the time a person become aware of the incident.

The process for making a report to Community Services at Trinity Catholic College

1. Inform the Principal or their delegate

The staff member and the Principal have separate and distinct duties.

A staff member (includes volunteer) who suspects on reasonable grounds that child is at risk of significant harm, must immediately report this concern to the Principal or their delegate. In accordance with section 27 of the Child Protection Act the staff member must, as soon as practicable, report to the Principal the following information:

- The name of the child;
- The grounds for suspecting that the child is at risk of significant harm.

2. Ascertain the matters to be reported to Community Services

At this point the Principal will review the particulars of the report and be satisfied that there exists reasonable grounds to suspect that the child is at risk of significant harm.

The Principal concurs with the staff member:

In the event that the Principal concurs with the staff member that the child is at risk of significant harm, the Principal must as soon as practicable make a report concerning the student to Community Services.

The Principal does not concur with the staff member:

In the event that the Principal does not concur with the staff member that the child is at risk of significant harm, they must:

- Inform the staff member of the reasons;
- Record the reasons in writing and keep these on file.
- Must not direct the staff member not to report the matter to Community Services.
- Inform the staff member of the procedures to be followed in making a report concerning the student to Community Services. The staff member may decide to make a report to Community Services.

Some additional comments:

- a. If you are unsure as to a matter inform the Principal or their delegate. It is much better to err on the side of caution.
- b. It does not matter how you become aware of the possibility of risk of significant harm – it cannot be kept confidential if it is mandatory reportable. You must inform the Principal or their delegate.
- c. Any sexual activity involving a person under 16 is illegal and may be subject to a mandatory report – even if the activity was consensual.
- d. The recent changes to the Act removed the criminal penalty for Mandatory Reporters who fail to report.