



Department of  
**Education**

# **Child Protection in Department of Education Sites Procedures for School Counsellors**

Effective date: 1 May 2024

Version: 1.0

These procedures must be read in conjunction with the Child Protection in Department of Education Sites Policy.

## Table of contents

<b>1. Policy supported</b>	<b>3</b>
<b>2. Scope</b>	<b>3</b>
<b>3. Procedures</b>	<b>3</b>
3.1 Child Protection and Abuse Prevention Professional Learning	3
3.2 Child Abuse Prevention Education	4
3.3 Mandatory Reporting of Child Sexual Abuse	4
3.4 Report Concern of Child Sexual Abuse	7
3.5 Report Concern of Physical or Emotional Abuse, Family Violence or Neglect	9
3.6 Report Allegation of Physical, Emotional or Sexual Abuse Committed by Staff	10
3.7 Report Allegation of Sexual Abuse Committed by a Student during Supervised School Activities	11
3.8 Respond when a Student is at Immediate Risk of Harm	12
3.9 Students 18 Years of Age and Over Subjected to Physical or Sexual Assault	12
3.10 Respond to Students in Possession of Sexually Explicit or Child Exploitation Material	13
3.11 Respond to Specific Child Protection Concerns	14
3.11.1 Female Genital Mutilation/Cutting	14
3.11.2 Forced Marriage	14
3.12 Support Students Affected by Abuse	15
3.13 Communicate to Parents	15
3.13.1 When a Mandatory Report or Child Protection Concern Referral Has Been Made	15
3.13.2 When the Belief or a Concern Is Held But a Mandatory Report or Child Protection Concern Referral Has Not Yet Been Made	16
3.14 When a Student Under the Age of Consent Discloses a Sexual Relationship	16
3.15 Recordkeeping and Documentation	17
3.16 Confidentiality	18
3.17 Protection and Support for School Counsellors Who Report Child Abuse	19
<b>4. Definitions</b>	<b>19</b>
<b>5. Related documents</b>	<b>32</b>
<b>6. Contact information</b>	<b>34</b>
<b>7. History of changes</b>	<b>35</b>
<b>8. Appendices</b>	<b>35</b>
<b>9. More information</b>	<b>35</b>
Procedure review date	35

**These procedures must be read in conjunction with the Child Protection in Department of Education Sites Policy.**

## 1. Policy supported

Child Protection in Department of Education Sites Policy

## 2. Scope

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

### Guidance

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

## 3. Procedures

### 3.1 Child Protection and Abuse Prevention Professional Learning

School counsellors and their school-based line managers must:

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

### Guidance

Enrolment occurs automatically for staff who have an E number.

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

Any reference to staff includes casual and relief staff.

Compliance is monitored by the principal and the Department.

A certificate of completion is provided on satisfactory completion of the course.

Alternative professional learning formats are available for staff who cannot access the online professional learning due to a disability or special circumstances.

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

## 3.2 Child Abuse Prevention Education

School counsellors must support principals and teachers to implement protective behaviours education that aligns with the Western Australian Curriculum across all phases of schooling.

### Guidance

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

## 3.3 Mandatory Reporting of Child Sexual Abuse

When a school counsellor believes on reasonable grounds, that a child is or has been the subject of sexual abuse and forms the belief, during the course of paid or unpaid work as a school counsellor, and where the principal is not the person alleged responsible for the abuse, school counsellors must:

- choose one of the following reporting processes:
  - make an online mandatory report at [Mandatory Reporting Service](#) (MRS)
  - make a verbal report to the MRS which must be followed up with an online or written mandatory report; or
  - complete the Mandatory Reporting form (available from the Mandatory Reporting Service) and provide it to the principal for lodgement with MRS
- inform the principal that a mandatory report has been lodged
- provide the principal with
  - the receipt number of the mandatory report; and
  - documentation of the grounds on which they formed the belief;
- inform the principal of the advice contained in the feedback letter received from MRS following the mandatory report;
- not provide a copy of their mandatory report to the principal for storage or store their own

copy of the report in Department of Education files (follow procedure 3.15),

- follow procedure 3.4, if the belief is formed that a child was the subject of sexual abuse **before 1 May 2024** and the abuse is **not** ongoing; and
- if a decision has been made to not make a mandatory report, document all observations, information and disclosures received or discussed with staff and consultations and follow procedure 3.4.

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

- make a report to the Director of Education or the Standards and Integrity Directorate (SID) and choose one of the following reporting processes:
  - make an online mandatory report at [Mandatory Reporting Service \(MRS\)](#); or
  - make a verbal report to the MRS which must be followed up with an online or written mandatory report;
- provide the Director of Education with
  - the receipt number of the mandatory report; and
  - documentation of the grounds on which they formed the belief; and
- not provide a copy of their mandatory report to the principal or Director of Education for storage or store their own copy of the report in Department of Education files (follow procedure 3.15).

School counsellors must not:

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

### Guidance

Aboriginal and Islander Education Officers and some third-party providers (including school chaplains, student wellbeing officers and providers of engagement programs for Aboriginal students, engaged through a formal service agreement with the Department of Education fall into the definition of school counsellor), are mandatory reporters of child sexual abuse and should follow these procedures.

Mandatory reporting requirements apply when working in the role of a school counsellor, at any school in Western Australia, in either a paid or unpaid capacity.

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

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

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

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

(s124A Children and Community Services Act 2004).

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

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

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

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

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

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

If a school counsellor believes that a child is or has been the subject of sexual abuse mandatory reporting requirements apply even if the staff member providing the information has not formed the belief.

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

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

The legal penalties in accordance with the Children and Community Services Act 2004 for a mandatory reporter who fails to report the belief that a child is or has been the subject of sexual abuse can be a fine of up to \$6,000. A person can be prosecuted within three years after failing to make a report. Failure to report the belief that a child is or has been the subject of sexual abuse may also be considered a breach of the Department's [Staff Conduct and Discipline policy](#). Failure to follow up a verbal report of child sexual abuse with a written report could result in a fine of \$3,000.

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

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

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

School chaplains, student wellbeing officers and providers of engagement programs for Aboriginal students, engaged through a formal service agreement with the Department of Education, are also subject to the Department's [Code of Conduct](#).

School nurses are mandatory reporters and are required to follow reporting procedures in accordance with Department of Health guidelines. They should also inform the principal of the circumstances when they make a notification relating to a school student to the Department of Communities. They are not required to provide the MR receipt number to the principal. For further information, please refer to the [MOU between the Department of Education and Child and Adolescent Health Service\(CAHS\) and WA Country Health Service \(WACHS\): 1 January 2022 – 31 December 2024](#) (staff only).

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

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

### 3.4 Report Concern of Child Sexual Abuse

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

- document concerning observations, information and disclosures received, or discussed

with staff

- provide this documentation to the principal
- make a report to the Director of Education or the Standards and Integrity Directorate (SID) if the principal is the person alleged responsible for the abuse or may be biased towards the person alleged to be responsible for the abuse.

School counsellors must not:

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

### **Guidance**

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

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

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

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

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

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

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



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

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

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

School counsellors are protected from civil, criminal liability or professional misconduct allegations by providing information in good faith to the Department of Communities, WA Police and/or the Standards and Integrity Directorate (SID) for the purpose of investigating child abuse. Refer to procedure 3.16 on Confidentiality and procedure 3.11 on Information Sharing.

### 3.5 Report Concern of Physical or Emotional Abuse, Family Violence or Neglect

School counsellors must:

- document concerning observations, information and disclosures received, or discussed with staff
- report all child protection concerns to the principal, or
- make a report to the Director of Education or the Standards and Integrity Directorate (SID) if the principal is the person alleged have committed the abuse or may be biased towards the staff member alleged to have committed the abuse.

School counsellors must not:

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

#### Guidance

When considering if a submission of a child concern report is warranted, please refer to the definition of 'Child Protection Concern' in the Definitions section of these procedures and [Manage child protection at](#)

your school in Ikon (staff only).

There is no requirement to provide proof of child abuse. The person making the referral needs to provide reasonable grounds for their concern.

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

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

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

Emotional abuse includes being exposed to family violence.

Multiple reports can be made for the same child if that child is subjected to abuse over a period of time.

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

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

School counsellors are protected from civil, criminal liability or professional misconduct allegations by providing information in good faith to the Department of Communities, WA Police and/or the Standards and Integrity Directorate (SID) for the purpose of investigating child abuse. Refer to procedure 3.16 on Confidentiality.

### **3.6 Report Allegation of Physical, Emotional or Sexual Abuse Committed by Staff**

School counsellors must:

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

School counsellors must not:

- interview the child

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

### Guidance

An allegation may concern the behaviour of a staff member towards a child who is enrolled at the referrer's school or another school.

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

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

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

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

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

## 3.7 Report Allegation of Sexual Abuse Committed by a Student during Supervised School Activities

School counsellors must:

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

School counsellors must not:

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

**Guidance**

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

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

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

### 3.8 Respond when a Student is at Immediate Risk of Harm

Where there is a concern that the student will be exposed to the immediate risk of harm during or after school hours, school counsellors must report this to the principal as a matter of priority.

**Guidance**

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

### 3.9 Students 18 Years of Age and Over Subjected to Physical or Sexual Assault

School counsellors must report to the principal a concern for a student 18 years or over who discloses physical or sexual assault.

**Guidance**

Students over 18 years of age are adults and concerns for their safety are reported to the WA Police by the student themselves. The principal may advise and assist the student who has been subjected to physical or sexual assault to make a WA Police report.

Students over 18 years who have an intellectual disability are viewed under Section 330 of the [Criminal Code](#) as being an 'incapable person'. The principal may make a WA Police report themselves when the student is incapable of doing so.

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

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

### 3.10 Respond to Students in Possession of Sexually Explicit or Child Exploitation Material

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

- report to the principal
- follow reporting procedures in 3.3 or 3.4, as applicable.

School counsellors must not:

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

#### Guidance

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

Only members of the teaching staff have the authority to confiscate student's property on school premises under reg 71 of the [School Education Regulations 2000](#). The process for the confiscation of mobile phones should be stated in the school's policy for the management of mobile phones and other electronic devices on school grounds.

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

- image is sexually explicit;

- identity of the person is known; or
- image appears to be of a person under 18 years old.

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

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

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

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

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

## 3.11 Respond to Specific Child Protection Concerns

### 3.11.1 Female Genital Mutilation/Cutting

School counsellors must:

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

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

#### Guidance

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

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

### 3.11.2 Forced Marriage

School counsellors must:

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

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

### **Guidance**

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

## **3.12 Support Students Affected by Abuse**

School counsellors must:

- support students affected by abuse, including students who are alleged to have committed abuse
- document and report to the principal any further information or observations in respect to the abuse.

### **Guidance**

Staff involved in a supportive role should consider factors such as culture, religion, age, disability and level of maturity of the student. The impact on the student's behaviour of trauma stemming from abuse should also be considered. Refer to [Support a student affected by abuse or neglect](#) in Ikon. (staff only).

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

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

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

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

## **3.13 Communicate to Parents**

### **3.13.1 When a Mandatory Report or Child Protection Concern Referral Has Been Made**

School counsellors must not:

- inform parents of reports made to the Department of Communities or to WA policer
- disclose the identity of the reporter (if known) or the person alleged to have committed the abuse.

**Guidance**

No member of staff apart from the principal or their nominee is permitted to inform parents of concerns or reports of child abuse. The parent may be responsible for the abuse and advising them that a mandatory report or child protection concern referral has been made may compromise an investigation by the Department of Communities or WA Police.

**3.13.2 When the Belief or a Concern Is Held But a Mandatory Report or Child Protection Concern Referral Has Not Yet Been Made**

School counsellors must not inform parents:

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

**Guidance**

No member of staff apart from the principal or their nominee is permitted to inform parents of concerns or reports of child abuse. A parent may be responsible for the abuse. To inform the parent of the belief or concern of child abuse may alert them and pose a further risk to the child and may compromise an investigation by the Department of Communities or WA Police.

**3.14 When a Student Under the Age of Consent Discloses a Sexual Relationship**

School counsellors must:

- document the disclosure
- provide a copy to the principal
- follow reporting procedures in 3.3 or 3.4, if applicable.



School counsellors must not interview the child or children involved.

### Guidance

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

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

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

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

If a staff member who is a mandatory reporter forms the belief that a child is or has been the subject of sexual abuse, a mandatory report should be submitted as per the [Children and Community Services Act 2004](#).

The principal will inform the parents about the disclosure except in circumstances where:

- informing the parents is considered to be not in the best interests of the child
- a report of child sexual abuse has been made.

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

## 3.15 Recordkeeping and Documentation

School counsellors must:

- document all incidents of possible physical or behavioural indicators and concerns of child abuse
- provide copies to the principal
- securely store all confidential records and information separately from the student's school records.

## Guidance

A mandatory reporter should not provide a copy of their mandatory report to the principal for storage or store their own copy of the report in Department of Education files. The receipt number issued by the Mandatory Reporting Service (MRS) is proof that a report has been made. The report can be accessed, or additional information added by the reporter later by quoting the receipt number or the name of the child to the MRS. Therefore, it is not necessary to keep a mandatory report and it is strongly advised that a copy of the mandatory report is not stored by the mandatory reporter.

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

Refer to Appendix C for more information on completing documentation.

## 3.16 Confidentiality

School counsellors must not:

- disclose the identity of a staff member who makes a child protection report
- promise confidentiality when a child discloses information that leads to a concern of child abuse or family violence.

## Guidance

Staff may consult with other relevant staff in a confidential manner and subject to the information being relevant to the wellbeing of the child.

All staff who report abuse are protected by the Children and Community Services Act 2004 from civil, criminal, and disciplinary liability by providing information in good faith to the Department of Communities, WA Police or Standards and Integrity Directorate. This protection does not extend to discussion or disclosure of information to other parties who are not directly involved.

While the Act protects the identity of the reporter, there are some circumstances where the identity of the reporter may be released. These are:

- for the purpose of a Department of Communities assessment;
- for investigative purposes by WA Police or to prosecute an offence;
- for court processes such as child protection, family law or adoption proceedings;
- with the written permission of the reporter.

The penalty for disclosing a reporter's identity outside of these circumstances can be up to two years imprisonment and/or \$24,000 fine.

For assistance regarding appropriate responses to students disclosing abuse, please refer to [Respond to student disclosure of abuse](#) in Ikon (staff only).

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

### 3.17 Protection and Support for School Counsellors Who Report Child Abuse

School counsellors who have a concern for their own safety following a report of child abuse must inform the principal.

#### Guidance

Where there is concern for the safety of a reporter, the principal advises the Department of Communities and/or the WA Police and contacts the Regional Education Office for further advice.

Department of Education staff who require support as a result of reporting child abuse can access the [Employee Assistance Program](#) (staff only) for counselling. Third party providers should consult with their employer.

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

## 4. Definitions

### Allied Professionals

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

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

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

### Belief on Reasonable Grounds

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

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

Reasonable grounds may include:

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

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

([Mandatory Reporting Guide: Western Australia](#)).

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

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

## **Boarding Facility**

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

## **Boarding Supervisor**

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

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

## **Child**

A person who has not reached the age of 18 years of age and, in the absence of positive evidence as to age, means a person who is apparently under 18 years of age. (Children and Community Services Act 2004 Section 124A)

## **Child Abuse**

Occurs when a child has been subjected to physical, sexual or emotional abuse and/or neglect which has resulted or is likely to result in significant harm to the child's wellbeing. It may involve ongoing, repeated or persistent abuse, or arise from a single incident.

## **Child Exploitation Material**

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

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

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

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

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

### **Child Protection Concern**

A concern about the wellbeing of a child based on the observation of indicators or information that may lead to a concern for:

- the care of the child
- the physical, emotional, psychological and educational development of the child
- the physical, emotional, and psychological health of the child
- the safety of the child.

(s3 Children and Community Services Act 2004).

### **Child Safe Organisation**

The Australian Children's Commissioners and Guardians (ACCG) define a child safe organisation as one that consciously and systematically:

- creates conditions that reduce the likelihood of harm occurring to children and young people
- creates conditions that increase the likelihood of any harm being discovered
- responds appropriately to any disclosures, allegations or suspicions of harm.

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

### **Confidentiality**

The protection of personal, private and sensitive information. Professional codes of conduct and the Department's [Staff Conduct and Discipline policy](#) reinforce the importance of protecting an individual's privacy.

### **Documented Plan**

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

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

### **Duty of Care**

A duty imposed by law to take care to minimise the foreseeable risk of harm to another.

### **Emotional Abuse**

Occurs when an adult harms a child's development by repeatedly treating and speaking to a child in ways that damage the child's ability to feel and express their feelings. Emotional abuse includes psychological abuse and being exposed to family violence.

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

## **Family violence**

**Family violence** is a reference to:

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

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

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

- (a) an assault against the family member
- (b) a sexual assault or other sexually abusive behaviour against the family member
- (c) stalking or cyber-stalking the family member
- (d) repeated derogatory remarks against the family member
- (e) damaging or destroying property of the family member
- (f) causing death or injury to an animal that is the property of the family member
- (g) unreasonably denying the family member the financial autonomy that the member would otherwise have had
- (h) unreasonably withholding financial support needed to meet the reasonable living expenses of the family member, or a child of the member, at a time when the member is entirely or predominantly dependent on the person for financial support



(i) preventing the family member from making or keeping connections with the member's family, friends or culture

(j) kidnapping, or depriving the liberty of, the family member, or any other person with whom the member has a family relationship

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

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

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

### **Female Genital Mutilation/Cutting**

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

### **Harm**

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

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

Children and Community Services Act 2004

### **Mandatory Reporter**

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

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

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

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

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

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

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

## **Mandatory Reporting Legislation**

Section 124B of the Children and Community Services Act 2004

Duty of certain people to report sexual abuse of children

(1) A person who:

(a) is a person specified in the Table (a specified person); and

## **Table**

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

(b) believes on reasonable grounds that a child:

(i) has been the subject of sexual abuse that occurred on or after commencement day; or

(ii) is the subject of ongoing sexual abuse;

and

(c) forms the belief:

(i) in the course of the person's work (whether paid or unpaid) as a specified person; and

(ii) on or after commencement day.

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

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

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

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

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

## **Neglect**

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

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

Children and Community Services Act 2004.

**Omission of care** (from the [Department of Communities Neglect policy 2021](#)) When a child does not receive adequate food or shelter, medical treatment, supervision, care or nurturance to the extent that their development is harmed, or they are injured.

**Cumulative harm** (from the [Department of Communities Neglect policy 2021](#)) Refers to the effects of multiple adverse or harmful circumstances and events in a child's life. The unremitting daily impact of these experiences on the child can be profound and exponential, and diminish a child's sense of safety, stability and wellbeing.

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

## **Non-Mandatory Reporter**

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

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

## **Parent**

In relation to a child, is a person who at law has responsibility for the long-term care, welfare and development of the child; or the day-to-day care, welfare and development of the child.

## **Physical Abuse**

Occurs when a child is severely and/or persistently hurt or injured by an adult or a child's caregiver. It may also be the result of putting a child at risk of being injured. Some examples are: hitting, shaking, punching; burning and scalding; excessive physical punishment or discipline; attempted suffocation; or shaking a baby.

## **Prevention**

Strategies that promote self-management, emotional awareness and interpersonal problem-solving skills that reduce risk factors and promote protective factors to ensure the wellbeing of children and young people.

## **Protective Behaviours**

A personal safety program designed to equip children with the knowledge and skills to act in ways that reduce the likelihood of abuse occurring and help them to report abuse and to seek help if abuse occurs.

## **Psychologist**

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

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

## **Residential College**

A place used to provide residential accommodation for children while they attend a school as defined in the School Education Act 1999 section 4.

Also referred to as a boarding facility and does not include private arrangements.

## **Residential College Manager**

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

### **Residential Setting**

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

### **Residential Setting Activity**

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

### **School Activity**

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

### **School Counsellor**

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

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

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

## **Sexual Abuse**

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

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

(s124A Children and Community Services Act 2004)

Some examples are: letting a child watch or read pornography; allowing a child to watch sexual acts; touching a child's genitals; oral sex with a child; sexual assault (including sexual touching or vaginal or anal penetration that is non-consensual); and using the internet to find a child for sexual exploitation.

## **Sexual harassment**

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

### **Staff**

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

### **Student Residential College**

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

## **5. Related documents**

### **Relevant Legislation or Authority**



[Australian Psychological Society Code of Ethics 2007](#)

[Child Pornography and Exploitation Material and Classification Legislation Amendment Act 2010](#)

[Children and Community Services Act 2004 \(WA\)](#)

[Corruption and Crime Commission Act 2003 \(WA\)](#)

[Criminal Code \(Acts Amendment: Sexual Offences' Act 1992\) \(WA\)](#)

[Criminal Code Act 1995 \(Commonwealth\)](#)

[Disability Discrimination Act 1992 \(Cth\)](#)

[Disability Discrimination Amendment \(Education Standards\) Bill 2004 \(Cth\)](#)

[Equal Opportunity Act 1984 \(WA\)](#)

[Freedom of Information Act 1992](#)

[Public Sector Management Act 1994 \(WA\)](#)

[Public Interest Disclosure Act 2003 \(WA\)](#)

[Restraining Orders Act 1997 \(WA\)](#)

[Restraining Orders and Related Legislation Amendment \(Family Violence\) Act 2016\)](#)

[School Education Act 1999 \(WA\)](#)

[School Education Regulations 2000 \(WA\)](#)

[Sex Discrimination Act 1984 \(Cth\)](#)

[State Records Act 2000 \(WA\)](#)

[Teacher Registration Act 2012 \(WA\)](#)

[Working With Children \(Criminal Record Checking\) Act 2004 \(WA\)](#)

[Working with Children \(Criminal Record Checking\) Regulations 2005 \(WA\)](#)

## **Related Department Policies**

[Complaints and Notifications](#)

[Duty of Care for Students for Public Schools](#)

[Enrolment in Public Schools](#)

[Equal Opportunity, Discrimination and Harassment](#)

[Incident Management on Department of Education Sites](#)

[Records Management](#)

[Staff Conduct and Discipline](#)

[Student Attendance in Public Schools](#)

[Student Behaviour in Public Schools](#)

[Visitors and Intruders on Public School Premises](#)

## **Other Documents**

[Memorandum of Understanding between the Department of Communities and the  
Department of Education 2021 \(staff only\)](#)

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

## **6. Contact information**

### **Policy manager:**

Director, Student Engagement and Wellbeing

### **Policy contact officer:**

Principal Consultant , Student Engagement and Wellbeing

T: (08) 9402 6448

## 7. History of changes

---

<b>Effective date</b>	1 May 2024
<b>Last update date Procedure version no.</b>	1.0
<b>Notes</b>	Major changes to reflect Children and Community Services Amendment Act 2021 approved by Director General on 11 April 2024

---

## 8. Appendices

Appendix A: [Child Protection And Abuse Prevention Education](#) (PDF file - 79.9kB)

Appendix B: [Legal Protection and Support for Employees Who Report Child Abuse](#) (PDF file - 83.7kB)

Appendix C: [Completing Documentation](#) (PDF file - 89.3kB)

## 9. More information

### Supporting content

#### Policy

[Child Protection in Department of Education Sites Policy](#)

#### Procedure review date

1 May 2027

---