

CATHOLIC EDUCATION
WESTERN AUSTRALIA

**CHILD PROTECTION PROCEDURES
GUIDELINES AND PROCEDURES FOR CATHOLIC
SCHOOLS IN WESTERN AUSTRALIA**

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1. TERMS USED

The following are terms used:

1.1 Child Abuse

Refers to the long term and/or short-term maltreatment of a person under the age of 18 years of age. It is the result of action or inaction, which results in harm or injury to a child. Child abuse may be categorised as follows:

- physical abuse
- sexual abuse
- emotional abuse and psychological abuse
- neglect
- witnessing family violence

Greater detail on the definitions of child abuse are found in these Child Protection Procedures for Catholic Schools in Western Australia.

1.2 Child Protection

UNICEF uses the term 'child protection' to refer to prevention and response to violence, exploitation and abuse against children. This includes the policies, standards, preventative measures and procedures to protect children from both intentional and unintentional harm. In context it applies particularly to the duty of Catholic Education and individuals associated with Catholic Education, towards children in their care.

1.3 Catholic School

Refers to an educational venue as defined in the *Teacher Registration Act 2012* that is a part of the Catholic Education system in Western Australia. This includes schools as well as Early Learning and Care Centres.

1.4 Boarding Facility

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

1.5 Principal

Refers to a principal of a Catholic school or a centre principal of an early learning and care service.

1.6 Teacher

Refers to a registered teacher as defined in the *Children and Community Services Act 2004* and *Teacher Registration Act 2012*.

1.7 Educator

Refers to an early childhood practitioner who works directly with children in early childhood settings (Early Years Learning Framework, p5).

1.8 Boarding Supervisor

Means a person who holds an office or position at a boarding facility the duties of which include the supervision of children living at the facility.

1.9 Other Staff

Refers to all staff of a Catholic school that are not captured in 1.5, 1.6, 1.7 or 1.8.

- 1.10 Early Childhood
Refers to the age range 0-8 years.
- 1.11 Historic Allegations
Refers to any information alleging child abuse where the child is a former student.
- 1.12 Approved Class of Persons
Principals of Catholic schools are an approved “class of persons” in accordance with the Act and are able to take reports regarding child sexual abuse. Principals of Catholic schools have a legal obligation upon receiving reports regarding child sexual abuse to forward these unaltered to the approved agency (currently the Department for Child Protection and Family Support (CPFS) as soon as possible (usually within 24 hours). As well as informing the principal, teachers also have the option at law to report directly to CPFS.
- 1.13 Commencement Day
- (a) in relation to a doctor, nurse, midwife, police officer or teacher — the day on which the *Children and Community Services Amendment (Reporting Sexual Abuse of Children) Act 2008* section 5 came into operation; ie January 1 2009.
 - (b) in relation to a boarding supervisor — the day on which the *Children and Community Services Legislation Amendment and Repeal Act 2015* section 47 came into operation; ie January 1 2016.

2. WHAT IS CHILD ABUSE AND NEGLECT?

Child abuse and neglect is an extremely complex issue. There are no universally accepted definitions of child abuse and neglect and the difficulty in developing exclusive definitions is recognised internationally.

For the purposes of these Procedures, child abuse and neglect may be defined as any non-accidental behaviour by parents/guardians/caregivers, other adults or older adolescents that is outside the norms of conduct and entails a substantial risk of causing physical or emotional harm to a child or young person. Such behaviours may be intentional or unintentional and can include acts of omission (ie. neglect) and commission (ie. abuse) (Bromfield, 2005; Christoffel, et al., 1992). Child abuse can be a single incident, but usually takes place over time.

The Department for Child Protection and Family Support categorises child abuse and neglect as follows:

PHYSICAL ABUSE

Physical abuse occurs when a child has experienced severe and/or persistent ill treatment through behaviours such as beating, shaking, inappropriate administration of alcohol and drugs, attempted suffocation or excessive discipline or physical punishment.

The harm experienced by a child as a result of these behaviours needs to be, or likely to be, detrimental in effect and significant in nature on the child's wellbeing. Harm that a child may experience can include, but is not limited to, injuries such as cuts, bruises, burns, bites and fractures. The injury resulting from physical abuse is considered to be non-accidental¹.

EMOTIONAL ABUSE AND PSYCHOLOGICAL ABUSE

Emotional abuse is the sustained, repetitive, inappropriate, ill treatment of a child or young person through behaviours including threatening, belittling, teasing, humiliating, bullying, confusing, ignoring and inappropriate encouragement.

Psychological abuse is the sustained, repetitive, inappropriate, ill treatment of a child or young person through behaviours including threatening, isolating, neglecting, discrediting, misleading, disregarding, ignoring and inappropriate encouragement.

The harm experienced by a child as a result of these behaviours needs to be, or likely to be detrimental in effect and significant in nature on the child's wellbeing. Children who have been emotionally abused are likely to have a reduced capacity to experience a range of emotions, to express emotion appropriately and to process and regulate their emotional experience. Children who have been emotionally abused are likely to be fearful, withdrawn and/or resentful, distressed and despairing. Psychological abuse may damage a child's intellectual faculties and processes including intelligence, memory, recognition, perception, attention, imagination and moral development. Children who have been psychologically abused are likely to feel worthless, flawed, unloved, unwanted, endangered or only of value in meeting another's needs.¹

SEXUAL ABUSE

Sexual abuse occurs when a child has been exposed or subjected to sexual behaviours that are exploitative and/or inappropriate to his/her age and developmental level. Examples include sexual penetration, inappropriate touching and exposure to sexual acts or pornographic materials.

The harm experienced by a child as a result of these behaviours needs to be, or likely to be detrimental in effect and significant in nature on the child's wellbeing. Harm which may result from sexual abuse includes significant emotional trauma, physical injury, infections, unwanted pregnancy and impaired emotional and psychological development.¹

NEGLECT

Neglect is when a child is not provided with adequate food or shelter, effective medical, therapeutic or remedial treatment, and/or care, nurturance or supervision to a severe or persistent extent.

The harm experienced by a child as a result of these behaviours needs to be, or likely to be detrimental in effect and significant in nature on the child's wellbeing. Neglect can be acute, chronic or episodic, and can result in detrimental effects on the child or young person's social, psychological, educational or physical development and/or physical injury.

The deliberate deprivation of a child's basic needs should be considered within the context of physical, emotional or psychological abuse.¹

¹ Identifying and Responding to child abuse and neglect: A guide for professionals, Department for Child Protection, 2006.

3. INDICATORS OF POSSIBLE CHILD ABUSE AND NEGLECT

The following list of indicators of child abuse and neglect is to be used as a guide only and is not exhaustive but contains those indicators which may be of most use to teachers.

Indicators need to be considered in the context of their consistency with a child's developmental stage, medical history and social context.

Any of these indicators may suggest that a child is being or has been abused or neglected. Some indicators may also suggest other emotional trauma.

PHYSICAL ABUSE¹

PHYSICAL INDICATORS

- implausible explanation for bruises and welts, particularly on face, lips, mouth, back, torso or on several different body parts
- shaped or linear bruising
- unexplained burns shaped or linear
- unexplained fractures
- injuries in various stages of healing

BEHAVIOURAL INDICATORS

- fear of adults, particularly parents/guardians/carers
- enhanced startle reflex, cringes when sudden movement by adult
- behavioural extremes, withdrawn or aggressive
- afraid to go home
- reports of injury from child
- changes in academic performance
- drawings and/or writing
- significant change in behaviour

EMOTIONAL ABUSE AND PSYCHOLOGICAL ABUSE¹

PHYSICAL INDICATORS

- delayed physical, emotional or intellectual development
- speech disorders
- failure to thrive

BEHAVIOURAL INDICATORS

- child displays extremes in behaviour from overly aggressive to overly passive
- compulsive lying and stealing
- high levels of anxiety
- uncharacteristic attention seeking
- reluctance to go home
- significant change in behaviour

SEXUAL ABUSE¹

PHYSICAL INDICATORS

- genital or anal bleeding
- signs of pain or discomfort in the genital or anal areas
- pregnancy
- unexplained difficulty in walking or sitting

BEHAVIOURAL INDICATORS

- disclosure of involvement in sexual activity
- inappropriate interest or knowledge of sexual matters
- reports of sexual assault or inappropriate sexual behaviour to a staff member
- child implies that he/she is required to keep secrets
- changes in academic performance
- afraid or reluctant to go home/ go to a particular person's house/ be with a particular person
- significant change in behaviour

NEGLECT¹

PHYSICAL INDICATORS

- unattended physical or medical problems
- inadequate clothing
- abandonment
- poor hygiene, matted hair, dirty skin or severe body odour
- frequent illness, low grade infections or sores
- undernourished appearance

BEHAVIOURAL INDICATORS

- consistent hunger
- never or rarely brings lunch to school
- habit behaviours not consistent with developmental stage
- inappropriate clothing, especially inadequate clothing in winter
- conduct disorders, destructive, violent
- frequent lateness to school or absence from school
- behavioural extremes
- changes in academic performance
- significant change in behaviour

4. WITNESSING FAMILY VIOLENCE

Family and domestic violence is strongly associated with child abuse and neglect. In families where domestic violence occurs, there is an increased risk that basic childhood needs will not be met including the need for care and protection.

Witnessing violence between parents, or being involved in a violent act between adults in the home can have a serious impact on the physical and emotional wellbeing and psychological development of children and young people. It can impact on self-image, responses to other people and ability to form healthy relationships as adults. It can deny a sense of security and safety to children and young people teach them violence is a solution to problems and may lead to symptoms of post-traumatic stress disorder.

Teachers should be aware of this increased risk of child abuse and neglect in families where domestic violence occurs.

5. REPORTING CHILD SEXUAL ABUSE

Refer to CECWA REPORTING PROCEDURES CHART 1: MANDATORY REPORTING OF CHILD SEXUAL ABUSE

5.1 Responsibilities of staff who are mandatory reporters: including teaching staff, boarding supervisors and school based nurses

Teachers, boarding supervisors and school-based nurses now have a legal obligation to report a belief based on reasonable grounds that child sexual abuse has occurred or is occurring on or after commencement day as set out in the Children and Community Services Act 2004.

Child sexual abuse that occurred prior to commencement day must still be reported but is not regarded as a mandatory report under the legislation. (Refer to CECWA REPORTING PROCEDURES CHART 1: REPORTING OF CHILD ABUSE)

Staff who are mandatory reporters and form a belief based on reasonable grounds that child sexual abuse has occurred or is occurring are responsible for:

1. Where the allegation is made against the principal, informing the Team Leader, Employment and Community Relations Team immediately.
2. Lodging a report with the Mandatory Reporting Service (MRS) as soon as practicable. The mandatory reporter may fulfil the statutory requirement by handing a written report to the principal (see Page 16). A verbal report in urgent cases can be made to the MRS but this must be followed by a written report, within the first 24 hours. Upon consultation, the MRS may direct the mandatory reporter to give both a verbal report and a written report, or just to submit a written report. Mandatory reporters also have the option at law to report directly to CPFS.
3. Consulting with the principal. The principal may involve appropriate support staff including but not limited to psychologist, social worker, counsellor, Team Leader from the Employment and Community Relations Team or the Coordinator, Psychology Team based at the Catholic Education Office.
4. Documenting the details of the grounds for their belief as well as any observations, consultations made and actions taken.
5. Assisting in supporting any child involved where necessary.
6. Recording the MRS receipt number issued.

Lodging a mandatory report with the Mandatory Reporting Service

Mandatory reporters must either:

- make a written report only; or
- make a verbal report which must be followed up as soon as is practicable with a written report (within one 24 hours).

Verbal reports are required in urgent cases. If teachers are unsure as to whether the case they are reporting is urgent or not, they should phone the MRS for consultation and follow the instructions provided.

Mandatory reporters must lodge a report with the MRS in one of the following ways:

- complete the Mandatory Reporting Form and submit the written report electronically, by fax or post directly to the MRS; or
- complete the Mandatory Reporting Form and submit the written report to the principal who is authorised to receive it on behalf of the MRS; or
- make a verbal report to the MRS and then follow up by submitting a written report within 24 hours either directly to the MRS or to the principal.

Mandatory Reporting Forms may be found on the MRS website:

www.mandatoryreporting.dcp.wa.gov.au

5.2 Responsibilities of educators and other staff

Staff must inform the principal of any concerns involving child sexual abuse.

Staff that have a concern that child sexual abuse has occurred or is occurring are responsible for:

1. Where the allegation is made against the principal, informing the Team Leader, Employment and Community Relations Team immediately.
2. Documenting the details of the grounds for their belief as well as any observations, consultations made and actions taken.
3. Notifying their principal as soon as possible (usually within one working day) of their concern and the grounds that lead to their concern.
4. Assisting in supporting any child involved where necessary.
5. Maintaining appropriate levels of confidentiality.

5.3 Responsibilities of principals

Principals of Catholic schools are an approved “class of persons” in accordance with the Act and are able to take reports regarding child sexual abuse. As well as informing the principal, teachers also have the option at law to report directly to DCPFS.

Principals are responsible for:

1. In the case of a mandatory reporter, supporting them to make a verbal and/or written report to the MRS as required.
2. Passing on an exact copy of the report to the MRS within one working day when a mandatory reporter chooses to lodge their written mandatory report with the principal as an approved class of person. Failure to do so can result in a \$6000 fine for the principal.
3. In the case of educators and other staff, making a notification of the concern to the Duty Officer of the local CPFS district office or supporting the staff member to make the report.
4. Consulting with appropriate support staff including but not limited to, psychologist, social worker, and counsellor.
5. Contacting the Team Leader from the Employment and Community Relations Team or the Coordinator, Psychology Team based at the CEO.
6. Providing information to CPFS or WA Police as required.
7. Reporting child protection concerns that may involve criminal behaviour to WA Police.
8. Ensuring the relevant staff members’ document any disclosures, observations and actions promptly.

9. Coordinating support for any child involved and for relevant staff where necessary.
10. Maintaining appropriate levels of confidentiality.

5.4 Responding to historic allegations of child abuse

Historic allegations refers to any information alleging child abuse where the child is a former student of any Catholic school.

1. Where the allegation is made against the principal, the Team Leader, Employment and Community Relations Team must be informed immediately.
2. Where an allegation of child abuse is brought to the attention of school staff, the information must be passed on to the principal.
3. The principal must notify the Team Leader, Employment and Community Relations Team immediately.
4. The principal will be directed in the actions to take by the Team Leader, Employment and Community Relations Team. The Team Leader, Employment and Community Relations Team may consult with others such as Legal Counsel and Coordinator, Psychology Team.

6. REPORTING CHILD PHYSICAL ABUSE, EMOTIONAL / PSYCHOLOGICAL ABUSE OR NEGLECT

Refer to CECWA REPORTING PROCEDURES CHART 1: REPORTING OF CHILD ABUSE

6.1 Responsibilities of all staff

All child protection concerns must be reported. School staff will generally form concerns regarding a student through observation of possible indicators or through disclosure. School staff that have concerns that child abuse or neglect may be occurring must inform the principal and keep written, dated records of their, concerns, observations and actions.

Consultation should first occur with the principal who may also involve appropriate support staff such as psychologists, social workers, counsellors, the Coordinator, Psychology Team .

Staff that have a concern that a child is at risk of, or subject to, child abuse are responsible for:

1. Where the allegation is made against the principal, informing the Team Leader, Employment and Community Relations Team immediately.
2. Documenting the details of the grounds for their concern as well as any consultations made.
3. Notifying their principal as soon as possible (usually within one working day) of their concern and the grounds that led to their concern.
4. In many instances, the principal will provide the notification to CPFS. There may be circumstances in which the principal deems it more appropriate that the staff member speaks directly with CPFS. On these occasions, the staff member must provide all relevant information

to CPFS.

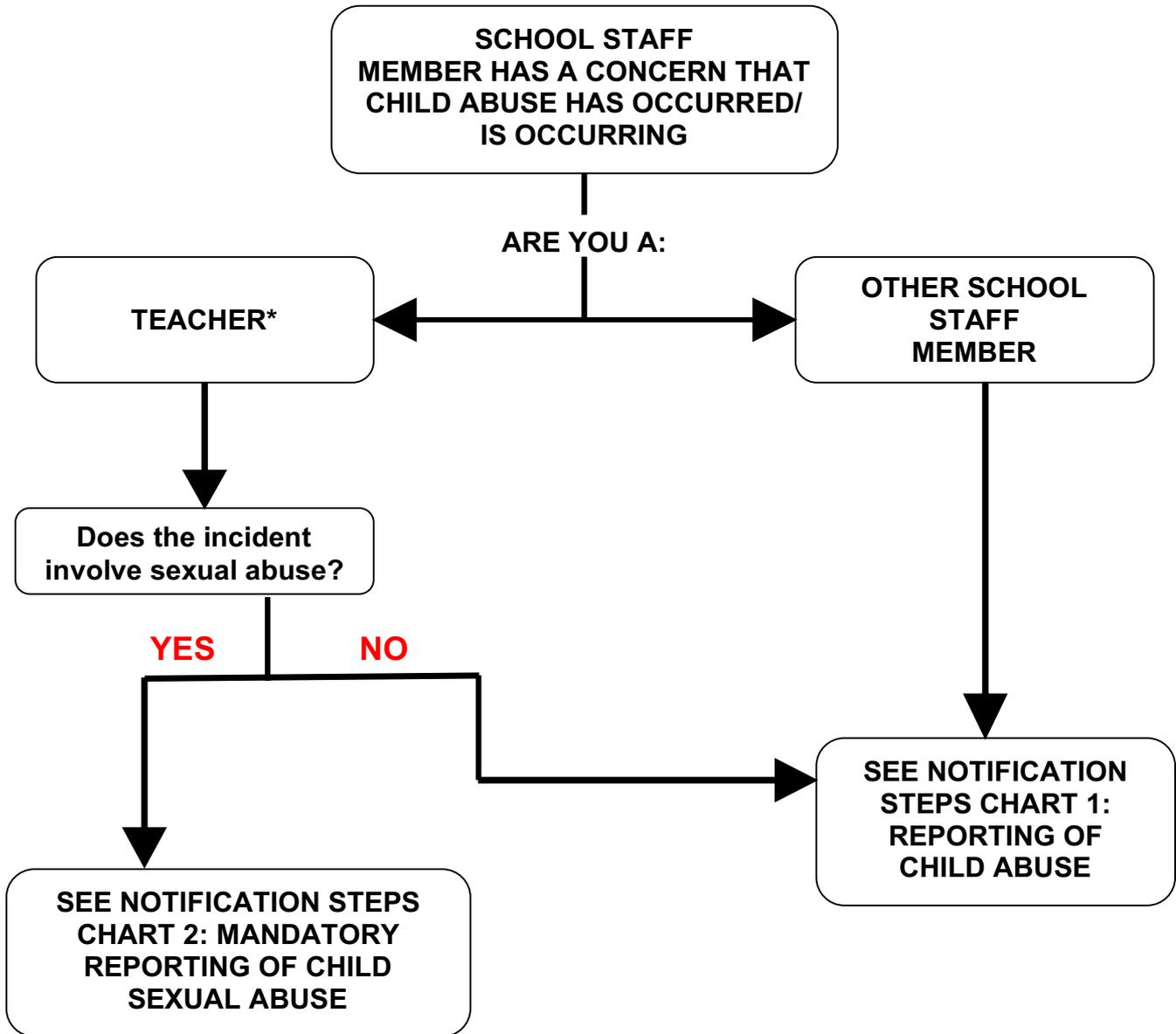
5. Assisting in supporting any child involved where necessary.
6. Maintaining appropriate levels of confidentiality.

6.2 Responsibilities of principals

The Children and Community Services Act (2004), (the Act), shall be adhered to in all Catholic schools. Principals are required to ensure that all staff are aware of and comply with legislation and policies with respect to child protection. Upon receiving notification that a staff member has a concern that child abuse has occurred or is occurring principals are responsible for:

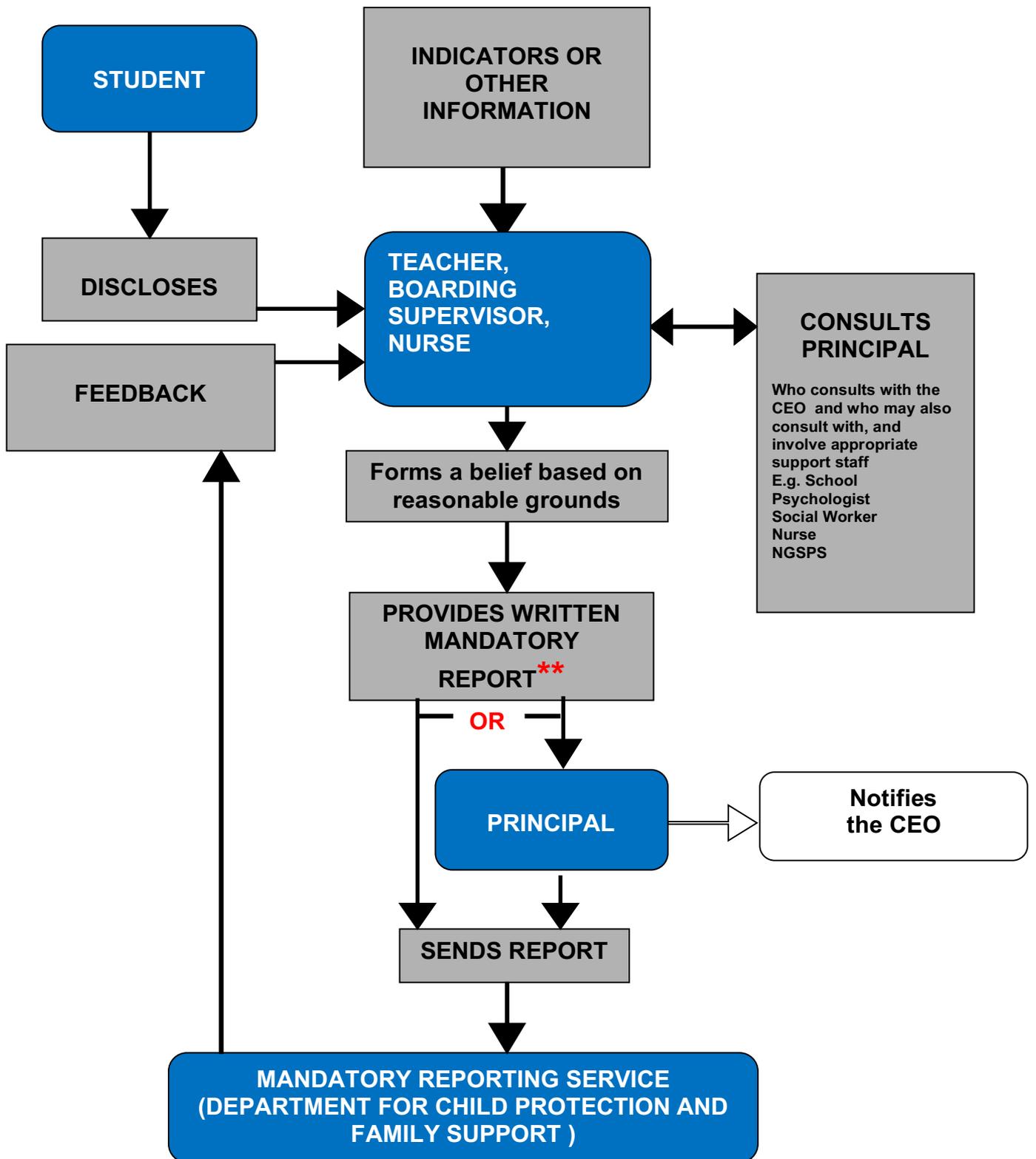
1. Reporting the concern and the grounds that led to that concern to the Duty Officer of the local District office of CPFS as soon as is possible (usually within one working day).
2. Consulting with appropriate support staff including but not limited to psychologist, social worker, and counsellor.
3. Contacting the Team Leader from Employment and Community Relations Team or the Coordinator, Psychology Team, at the Catholic Education Office.
4. If the allegation concerns a staff member, the Team Leader, Employment and Community Relations Team must be notified as soon as possible.
5. Reporting child abuse concerns that may involve criminal behaviour to WA Police.
6. Ensuring the relevant staff members' document any disclosures, observations and actions promptly.
7. Coordinate support for any child involved and for affected staff where necessary.
8. Maintaining appropriate levels of confidentiality.

CECWA – CHILD ABUSE NOTIFICATION STEPS



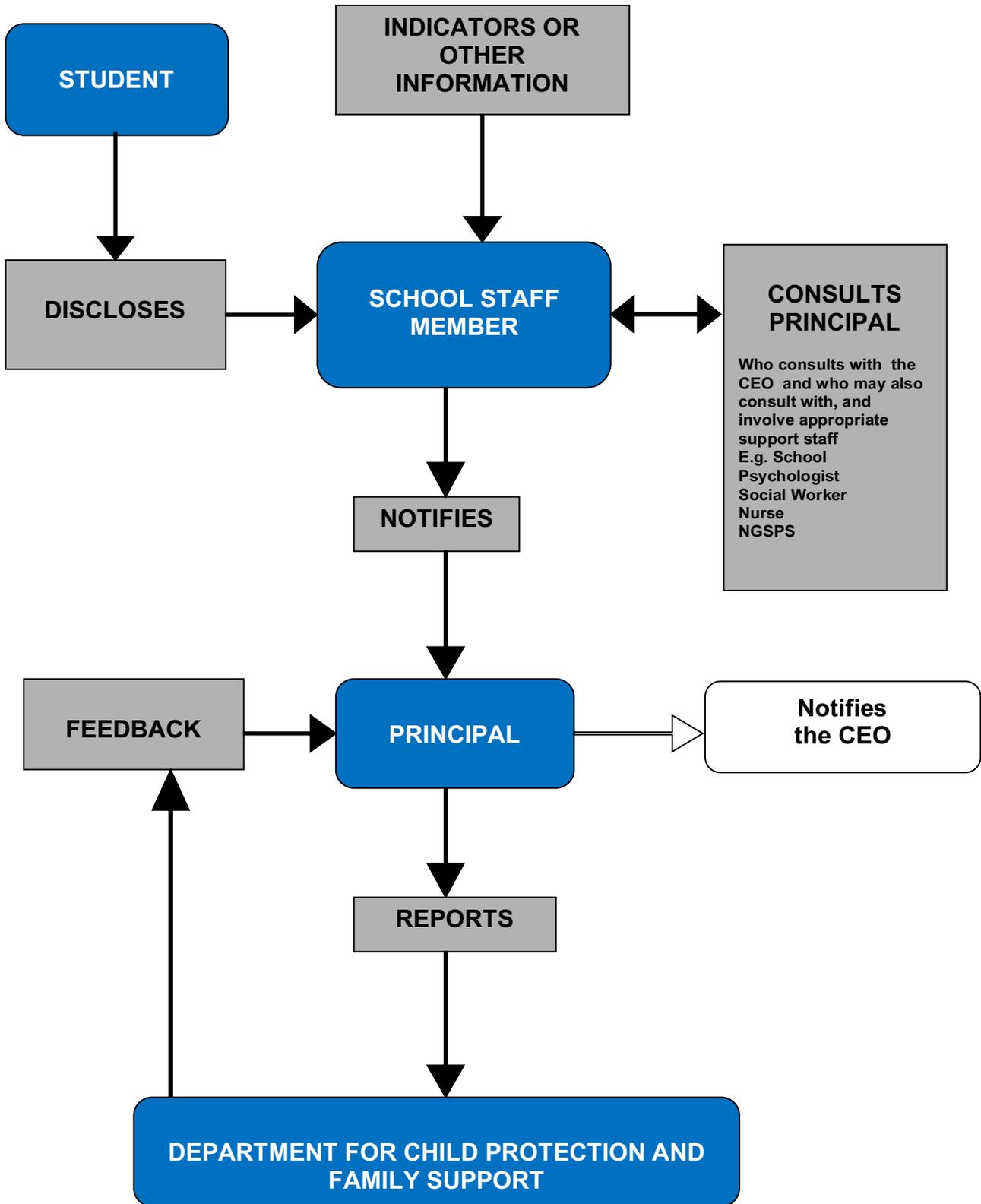
*The WA Children and Community Services Act 2004 defines a teacher as:
“(a) A person who, ***under the WA Teacher Registration Act 2012 is registered***”

CECWA REPORTING PROCEDURES
CHART 1: MANDATORY REPORTING OF CHILD SEXUAL ABUSE



****In urgent cases a verbal report should be provided to the MRS first, then followed up with a written report within one (1) working day**

**CECWA REPORTING PROCEDURES
CHART 2: REPORTING OF CHILD ABUSE**



APPENDIX ONE

DEPARTMENT FOR CHILD PROTECTION AND FAMILY SUPPORT (WA)

The Department for Child Protection and Family Support (CPFS), through the Mandatory Reporting Service (in cases of mandatory reports of child sexual abuse) and its district offices, has the statutory responsibility for assessing complaints of suspected child abuse and neglect and providing support and protective services when appropriate.

In cases of child sexual abuse, reports should go through the principal to the Mandatory Reporting Service. This fulfils the mandatory reporter's legal obligation. (Under a Memorandum of understanding between the Catholic Education Office and CPFS, the principal is able to take reports and then copy these exactly to the Mandatory Reporting Service.) The mandatory reporter retains the statutory right to go directly to the Mandatory Reporting Service.

In all other cases of suspected child abuse and neglect, the Duty Officer of the local district office should be contacted to make a report of suspected child abuse and neglect. It is not necessary that the reporter has proof that child abuse and neglect has occurred. It is appropriate to contact the Duty Officer if an individual believes that the child is likely to have been abused, neglected, is living in a home where there is domestic violence occurring or is at significant risk of harm any kind.

The Duty Officer, in consultation with a Senior Officer, will determine the need to undertake an investigation of what is happening for that child and the child's family.

All Departmental reports are confidential and neither the child nor the parent/guardian will be informed of the source of the report. Consultation regarding child protection matters is available through the Supervisor or Manager at the local Metropolitan District Office.

CPFS will usually advise the organisation (which has referred an allegation of child abuse and neglect) of the outcome of the assessment.

The philosophy of CPFS is to provide services to the child and the child's family, with the child remaining in his or her own home wherever this is possible and appropriate. In most cases, services are provided while the child remains in the home. In some instances, however, this is not possible and, either for the protection of the child or the need for respite for the family, temporary out-of-home placement may be arranged.

Any situation that requires non-voluntary intervention or the removal of a child is placed before a court, which ultimately makes the decision regarding the care and protection of the child in question.

PROCEDURES TO BE FOLLOWED WITH STAFF FROM THE CPFS

Schools receive an increasing number of requests from officers of CPFS for access to children in school time, on school premises and without the knowledge of their parents or guardians.

Parents or guardians are generally informed in advance if children are to be interviewed or examined. However, in certain circumstances where CPFS officer believes on reasonable grounds that to do so would expose the child to risk of harm or jeopardise the investigation, they will contact the parents or guardians after they have interviewed or examined the child.

The Children and Community Services Act 2004 gives police officers and officers of CPFS, where

authorised by their CEO, the power to apprehend children in need of 'care and protection'.

'Care and protection' is defined in Section 4 of the Act to cover numerous circumstances that relate to some form of child abuse and neglect. When CPFS officers approach a school principal, it is usually because they have some reason to suspect that a child is at risk of child abuse and neglect or has been abused and neglected. The officers are seeking to interview the child in order to establish whether or not abuse and neglect has occurred and what further actions should be taken.

To enable school officials and CPFS officers to assist children who, for whatever reason, are potentially at risk, procedures have been established.

- CPFS officers may interview children on school premises. Generally, this will occur when there has been a request by CPFS that the parents not to be notified. CPFS officers normally interview the child at home, in the presence of the parents, if there is not a valid reason for the absence of the parents. Notification of school interviews generally mean that officers wish to interview without parental knowledge.
- An officer from the CPFS will, when possible, inform the school that they intend to interview a child at the school. Upon arrival at the school, CPFS officers must first report to the principal (or a nominee selected by the principal) and provide proof of their identity as officers of the Department. When their credentials have been verified, the school administration must provide a suitable venue for the conduct of the interview. CPFS officers have a legal right to interview children and such requests cannot be denied by the principal.

The following should therefore occur:

- The child is to be interviewed in private.
- If parents are not present, consultation may be made with CPFS officers to offer the child the option of having someone from the school, with whom they feel comfortable, present for their support. Normally CPFS officers will stipulate that no staff may be involved in the interview. **The final determination rests with the CPFS officers.**
- If, at the end of the interview, the CPFS officers decide that the child is in need of care and protection and want to remove him or her from the school premises, they will inform the principal or nominee.
- The principal (or nominee) shall consult with CPFS on any actions to take place following their interview of the child. The principal must seek to obtain clear instruction in particular, when the CPFS officers are likely to inform the parents. If the parents are not going to be informed the same day, then clear direction of whether the school must maintain the confidentiality must be sought.
- At all times, school staff must remember that the best interests of the child are to be considered paramount in the making of decisions in these matters and that the CPFS officers have the authority and responsibility for these decisions.

APPENDIX TWO

POLICE CHILD ABUSE SQUAD, POLICE DEPARTMENT (WA)

In most cases where a concern regarding a child exists, contact would initially be made with CPFS who would then refer cases to the Police.

The Police Child Abuse Squad, located at Suite 2, 250 Adelaide Tce, Perth, is an integral part of the Criminal Investigation Branch (CIB) and operates mainly within the Perth metropolitan area.

Considerable efforts have been made to avoid the appearance of a police establishment and the result has been premises that are appropriate to the sensitive matters discussed within them. The Squad is staffed by male and female plain clothes officers.

Their charter is to investigate and prosecute cases of:

- sexual abuse of all children in an intrafamilial setting
- sexual abuse of a child under 13 years in an extrafamilial setting
- physical abuse of children (intrafamilial setting) resulting in serious injury
- sexual or physical abuse by a person in authority

Other cases will be allocated to the CIB office controlling the area where the child resides. ***This includes regional areas.***

The Child Abuse Squad decides how to allocate reports of abuse that come to the Police either directly or by referral from agencies such as CPFS, Princess Margaret Hospital or Government and Non-government School Authorities.

The Police Department considers that interaction with associated agencies is necessary to provide the best possible support for children and their families. Priority is given to disclosures that indicate a need for prompt intervention. Investigations are then initiated rapidly to ensure the child is protected from further risk.

Contact with the Child Abuse Squad may be made during office hours by telephoning (08) 9428 1666.

To establish the CIB office responsible for the area where the child resides, contact should be made with the nearest Police Station.

PROCEDURES TO BE FOLLOWED BETWEEN CATHOLIC SCHOOLS AND THE POLICE DEPARTMENT

Agreement has been reached between the Commissioner of Police and the Executive Director of Catholic Education Western Australia as to the exchange of information in matters of child abuse and neglect. The sharing of information is considered appropriate and in the best interests of the child and the procedures are as follows.

To facilitate the investigation of a known case of child abuse and neglect or a reasonably suspected case of child abuse and neglect, passed to the Police Department by the principal of a Catholic School, the police officer receiving the report should ensure:

In the Metropolitan area:

The information is directed to the CIB Child Abuse Squad for investigation or referral to an appropriate area.

In the Country:

The information is directed to the District Detective responsible for the area where the child resides.

On completion of the investigation and any court action that may follow, the police officer investigating the case should advise the principal of the school concerned that the matter has been finalised or taken as far as is possible.

In the event that a matter of alleged child abuse concerning a child attending school comes to the notice of the police from a source other than a staff member of a Catholic school, the police officer inquiring into the report should advise the principal of the school that an investigation has commenced or is about to commence. This notification should take place as soon as practicable and should be followed in due course with a notification of completion or otherwise.

The information conveyed to the principal of a school should only be sufficient to enable him/her to monitor the child and the child's siblings if this is applicable. Police documentation is not to be supplied.

APPENDIX THREE DOCUMENTATION AND STORING REPORTS

In addition to the CECWA policy statement: 'The Management of Confidential Information in Schools', principals and staff should be aware that the Children and Community Services Act 2004 provides protection for the confidentiality of a reporter's or notifier's identity.

Under the Children and Community Services Act 2004, reporters mean mandatory reporters of child sexual abuse; notifiers mean a person who in good faith gives information to CPFS that raises concerns about the wellbeing of a child.

Storing mandatory reports on school property may leave schools open to contravention of the section of the Children and Community Services Act 2004 that deals with confidentiality of identity of reporters.

All staff shall:

1. Ensure that they document all information, consultations and actions taken involving concerns of child abuse. All records must provide factual information, observable indicators and non opinion or conclusions. Records must include the dates and approximate times of observations or disclosures with exact wording of statements made by the child. This includes historic allegations of child abuse.
2. Ensure such documentation is stored securely by the principal, separate from the child's school file in accordance with The Management of Confidential Information in Schools.

Principals shall:

1. Keep written records of all communication with CPFS, WA Police, CEOWA or any other agency involved in the case as well as all observations, actions and strategies implemented by the school. If the school documents contain information relating to child sexual abuse, the identity of the reporter must not be recorded;
2. Securely store all such confidential information separately from the child's school records.

Principals must not:

1. Store copies of mandatory reports;
2. Record or disclose information that may identify a mandatory reporter or a notifier other than to agencies involved in the investigation. This will typically be the CPFS and/or WA police;
3. Send original copies of documents detailing child abuse concerns and actions to a school where the child has subsequently enrolled. On request, photocopies of such documents may be sent to a child's next school, provided they are sent direct to the principal and marked confidential via registered mail or handed directly to the principal of the next school.

Mandatory Reporters may opt to keep a copy of mandatory reports they have made themselves. Storage of such reports should be as secure as possible. Mandatory reports or their copies may not be stored on school property. The receipt number for a mandatory report must be recorded by the reporter as proof that a report has been made.

Recording the MRS receipt number for future reference is particularly important if mandatory reporters do not wish to keep a copy of their report.

Documentation kept by staff may be required by the DCPFS or WA Police in their investigations.

APPENDIX FOUR

OBSERVING CONFIDENTIALITY, LEGAL PROTECTION AND DUTY OF CARE

Case discussions need to observe the confidentiality provisions of reporters' and notifiers' identities as detailed in the Children and Community Services Act 2004.

The Children and Community Services Act 2004 part 4 division 9A s.124F and Part 10, s.240 provides for the confidentiality of a mandatory reporter's identity and a notifier's identity respectively. Notifiers include any person who provides information to CPFS but are not mandatory reporters under the Act.

Under the provisions of the Act, a person who in the course of their duty becomes aware of the identity of a reporter or notifier, must not disclose identifying information to another person otherwise they may be subject to a \$24,000 fine AND 2 years imprisonment. Identifying information in relation to a reporter or notifier is defined in the Act as:

Information -

- (a) that identifies the reporter or notifier; or
- (b) that is likely to lead to the identification of the reporter or notifier; or
- (c) from which the identity of the reporter could be deduced.

Principals, when a written mandatory report is handed to them as an 'approved class of persons' under the memorandum of understanding, must be clear on the confidentiality obligations regarding a reporter/notifier's identity.

LEGAL PROTECTION

Teachers may be reluctant to report suspected cases of child abuse and/or neglect because they are afraid of the effect this may have on their relationship with other students or the family of the child involved. If teachers make reports through the proper channels and with the best interests of the child in mind, they are protected in the event of legal action being taken against them and are entitled to invoke the legal defence of qualified privilege.

Qualified privilege is interpreted as follows: if a person makes a statement that is possibly defamatory to another person with a 'like interest' but the first person has a legitimate interest, either legal or moral, in the situation, qualified privilege protects the first person. If a teacher makes a bona fide statement to the school principal or other authorities in relation to a situation that the teacher suspects exists and which the teacher considers may be harmful to the child, a defence exists under common law.

The defence of qualified privilege does not cover general discussion in the staffroom, conversation with other parents or members of the general community. It should be noted that the defence of qualified privilege will not be available where complaints are made upon spurious grounds, in bad faith or without reasonable grounds to make the complaint. Teachers must follow the procedures and maintain absolute confidentiality.

The Children and Community Services Act 2004 part 4 division 10 s.129 provides statutory protection to persons who, on reasonable grounds and in good faith, make a report for the purposes of facilitating the enforcement of provisions of that Act with respect to the circumstances of a child.

When acting in good faith, a person giving information or making a report or notification:

- (a) does not incur any criminal or civil liability; and

- (b) is not taken to have breached any duty of confidentiality or secrecy imposed by law; and
- (c) Is not taken to have breached any professional ethics or standards or any principles of conduct applicable to the person's employment or to have engaged in unprofessional conduct.

DUTY OF CARE

Teachers owe a duty of care to students during school hours and at other times when the teacher/student relationship exists. Duty of care falls under the area of common law that is established by the courts on the basis of precedent. The concept of duty of care requires that a teacher must take reasonable care to avoid acts or omissions which (the teacher) can reasonably foresee would be likely to injure (the student) and take steps to remove those dangers. The definition of reasonable standard of care is what a responsible and caring teacher would have anticipated, before the danger arose or the child was injured, and would not have permitted the child to engage in without supervision.

In ascertaining what is reasonable for a teacher to have foreseen, the Courts would amongst other matters enquire into:

- magnitude of risk;
- degree of probable occurrence; and
- difficulty in reducing the risk.

In the situation where a teacher suspects a student is being abused/neglected, the teacher shall discuss their suspicions with the principal who will then discuss the matter with appropriate support staff such as, but not limited to: the school social worker/psychologist, the Coordinator, Psychology Team or the Team Leader, Employment and Community Relations Team at the Catholic Education Office of Western Australia prior to making the choice of reporting the matter or not.

In the case of a direct disclosure, the teacher must report the incident to the principal who is then also obliged to report the matter to the CPFS as well as to the Team Leader, Employment and Community Relations Team at the Catholic Education Office of Western Australia.