

ADDITIONAL CHILD PROTECTION REPORTING

Responsibility to Prevent Abuse or Neglect

Section 13 of the Children, Young Persons and Their Families Act 1997 (Tas) states that an adult who knows, or believes or suspects on reasonable grounds, that a child is suffering, has suffered or is likely to suffer abuse or neglect has a responsibility to take steps to prevent the occurrence of the abuse or neglect. One step the adult may take to prevent the occurrence of the abuse or neglect is to inform Child Safety Services of their knowledge, belief or suspicion.

Unlike a person's failure to comply with the **Mandatory Reporting** section of the Children, Young Persons and Their Families Act 1997 (Tas) or the **Obligation to Protect Children from Harm Offence**, there is no penalty if an adult does not comply with this obligation.

However, all adult members of the College community should be aware of their responsibility under section 13 and their general obligation to help prevent the occurrence of abuse or neglect.

Obligation to Protect Children from Harm

In Tasmania, it is an offence under the Children, Young Persons and Their Families Act 1997 (Tas) (CYPF Act) for a person who owes a child a duty of care to intentionally fail to protect a child from harm.

Section 91 of the CYPF Act states that a person who has a duty of care must not intentionally take or fail to take action that could reasonably be expected to result in sexual, physical, emotional or psychological abuse or harm. This is the offence of failure to protect a child from harm. Penalties include a fine, imprisonment or both.

Eastside Lutheran College, the Principal, and teaching staff at the College owe a duty to take care of students whilst they are involved in College activities, or are present for the purposes of a College activity. This duty of care is non-delegable.

When non-teaching staff, volunteers, Third Party Contractors and External Education Providers agree to perform tasks that require them personally to care for students (in the absence of a member of the teaching staff), they will also owe a duty of care to take such measures as are reasonable in all the circumstances to protect students from risks of harm that reasonably ought to be foreseen.

Therefore, where a member of the College community who owes a duty of care to take care of students is aware of abuse, neglect or grooming, or a high risk that abuse, neglect or grooming may occur, and do not act to protect affected children, they may be found guilty of an offence under the CYPF Act.

When a member of the College community becomes aware of a risk of abuse, neglect or grooming against a student or students under their care, they should immediately report the matter internally to the Principal.

The Principal will then:

- immediately take appropriate action to remove or reduce the risk to the student or students;
- conduct an investigation unless this relates to a **Mandatory Reporting** situation; and
- make the appropriate report to external agencies.

Appropriate action to be taken may include, for example:

- removing a current employee who is known to pose a risk to a student or students from contact with students and reported to authorities and investigated; or
- banning a parent who is known to pose a risk to children at the College from attending overnight school camps as a parent volunteer.

Critically, a person is still guilty of this offence even if someone else acts to protect the child and the child does not suffer abuse, neglect or grooming behaviour. It is the intentional act or omission not to protect the child that the offence is based on.

Voluntary Reporting

Any person who believes, on reasonable grounds, that a child may be subject to abuse, neglect or grooming may voluntarily report to Child Safety Services on 1800 000 123 or Gateway Services on 1800 171 233.

You do not have to prove that abuse has taken place, however if you are unsure about whether what you are observing in a student's behaviour and physical condition is abuse, neglect or grooming, it is best to contact Gateway Services who can assess the matter and refer it to Child Safety Services where necessary.

If you make a report in good faith, you cannot be held legally liable - regardless of the outcome of the report.

If you need to report an offence that requires immediate Police attention, call the Police on 000.

For more information, support or advice on reporting you can contact the College Principal or Gateway Services.

For record keeping obligations, refer to **Child Protection Record Keeping**.

Conduct Reportable to the Teachers Registration Board

Eastside Lutheran College has a duty of care to investigate and act on allegations of employee misconduct which relate to their ability to perform their functions.

In addition, under the Teachers Registration Act 2000 (Tas) (the Act), the College must notify the Teachers Registration Board of Tasmania (the Board) of disciplinary action and certain resignations and retirements where "unacceptable behaviour" is involved.

This obligation is separate and distinct from the **Mandatory Reporting** obligation under the Children, Young Persons and Their Families Act 1997 (Tas).

What is Reportable?

Under section 31 of the Act, the College as an employer of registered teachers, must notify the Board within 28 days if the College:

- considers any behaviour of a teacher to be unacceptable behaviour; and
- dismisses the teacher, or takes disciplinary action against that teacher, because of that behaviour.

Unacceptable behaviour is defined in section 31(1) of the Act as behaviour of a person that:

- does not satisfy a standard of behaviour generally expected of a teacher;
- is otherwise disgraceful or improper; or
- shows that the person is unfit to be a teacher.

The Board then has powers to investigate and take further action.

Registered teachers at the College also have an obligation to notify the Board within 28 days of being charged with a prescribed offence in Tasmania or elsewhere. A prescribed offence is defined in section 3 of the Act to mean an offence committed in Tasmania or elsewhere which carries a possible sentence of imprisonment, irrespective of whether or not such a sentence was imposed. Similarly, registered teachers must also notify the Board in writing within 28 days of a conviction of any prescribed offence.

The Board will then take appropriate action which can include a caution, imposing conditions on their registration to teach, amending existing registration conditions or suspend or cancel the teacher's registration if the teacher is considered to no longer be of good character and no longer fit to be a teacher.

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