

Child Protection - Mandatory Reporting of Child Abuse Offences to Police

Source of Obligation

Under section 316A of the Crimes Act 1900 (NSW), any adult who:

1. **knows, believes or reasonably ought to know** that a **child abuse offence** has been committed against another person; and
2. **knows, believes or reasonably ought to know** that he or she has information that might be of material assistance in securing the apprehension of the offender or the prosecution or conviction of the offender for that offence

must bring that information to the attention of a member of the NSW Police Force as soon as it is practicable to do so.

Failure to do this is a criminal offence colloquially known as “Failure to Report”.

We call this Mandatory Reporting to Police.

What do ‘know, believe or reasonably ought to know’ and ‘child abuse offence’ mean?

Child Abuse Offence

The list of child abuse offences that are captured by Mandatory Reporting to Police is extensive and includes sexual offences such as rape, sexual abuse, sexual touching, production of child abuse material, voyeurism and grooming offences or attempts to commit those offences.

It also includes assaults and physical harm, such as wounding or causing grievous bodily harm, assault causing actual bodily harm, assault at a school (whether or not causing actual bodily harm), administering or causing the ingestion of an intoxicating substance, and female genital mutilation.

For more information on what constitutes a child abuse offence, refer to **Child Protection - Child Abuse and Harm Definitions, Identification and Initial Responses**.

Knows, believes or reasonably ought to know

Knows, believes or reasonably ought to know is not defined in the Crimes Act. Under NSW common law, and under Commonwealth criminal law, a person has ‘knowledge of’ a circumstance if ‘he or she is aware that it exists or will exist in the ordinary course of events.’

It would likely be considered that you know, believe or reasonably ought to know that a child abuse offence has been committed if:

- a student tells you that they have been sexually abused or physically assaulted
- a student tells you that they know someone who has been sexually abused or physically assaulted (sometimes the student may be talking about themselves)
- someone who knows the student tells you that the student has been sexually abused or physically assaulted
- signs of sexual abuse or physical assault should or do lead to a belief that the student has been sexually abused or physically assaulted.

What must be reported to Police?

Any and all information that might be of material assistance in securing the apprehension of the offender or the prosecution or conviction of the offender for a child abuse offence must be reported to Police.

Mandatory Reporting to Police under section 316A by a person in good faith does not constitute unprofessional conduct or a breach of professional ethics and does not make the person subject to any civil liability (including liability for defamation).

When and How to Report to Police

The information must be brought to the attention of a member of the NSW Police as soon as it is practicable to do so.

In emergencies, or if the child abuse offence is happening now or has just happened and the suspected offender may still be in the area: call 000

All other matters: call the Police Assistance Line on 131 444. This line operates 24 hours per day, 7 days per week.

When is a Report to Police Not Required?

A person will not need to report to Police if they have a reasonable excuse for not doing so. Under the Crimes Act, a reasonable excuse includes if:

- they believe, on reasonable grounds, that the Police already know the information
- they have made a mandatory report to DCJ under Mandatory Reporting laws or believe on reasonable grounds that another person has done so
- they have reported the information to the NSW Children's Guardian under Reportable Conduct laws or believes on reasonable grounds that another person has done so
- they have reasonable grounds to fear for their own safety or that of any other person (other than the offender) if the information were to be reported to the Police
- the information was obtained by the person (by the person receiving it or otherwise becoming aware of it) when they were under the age of 18 years
- the alleged victim was an adult at the time that the information was obtained by the person and the person believes on reasonable grounds that the alleged victim does not wish the information to be reported to Police.

Unacceptable reasons for not reporting include if you are concerned about the interests (including the reputation, legal liability or financial status) of:

- the person who may have committed a child abuse offence
- any organisation (such as the School).

Implementation

This policy is implemented through a combination of:

- staff training
- effective communication and incident notification procedures



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- effective record keeping procedures
- initiation of corrective actions where necessary.

Record Keeping

The documentation relating to the making of a mandatory report to Police is maintained by the **Heads of School** or the **HR Manager** and are secured **in their respective offices**.

Discipline for Breach of Policy

Where a staff member breaches this policy, Kambala may take disciplinary action, including in the case of serious breaches, summary dismissal.

Version details

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Owner: Risk and Compliance Officer