Reporting of Suspected or Actual Child Abuse and Neglect

Protocol between the Ministry of Education, the New Zealand School Trustees Association and Child, Youth and Family 2009

Introduction

The Ministry of Education, the New Zealand School Trustees Association (NZSTA) and Child, Youth and Family (CYF) are committed to ensuring a safe and supportive learning environment for all students. The following protocol and guidelines will assist boards of trustees, principals and school staff in dealing with child abuse and neglect, and the management of child abuse allegations against board employees.

Section 15 of the Children, Young Persons, and Their Families Act 1989 (CYP&F Act) provides that:

Any person who believes that any child or young person has been, or is likely to be, harmed (whether physically, emotionally, or sexually), ill-treated, abused, neglected or deprived may report the matter to a social worker or a constable.

As part of its responsibilities CYF promotes, by education and publicity, awareness of child abuse, the unacceptability of child abuse, the ways in which child abuse may be prevented, the need to report cases of child abuse, and the ways in which child abuse may be reported.

Part of that work is through the development and implementation of protocols for agencies (both governmental and non-governmental) and professional and occupational groups in relation to the reporting of child abuse, and monitoring the effectiveness of such protocols.

This protocol does not provide guidelines for addressing bullying in schools. That information can be found on the Ministry of Education website. If further clarity around this is required a discussion with a CYF social worker is recommended.
Purpose

In regard to student safety the National Education Guidelines (NAG 5) require a school board of trustees and principals of each state and integrated school in New Zealand to:

- Provide a safe physical and emotional environment for students; and
- Comply in full with any legislation currently in force or that may be developed to ensure the safety of students and employees.

The purpose of this protocol is to establish an agreed approach to the reporting of child abuse and neglect by those working within schools. The protocol will ensure that:

- The welfare and interests of the child or young person are the first and paramount considerations;
- Suspected and actual abuse of a child is responded to and recorded appropriately; and
- Effective child protection requires a full, accurate and prompt sharing of information (as permitted within the law).

The inter-agency guide “let’s stop child abuse together, A guide to Recognition-Roles-Responses” provides more in depth information and should be read in conjunction with this protocol. A copy of this guide is available from your local CYF Office or on their website: http://www.cyf.govt.nz/documents/BTC_StopAbuse.pdf.

Definitions

<table>
<thead>
<tr>
<th>Child and Young Person</th>
<th>A child is someone under the age of 14 years and a young person is someone aged 14 years and over, but under 17 years who is not or has never been married or in a civil union (section 2, CYP&amp;F Act).</th>
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<tbody>
<tr>
<td>Child Abuse</td>
<td>Child Abuse means the harming (whether physically, emotionally or sexually), ill-treatment, abuse, neglect or deprivation of any child or young person (section 2, CYP&amp;F Act).</td>
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<tr>
<td>Notification, referral and reporting</td>
<td>are all terms used to describe making a report of concern to Child, Youth and Family and/or Police.</td>
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Child abuse/neglect includes:

- Physical abuse.
- Sexual abuse.
- Emotional/psychological abuse e.g. family violence, exposure to illegal activities, rejection.
- Neglect e.g. medical neglect, abandonment, neglectful supervision.
Guidelines for reporting child abuse/ neglect

• The child’s safety should always be the paramount consideration in the notification process.

• No decisions or actions in respect of suspected or actual child abuse are to be made by any staff member in isolation unless there are concerns for the immediate safety of the child.

• A consultative approach is essential to ensure the safety of the child and the staff member. Staff must discuss their concerns with the principal or nominated person/advocate. Where applicable follow the board’s complaint policy.

• Decisions about informing parents or caregivers should be made after consultation between the school and CYF.

Key Contacts

Child, Youth and Family - 0508 326 459
Local Police
MoE - 0800 TI TEAM (0800 848326)
NZSTA - 0800 STAhelp (0800 782435)
Reporting Process for Suspected or Disclosed Child Abuse

Child abuse is either suspected or disclosed.
Ensure the child or young person is safe from immediate harm.

- Physical/behavioural observations and anything said by the child should be carefully documented (include date, time, who was present).
- Consult immediately with the principal or nominated person in charge, or other staff member if the allegation concerns the principal.
- The principal or their nominated person in charge that received the information should contact CYF (0508 326 459) or local Police.
- If advised to do so, complete a referral form to CYF/Police.
- The board chair should be advised.
- If there is disruption to the school or community, negative impacts on other children and/or staff, media interest or a public profile, seek support from Special Education Traumatic Incident Coordinator (0800 84 8326).

Alleged abuse by board employee, including the principal. Note that there are two separate procedures to be followed at the same time.

(1) The reporting procedure in respect of the child/young person:
- Follow the advice of CYF/Police
- Avoid further risks to the child(ren), or young person(s). Ensure there is no contact between the child and the person whom the allegation is against.

(2) Process for employee investigation.
- Initiate an initial employment investigation.
- Maintain close liaison with the police and avoid any action that may compromise their investigation.
- Immediately seek advice from NZSTA or another approved employment advisor and advise your insurer.
- It is important that no one person has responsibility for dealing with both the reporting issues and employment issues as there is potential for there to be tension between the two.
- Notify the employee of the allegation and advise of the potential consequences.
- Consider whether it is appropriate for the employee to remain in the school (follow advice).
- Advise the employee of the right to seek support from union or other representatives.
- The board needs to determine whether they will defer their process while the police do the preliminary investigation, or whether they will proceed. Criminal investigations are separate from any employment investigation that the employer will follow.
- Ensure records are kept of any comments or event relating to the complaint(s) and/or allegations, and follow-up action is taken.

Deciding when and who will inform the parent(s) and/or caregiver will be determined by CYF and Police in consultation with the school.
Specific actions when reporting child abuse/neglect

• If the child or young person is in danger or unsafe, act immediately to secure their safety.

• Listen to the child or young person and reassure them they did the right thing in disclosing.

• Write down what the child says, check that comments and events surrounding the concern are also recorded.

• Do not formally interview the child or young person. Obtain only necessary relevant facts for when clarification is needed.

• If the child or young person is not in immediate danger and is not upset reinvolve the student in usual school activities.

• If the child or young person is visibly upset provide appropriate activity for them under supervision with someone familiar (i.e. teacher) until they are able to re-join classroom activities.

• Hold immediate discussion with guidance counsellor, school social worker or student support personnel.

• Inform the principal, nominated person, or other staff member if the allegation concerns the principal.

• Notify CYF Contact Centre or the Police.

• Obtain during the notification an indication of likely action and their time frames. Seek advice from CYF on what to tell the child or young person (decisions concerning after school arrangements and notifying the parents will be made by police and social workers in consultation with the school).

• Get support for yourself from appropriate people if needed.

Notifications should be made to the Police or the Child, Youth and Family National Contact Centre. The Contact Centre telephone number is 0508 FAMILY (0508 326 459; fax number (09) 914 1211 or email CyfCallCentre@cyf.govt.nz
When a notification is made to Child, Youth and Family the school needs to provide the following information in the attached notification:

- Name of child/children (also known as/nicknames).
- Date of birth (if known).
- Ethnicity (if known).
- Name of caregivers, parents and other family members and current living situation.
- Current legal custodians.
- Reasons why it is believed that the child or young person is at risk.
- Other significant background information.
- The name of the contact person for Child, Youth and Family.

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<tr>
<th>Step</th>
<th>Action</th>
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<tr>
<td>1</td>
<td>CYF Contact Centre will generate a letter to the person named as ‘notifier’ acknowledging the reporting, and advising which CYF site the matter was referred to recommending either further action or no further action.</td>
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<td>2</td>
<td>CYF site will make the final decision as to whether or not further action will be taken and by whom. Depending on the assessed level of needs for the child/young person and their family a referral may be made to a non government organization (NGO) social service for their support.</td>
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<td>3</td>
<td>If further action is to be taken the social worker allocated to the case will develop an investigation plan. This may require input from the notifier.</td>
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<td>4</td>
<td>Once the reporting has been investigated CYF will contact the notifier to advise if any further action has been taken or will be taken or whether a referral will be made to an NGO for either an assessment or for provision of family support.</td>
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| 5    | **If reporting is urgent** the above actions will take place immediately.  
  - Decisions concerning after school arrangements and notifying the parents will be made by Police and social workers in consultation with the school. |
<p>| 6    | <strong>The notifier may contact the CYF Contact Centre at any stage to obtain information on the status of the notification.</strong> |</p>
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<th>Confidentiality of the Notifier</th>
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<tr>
<td>A person’s name will not normally be released in the absence of a request under the Official Information Act or Privacy Act. If a request is made the information will be released unless there is a reason to withhold such as:</td>
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<tr>
<td>• The client has a history of violence and has threatened or abused staff on previous occasions; or</td>
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<tr>
<td>• The client is closely related to the notifier.</td>
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<tr>
<td>However we cannot guarantee confidentiality.</td>
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<td>(Refer to Appendix 1: Release of notifier details under the Official Information Act 1982 and Privacy Act 1993.)</td>
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Delegation

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<tr>
<th>Signed by:</th>
<th>Ian Richards, General Manager Service Support Child Youth and Family</th>
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<td>Signed on:</td>
<td>____________________________ 2009:</td>
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<tr>
<td>Name:</td>
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<td>Signature:</td>
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<tr>
<th>Signed by:</th>
<th>Jeremy Wood, Group Manager Schools and Student Support Ministry of Education</th>
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<td>Signed on:</td>
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<tr>
<th>Signed by:</th>
<th>Lorraine Kerr, President New Zealand Schools Trustees Association</th>
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<td>Signed on:</td>
<td>____________________________ 2009:</td>
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<tr>
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<td>Signature:</td>
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Appendix 1

Relevant Legislation

Section 15 of the Children, Young Persons, and Their Families Act 1989

Section 15 provides that:

“Any person who believes that any child or young person has been, or is likely to be, harmed (whether physically, emotionally, or sexually), ill-treated, abused, neglected, or deprived may report the matter to a Social Worker or a member of the Police.”

Section 16 of the Children, Young Persons, and Their Families Act 1989

Section 16 provides protection from prosecution for people making a report under section 15, and states:

“No civil, criminal, or disciplinary proceedings shall lie against any person in respect of the disclosure or supply, or the manner of the disclosure or supply, by that person pursuant to section 15 of this Act of information concerning a child or young person (whether or not that information also concerns any other person) unless the information was disclosed or supplied in bad faith.”

Section 17 of the Children, Young Persons, and Their Families Act 1989

Section 17 provides investigation of report of ill-treatment or neglect of child or young person

(1) Where any Social Worker or member of the Police receives a report pursuant to section 15 of this Act relating to a child or young person, that Social Worker or member of the Police shall, as soon as practicable after receiving the report, undertake or arrange for the undertaking of such investigation as may be necessary or desirable into the matters contained in the report and shall, as soon as practicable after the investigation has commenced, consult with a Care and Protection Resource Panel in relation to the investigation.

(2) Where, after an investigation under subsection (1) of this section into the matters contained in a report under section 15 of this Act, the Social Worker or member of the Police to whom the report was made reasonably believes that the child or young person to whom the report relates is in need of care or protection, that Social Worker or member of the Police shall, as soon as practicable, notify a care and protection coordinator of those matters in accordance with section 18 of this Act.

(3) Where any person receives a report pursuant to section 15 of this Act relating to a child or young person, that person shall,
as soon as practicable – after

(a) That report is investigated under subsection (1) of this section;
or

(b) A decision is made not to investigate the report, -

unless it is impracticable or undesirable to do so, inform the person who made the report whether or not the report has been investigated and, if so, whether any further action has been taken with respect to it.”

Subsection (1) was substituted by s6 of the Children, Young Persons, and Their Families Amendment Act 1994.

**Release of notifier details under the Official Information Act 1982 and Privacy Act 1993**

Child, Youth and Family will not generally release the name of a notifier (whether a member of the public or a Ministry staff member) unless the information is requested under the Official Information Act 1982 or the Privacy Act 1993.

Members of the public will not have their names released (in most circumstances) when requests are made

Accordingly, the names of people who have made notifications to Child, Youth and Family are not able to be withheld following a request unless there is an actual threat to that person’s safety. The ground for withholding a person’s name in instances where there is in fact a reasonable threat to safety is section 27(1)(d) of the Privacy Act.

**27 Security, defence, international relations, etc.**

(1) An agency may refuse to disclose any information requested pursuant to principle 6 if the disclosure of the information would be likely

(a) To prejudice the security or defence of New Zealand or the international relations of the Government of New Zealand; or

(b) To prejudice the entrusting of information to the Government of New Zealand on a basis of confidence by—

(i) The government of any other country or any agency of such a government; or

(ii) Any international organisation; or

(c) To prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right
to a fair trial; or

(d) To endanger the safety of any individual.

The notification report makes provision for the notifier to provide reasons to support the withholding of their details under Section 27(1)(d) of the Privacy Act. Such reasons may include:

- The client has a history of violence and has threatened or abused staff on previous occasions; or
- The client is closely related to the notifier.

**Summary**

In summary, a person’s name will not normally be released in the absence of a request under the Official Information Act or Privacy Act. If a request is made the information will be released unless there is a reason to withhold (as outlined above). We cannot guarantee confidentiality of a notifier even if a request is made and the information withheld under section 27(1)(d). There may be some circumstances where the Family Court may require that the records in question be produced to the Court, or a complaint could be laid with the Ombudsman or Privacy Commissioner and an investigation occurs which may conclude that the Ministry is required to release the information. Such circumstances would however be rare.