

# STUDENT SAFEGUARDING PROCESSES

FOR THE EDMUND RICE EDUCATION AUSTRALIA FLEXIBLE SCHOOLS LTD  
QUEENSLAND REGION



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## Preface

These processes have been developed by the *Queensland Catholic Education Commission* (QCEC), in consultation with Catholic School Authorities, to assist Catholic School Authorities in meeting legislative and procedural processes for responding to, and reporting, abuse, harm and behaviour of a staff member that a student considers is inappropriate.

**Nothing written in these processes below prevents a staff member or any other person from taking immediate action to notify Queensland Police Service and/or the Department responsible for Child Safety, particularly if he/she believes that it is essential to act to ensure a student's safety.**

## Effective Date

These processes are effective from 7 November 2024.

## Review Schedule

These processes shall be reviewed every 12 months, or when necessary, as required by changes to legislation, policy or procedure.

## The Governing Body

The Governing Body is **Edmund Rice Education Australia Flexible Schools Ltd**.

The Director/s of the Governing Body for the **Edmund Rice Education Australia (EREA) Flexible Schools Ltd** - are **Peter Norman Fredrick Pearce, Robert Loring Feeney, Christopher Peter Veraa, Toni-Lee Banfield, Ciaran William Handy, John Patrick O'Connor, Helen Margaret Spain, Debra Maureen Patricia Sayce**.

The **EREA Flexible Schools Ltd** CEO is **Dr Matthew John Hawkins**.

## Delegation

Pursuant to s 366B of the *Education (General Provisions) Act 2006*, the Directors of Edmund Rice Education Australia Flexible Schools Ltd delegated to the person performing the duties the Chief Executive Officer, EREA Flexi Schools Ltd (**Chief Executive Officer**), their obligations under s366 and 366A of the *Education (General Provisions) Act 2006* and more particularly the obligations of the Director/s of a non-State school's governing body of receiving a report and giving a copy of the report to a police officer.

## School Student Protection Contacts

Under the *Education (Accreditation of Non-State Schools) Regulation 2017* (section 16(3)), Albert Park Flexible Learning Centre; Deception Bay Flexible Learning Centre; Gympie Flexible Learning Centre; Hemmant Flexible Learning Centre; Inala Flexible Learning Centre; Ipswich Flexible Learning Centre; Mount Isa Flexible Learning Centre; Noosa Flexible Learning Centre; Rockhampton Flexible Learning Centre; Southport Flexible Learning Centre; The Centre Education Programme and Townsville Flexible Learning Centre, Bowen Education Engagement Program and Burdekin Education Program administered by Flexible Schools Ltd, have at least two nominated staff members to

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whom a student can report the behaviour of another staff member that the student considers inappropriate. The names of these Student Protection Contacts are made known to staff, students and parents/carers and are published on the school's website, on the Student Protection posters placed in prominent places in the school and maintained on a central register, and updated regularly. See [Form C](#).

## Complaints Procedure

Under the *Education (Accreditation of Non-State Schools) Regulation 2017* (section 16(5)), Albert Park Flexible Learning Centre; Deception Bay Flexible Learning Centre; Gympie Flexible Learning Centre; Hemmant Flexible Learning Centre; Inala Flexible Learning Centre; Ipswich Flexible Learning Centre; Mount Isa Flexible Learning Centre; Noosa Flexible Learning Centre; Rockhampton Flexible Learning Centre; Southport Flexible Learning Centre; The Centre Education Programme and Townsville Flexible Learning Centre, Bowen Education Engagement Program and Burdekin Education Program administered by EREA Flexible Schools Ltd, have a written complaints procedure to address allegations of non-compliance with student protection processes. Information about the complaints procedure is available from the EREA Flexible Schools Ltd and/or the local school or entity and published on its website.

## Awareness and Implementation

If staff members, parents/carers or students require further information in relation to any of the processes described in this document and/or other student protection compliance requirements, advice should be obtained from the Head of Campus, the Principal, the school's Student Protection Contacts, EREA Flexible Schools Ltd national office and/or the EREA Flexible Schools Ltd National Director of Safeguarding P: 07 3741 1111

EREA Flexible Schools Ltd through its schools and entities is responsible for the implementation and dissemination of the Student Safeguarding Processes in line with section 16(4) Education (Accreditation of non-State schools) Regulation 2017, ensuring that:

- this document is freely available to staff members, students and parents/carers;
- staff members, students and parents/carers are made aware of the student protection processes;
- All staff are trained in implementing the processes on commencement of employment and then on at least an annual basis as part of ongoing training requirements, and all volunteers and visiting service providers receive information regarding student protection processes as part of induction and training; and
- the processes are being implemented within the school.

This is achieved by:

EREA Flexible Schools Ltd, through the school Principal, meeting these requirements listed above including:

- This document titled **Student Protection Processes for the EREA Flexible Schools Ltd Queensland Region** being available online via the school website and in hard copy at the school.
- Staff and volunteers at the point of induction will be made aware of the document **Student Protection Processes for the Edmund Rice Education Australia Flexible Schools Ltd Queensland Region**.
- Students and parents/carers are informed of the student protection processes at the point of enrolment and via the school website.
- All staff, Board members and volunteers will complete the EREA Flexible Schools Ltd child protection online training within four weeks of employment or engagement.
- All staff and volunteers must complete the EREA online child protection training every year.

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- All staff annually are to receive professional development into the student protection processes.
- Schools are to report annually to the EREA Flexible Schools Ltd Board on how the processes are being implemented within the school, monitored and oversighted. The report needs to be minuted in the Board minutes.

This document should be read in conjunction with the [Student Safeguarding Guidelines for Edmund Rice Education Australia Flexible Schools Ltd.](#)

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## 1. Our Responsibilities

EREA Flexible Schools Ltd is committed to creating and maintaining safe environments for students. A critical area of importance is how to respond to, and report abuse, harm and the behaviour of a staff member that a student considers is inappropriate. This document sets out the safeguarding responsibilities and processes for all staff members in schools where they have a concern for the protection of a student, including addressing processes required by law. This document specifies:

- processes for how EREA Flexible Schools Ltd schools will respond to harm, or allegations of harm, to students;
- processes for the reporting by a student to a stated staff member of behaviour of another staff member that the student considers inappropriate in accordance with section 16(1) of the *Education (Accreditation of Non-State Schools) Regulation 2017.*;
- a process for how the information reported to the stated staff member must be dealt with by the stated staff member;
- processes for reporting sexual abuse or suspected sexual abuse in compliance with the *Education (General Provisions) Act 2006*, section 366; and a suspicion of likely sexual abuse in compliance with the *Education (General Provisions) Act 2006*, section 366A; and
- a process for reporting a reportable suspicion under the *Child Protection Act 1999*, section 13E.
- processes for reporting a child sexual offence in accordance with the *Criminal Code Act 1899*.

These processes apply to all staff members employed by EREA Flexible Schools Ltd in the Queensland region.

## 2. Reporting Process

This section of the processes sets out a summary of the actions that must be taken if a staff member has concerns or suspicions, or makes allegations about [abuse](#) of, or [harm](#) to, a student or if there is a report of behaviour by a staff member that a student considers is [inappropriate](#). Further detail around these key child protection concepts are contained within the Student Protection Guidelines.

In general terms the process for responding to and reporting student protection concerns is as follows:

### Identify

Identify student protection concerns through recognising the [signs of abuse](#) and harm, and through [disclosures](#) or receipt of information;

### Confer

Seek guidance and support – if necessary, [confer](#) with the Principal or a School Student Protection Contact, or use resources such as the [Child Protection Guide](#) to establish whether a [‘reasonable suspicion’](#) has been formed.

### Report

Where a [reasonable suspicion](#) of [abuse](#), [harm](#) or [inappropriate behaviour](#) is formed – report the concerns according to the specific processes outlined in this document;

### Support

Remain focussed on the [support](#) needs of the student and liaise with the Principal and/or a School Student Protection Contact around any planning or actions that are required.

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## 2.1 Conferral with colleagues and accessing support

Engaging in appropriate consultation processes is an important element of responding to concerns around the safety and wellbeing of students so that any decision-making process is fully informed.

Staff members may confer (meaning formally consult and document any agreed actions as a record. Conferring is not reporting) with appropriate colleagues, namely the Principal or a Student Protection Contact, to establish whether the information to hand may constitute a reasonable suspicion of abuse, harm or inappropriate behaviour. This process is encouraged as a means of ensuring the best possible response to a student concern.

When deciding who to confer with from those identified above, it is important that staff members consider whether any of those nominated colleagues could be involved in any way in the circumstances which give rise to the concern, as this may impact their ability to be impartial and/or independent (for example, if the colleague is or could be the subject of the concern). If there is the potential that a colleague (who would otherwise be appropriate to consult with) may be involved in any way in the circumstances giving rise to the concern that may impact their ability to be impartial and/or independent, the staff member must not confer with that person. Staff members must never notify the source of concern, or a person potentially involved in the concern, that a student protection concern has been raised about them.

Confidentiality is an important element of conferral processes. Information sharing should be limited to appropriate colleagues (as detailed above) and to the extent necessary to respond to the safety and well-being of a student and to give effect to the processes outlined in this document. The Student Protection Guidelines contain further detail around [confidentiality and information sharing](#).

Again, the purpose of the conferral process is to assist a staff member in determining whether there is a reasonable suspicion of abuse, harm or inappropriate behaviour which gives rise to an obligation to report. A Principal, for example, may have additional information about a student or their family, or another staff member, not known by the staff member, but which:

- Provides greater context to the concerns identified by the staff member
- Changes the seriousness of the concerns, particularly as to whether the harm or risk of harm to a student is “significant”

Provides greater clarity around whether there is a parent able and willing to protect the student.

In addition to conferring with the School Principal and/or a School Student Protection Contact, a number of practical tools and resources exist to support staff members in decision making, including the [Queensland Child Protection Guide](#) – an online decision support guide that has been developed to assist professionals to appropriately report or refer families to the Department responsible for Child Safety or other service providers in a timely manner.

Staff members should refer to their Code of Conduct to assist in understanding and responding to inappropriate behaviour by a staff member. The Queensland College of Teachers offers a range of professional standards resources that may also assist.

Staff members can also access Edmund Rice Education Australia Flexible Schools Ltd National Director of Safeguarding via P: 07 3741 1111

It is important for staff members to understand that while they may confer, conferring does not replace the staff member’s obligation to report as detailed in these Student Protection Processes.

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## 2.2 Requirement to report sexual abuse or likely sexual abuse to the Queensland Police Service

In accordance with sections 366 and 366A of the *Education (General Provisions) Act 2006*, if a [staff member](#) becomes aware or reasonably suspects in the course of the staff member's employment at the school that a student has been [sexually abused](#) or is [likely to be sexually abused](#) by another person, the staff member is considered to be the First Person. The First Person must immediately provide a written report using the [Student Protection Report - Form A](#) to the school's Principal or the CEO, EREA Flexible Schools Ltd as required by section 366(2) and 366A(2) of the *Education (General Provisions) Act 2006* via the Assurance system .

On receipt of the written report from the First Person, the school Principal or the CEO, EREA Flexible Schools Ltd must immediately give a copy of the report ( **Student Protection Report - Form A**) given to them to a police officer (the Queensland Police Service), copying in the EREA Flexible Schools Ltd Director of Safeguarding + EREA Flexible Schools Ltd CEO as required by sections 366(4) and 366A(6) of the *Education (General Provisions) Act 2006* See [Flowchart 1](#).

Where the Principal of the School is the First Person, they must immediately make a written report of the concerns directly to the Queensland Police Service, copying in the EREA Flexible Schools Ltd Director of Safeguarding + CEO, EREA Flexible Schools Ltd, using the **Student Protection Report - Form A**. See [Flowchart 2](#).

Where the reasonable suspicion of [sexual abuse](#) or [likely sexual abuse](#) is against the **Principal**, the **Student Protection Report - Form A (EREAFLSL Form A - Report to the CEO)** must be submitted by the first person to the CEO EREA Flexible Schools Ltd, who must immediately forward a copy of the **Student Protection Report - Form A** to the Queensland Police Service.

The Principal (or CEO, EREA Flexible Schools Ltd) must, as a matter of urgency, advise the first person that the report has been forwarded to the Queensland Police Service. This advice should be in writing where possible.

The First Person cannot delegate or transfer the reporting requirements to another person. It is the responsibility of the First Person to make the report as per legal requirements.

**NOTE 1: If a reasonable suspicion of sexual abuse or likely sexual abuse is formed a report to the Queensland Police Service is to be made even if there is a [parent able and willing](#) to protect the child from harm.**

Whilst the legislation relating to the mandatory reporting of sexual abuse and likely sexual abuse as outlined above relates only to students under 18 years of age, these processes extend the meaning to include students who are 18 years of age or above.

In addition, whilst the legislation limits the mandatory reporting of sexual abuse or likely sexual abuse of a student to reasonable suspicions formed in the course of the staff member's employment at the school, it is the policy of Edmund Rice Education Australia Flexible Schools that all reasonable suspicions of sexual abuse or likely sexual abuse of students, regardless of when they are formed, are reported to Queensland Police in accordance with these processes.

**NOTE 2:** All Staff members have a legal obligation to report under sections 366 and 366A of the *Education (General Provisions) Act 2006* which cannot be delegated or transferred. Failure by a staff member to comply with this legal obligation, as required in this document, may breach the Code of Conduct and may result in disciplinary action against the staff member. In addition, a staff member who fails to make a report in accordance with this obligation may also breach the Act and

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may be charged with this failure. A conviction of such an offence could result in a financial penalty and investigation by the staff member's professional body.

## 2.3 Reporting significant harm or risk of significant harm to a student where there may not be a parent able and willing to protect the student from harm

### Mandatory reporting responsibilities for approved teachers

Approved teachers have a **mandatory reporting** obligation under section 13E(1) of the *Child Protection Act 1999* to make a report to the Department responsible for Child Safety when a teacher forms a 'reportable suspicion' about a child.

A reportable suspicion is a [reasonable suspicion](#):

- that a child has suffered, is suffering, or is at an [unacceptable risk](#) of suffering, [significant harm](#) caused by [physical abuse](#) or [sexual abuse](#); and
- there may not be a [parent able and willing to protect](#) the child from the harm.

A teacher fulfils this mandatory reporting obligation by:

- Making a written report using the **Student Protection Report - Form A** to their Principal or CEO EREA Flexible Schools Ltd of the reportable suspicion (or if the allegation is against the Principal, to the CEO EREA Flexible Schools Ltd) and as a matter of urgency receiving written confirmation from the Principal or CEO, EREA Flexible Schools Ltd of the date and time that the report was submitted to the Department responsible for Child Safety; or
- Making a report directly to the Department responsible for Child Safety via the [online reporting form](#).

When the Principal (or the CEO EREA Flexible Schools Ltd) receives a report, where a teacher has formed a 'reportable suspicion', they **must**, as a matter of urgency, forward the report to the Department responsible for Child Safety.

Where a Principal themselves forms a 'reportable suspicion', they must make a report directly to the Department responsible for Child Safety.

Again, the *Child Protection Act 1999* limits the mandatory reporting of reportable suspicions to those formed in the course of the teacher's engagement at the school. However, it is the policy of EREA Flexible Schools Ltd that all reasonable suspicions that a student has suffered, is suffering or is at unacceptable risk of suffering significant harm and may not have a parent able and willing to protect them from the harm, regardless of when they are formed, are reported to the Department responsible for Child Safety in accordance with these processes.

Teachers are encouraged to make mandatory reports to the Department responsible for Child Safety through their Principal (as described above). However, if a teacher forms a 'reportable suspicion' about a student, the teacher **must** satisfy themselves, as a matter of urgency, that the Principal has provided a report to the Department responsible for Child Safety.

If the teacher does not reasonably suppose that the Principal has provided the report to the Department responsible for Child Safety, the teacher **must, as a matter of urgency**, make the report directly to the Department responsible for Child Safety. Teachers are encouraged to confer with the EREA Flexible Schools Ltd Director of Safeguarding for support in making the mandatory report themselves.

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Where a [staff member](#) reasonably suspects a student has suffered, is suffering or is at [unacceptable risk](#) of suffering [significant harm](#), due to [sexual](#), [physical](#), [emotional/psychological abuse](#) or [neglect](#) and may not have a [parent able and willing to protect the student from the harm](#), then the staff member must make a written report of the concerns to the Principal using the **Student Protection Report - Form A**, who in turn must immediately forward the **Student Protection Report - Form A** to the Department responsible for Child Safety - Regional Intake Service, copying in the EREA Flexible Schools Ltd Director of Safeguarding + CEO, EREA Flexible Schools Ltd CEO. See [Flowchart 3](#).

Where the allegation is against the **Principal**, the staff member must submit the **Student Protection Report - Form A** to the CEO EREA Flexible Schools Ltd who in turn must immediately forward the **Student Protection Report - Form A** to the Department responsible for Child Safety - Regional Intake Service.

The Principal (or CEO EREA Flexible Schools Ltd) must, as a matter of urgency, advise the staff member that the report has been forwarded to the Department responsible for Child Safety. This advice should be in writing where possible.

Where a Principal themselves reasonably suspects a student has suffered, is suffering or is at unacceptable risk of suffering significant harm, due to sexual, physical, emotional/psychological abuse or neglect and may not have a parent able and willing to protect the student from the harm, they must make a report directly to the Department responsible for Child Safety, copying in the EREA Flexible Schools Ltd Director of Safeguarding + CEO EREA Flexible Schools Ltd CEO.

**Copies of all Student Protection Reports - Form As are submitted to the Director of Safeguarding and CEO EREA Flexible Schools Ltd, and must also be recorded on the Assurance system by the Principal when the matter meets the EREA Flexible Schools Ltd reporting threshold (allegation of grooming, child abuse, sexualised behaviour, or suspected child abuse, against a student by a staff member, clergy/religious or another student).**

**NOTE 3:** Teachers have a legal obligation to report under section 13E of the *Child Protection Act 1999*. This obligation cannot be delegated or transferred to another person. As stated, by policy this obligation is extended to all staff members (not just teachers). Failure by staff to comply with the obligation to report, as required in this document, may breach the Code of Conduct and disciplinary action may be taken against the staff member.

## 2.4 Requirement to report a child sexual offence

In addition to the requirement to report sexual abuse or likely sexual abuse, section 229BC of the *Criminal Code Act 1899* mandates that all adults (18 years or over- this includes students over 18 years of age, parents/carers/guardians and volunteers of the school) are required to immediately report to the Queensland Police Service if they:

- gain information that causes the adult to believe on reasonable grounds, or ought reasonably to cause the adult to believe that a child sexual offence is being or has been committed against a child by another adult; and
- at the relevant time the child is or was either under 16 years or a person with an impairment of the mind.

A report does not have to be made under the section 229BC of the *Criminal Code Act 1899* if a report has already been made to the Queensland Police Service or the Department responsible for Child Safety under the *Education (General Provisions) Act 2006* Chapter 12 Part 10 (reporting sexual abuse or likely sexual abuse) or the *Child Protection Act 1999* Chapter 2, Part 1AA (reporting significant harm or risk of significant harm). Therefore, a report will only need to be made under the *Criminal Code Act 1899* if a matter that would constitute a child sexual offence by an adult has not already been reported under the above two acts.

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**NOTE 4:** Staff members have a legal obligation to report under section 229BC of the *Criminal Code Act 1899*. This obligation cannot be delegated or transferred. Failure to comply with this legal obligation, as required in this document, may breach the Code of Conduct and disciplinary action may be taken against the staff member. Failure to report may also constitute a breach of the *Criminal Code* for which a staff member may be charged and subjected to a fine or imprisonment if convicted.

Failure to report to the Queensland Police Service as soon as reasonably practicable after the belief is formed or ought reasonably to have been formed, without reasonable excuse is an offence.

Without a reasonable excuse, an adult who fails to report a child sexual offence to the Queensland Police Service commits a misdemeanor with a maximum penalty of three years imprisonment.

Failing to report sexual abuse or likely sexual abuse also breaches the Education (General Provisions) Act 2006.

Any adult who, in good faith discloses information about a child sexual offence to the Queensland Police Service is not liable civilly, criminally or under an administrative process for making the disclosure.

**IMPORTANT NOTE: Failure to protect from a child sexual offence**

In addition to the requirement to report a child sexual offence, under section 229BB of the *Criminal Code Act 1899* it is a criminal offence for an adult to fail to protect a child from a child sexual offence.

A failure to protect offence will be committed by an adult in a school (Accountable Person) if:

- a) they know there is a significant risk that another adult (the alleged offender) associated with the school will commit a child sexual offence against a child; and
- b) the alleged offender is associated with the institution (school)
- c) the child is under the care, supervision or control of an institution (the school)
- d) the child is under 16 years old or has an impairment of the mind
- e) they have the power or responsibility to reduce or remove the risk; and
- f) they wilfully or negligently fail to reduce or remove the risk.

## 2.5 Requirement to respond to harm or allegations of harm to students

In accordance with section 16 (1) of the *Education (Accreditation of Non-State Schools) Regulation 2017*, a school must have written processes to respond to harm or allegations of harm to a student. Therefore, in addition to the requirements outlined in sections 2.2 and 2.3 above, staff members must respond to any reasonable suspicion in accordance with the required processes that a child has suffered, is suffering or is at unacceptable risk of suffering, significant harm caused by emotional abuse, neglect, self-harm, or harm caused by others - for example, by other students or by other persons in the community.

### 2.5.1 Harm or risk of harm to a student caused by self-harm

Where a staff member forms a reasonable suspicion that a student has self-harmed or is at risk of self-harm, the first priority is the immediate safety of the student, and determining whether the self-injury or risk of self-injury is significant, for example an injury requiring medical attention. The priority in cases of significant self-harm is therefore meeting the immediate medical and psychological needs of the student, which may require the administration of first aid and/or immediate contact with emergency services or mental health services.

The staff member then raises the concern of self-harm with the Principal, and contact should be made with the student's parent/care-provider, unless doing so places the student at further risk of harm.

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Where the staff member forms a reasonable suspicion that a student has suffered, is suffering or is at unacceptable risk of significant harm, as a result of self-harming behaviour AND may not have a parent able and willing to protect the student from harm, (for example refusing to support the student in accessing medical or psychological care), then a written report must be made in accordance with the reporting processes detailed in [section 2.3](#) as a concern of neglect.

### **2.5.2 Harm or risk of harm to a student caused by another student**

Where a staff member forms a reasonable suspicion that a student has been harmed or is at risk of being harmed by another student, the first priority is the immediate safety of the student, which will include determining whether the effect on the student is significant, for example, an injury requiring medical attention.

Where there is a significant injury or immediate risk of significant injury to a student, the priority is meeting the medical and safety needs of the student, which may require the administration of first aid, immediate contact with emergency services and contacting the student's parent(s) or care-provider(s).

Behaviour between students is managed in accordance with Edmund Rice Education Australia Flexible Schools Ltd's written processes for the conduct of students, or relevant behaviour support guidelines. In cases where criminal offences have been alleged, for example the serious assault of a student by another student over the age of 10 years, parents and care-providers should be made aware of the option to pursue action through the Queensland Police Service. EREA Flexible Schools Ltd Schools or entities will cooperate with any resulting investigation.

Allegations of bullying behaviours, including online behaviours, are managed in accordance with individual School's bullying procedures.

Where a staff member forms a reasonable suspicion that a student has suffered, is suffering or is at unacceptable risk of significant harm, as a result of student to student behaviours AND may not have a parent able and willing to protect the student from harm, (for example an inability to provide supervision for the student), then a written report must be made in accordance with the reporting processes detailed in [section 2.3](#).

### **2.5.3 Responding to student sexual behaviour**

Sexual behaviours of various kinds may be evident in young people, particularly in the early years. Some forms of sexual behaviour may be considered developmentally appropriate for the child's age and stage of development. Other behaviours may indicate that the child could have been exposed to inappropriate material or experiences (for example, reports of very young people knowing about and experimenting with oral sex). [Resources](#) such as those published by the Department responsible for Child Safety can assist in identifying age inappropriate sexual behaviour.

Suspicion that a student has been sexually abused may also be formed in some circumstances where a student exhibits concerning sexual behaviour. In these circumstances, a report to the Queensland Police Service is required as outlined in [section 2.2](#) and an assessment of the requirement to report made under [section 2.3](#) is also required.

### **2.5.4 Harm or risk of harm to a student caused by a person not associated with the school or family**

There may be some circumstances where a staff member becomes aware of a concern that a student has been harmed, or is at risk of harm, by a person not associated with the school or family. As with the broader responses to harm, consideration must first be given to whether the harm or risk of harm is significant and whether there is a parent able and willing to protect the student from harm.

In circumstances where there is a parent able and willing to protect the student from harm, then the parents must be notified of the concerns as soon as possible. Where there is not a parent able and willing to protect the student and there is a reasonable suspicion of significant harm or risk of harm, then the reporting process detailed in [section 2.3](#) must be followed.

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Where the risk is immediate, for example the abduction of a student walking to school, then the Queensland Police Service must be contacted immediately.

## 2.6 Responding to concerns that do not meet the threshold for reporting

A staff member may identify concerns regarding a student that ultimately do not form a reasonable suspicion of sexual abuse, likely sexual abuse or significant harm, however, indicate that without support or intervention a student and/or their family are at risk of entering the child protection system.

These concerns should be raised with the Principal, who may refer the student/and or their family to the appropriate service. This may include support options through the school, such as the School Counsellor, or to community based options such as Family and Child Connect.

The Student Protection Guidelines provide detail around the options that are available to [support students and families](#).

## 2.7 Responding to allegations against staff members, including the Principal, and volunteers

In accordance with section 16 (2) of the *Education (Accreditation of Non-State Schools) Regulation 2017*, a school must have a process for the reporting of staff behaviour that a student considers to be [inappropriate](#).

Additionally, a school must have a process to respond to the reported staff inappropriate behaviour.

Therefore, if a staff member becomes aware of staff behaviour that a student considers to be inappropriate, the staff member must report this behaviour in accordance with the designated process without delay.

A staff member's failure to report may constitute a breach of the Code of Conduct and disciplinary action may be taken against the staff member.

### 2.7.1 Allegations of sexual abuse or likely sexual abuse against a staff member, volunteer or other contracted group/individual

A staff member may form a reasonable suspicion that a student has been sexually abused or is likely to be sexually abused by a staff member or volunteer.

In these circumstances, the reporting processes detailed in [section 2.2](#) must be followed. The processes detailed in sections 2.7.1.1 to 2.7.1.7 must then be followed.

#### 2.7.1.1 Action to be taken subsequent to a Student Protection Report - Form A concerning the conduct of a staff member, volunteer or contracted group/individual

When a report is submitted to Queensland Police that relates to the behaviour of a staff member, other employee, volunteer or contracted group/individual, overall case management will be provided by a delegate appointed by the CEO EREA Flexible Schools Ltd who will work in association with the Principal. It is important for the case manager to establish communication with the Officer-in-Charge and/or the investigating officer within Queensland Police Service so that information may be shared as appropriate. This communication may be facilitated through the Principal. The EREA Flexible Schools Ltd Director of Safeguarding is also available to provide assistance and support to students and staff in managing what can be complex issues.

Following the provision of the Student Protection Report - Form A to the Queensland Police Service, an investigation into the suspected abuse/harm should not be conducted by or on behalf of EREA Flexible Schools Ltd until confirmation is received from the Queensland Police Service about the status of their enquiries. However, the Principal will take immediate steps to ensure that a risk assessment is undertaken. As a result of the risk assessment, and following consultation with the Queensland Police Service regarding the timing of any proposed suspension, the staff member, other employee, volunteer or contracted group/individual may be suspended from duties, or have

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duties restricted. If the employee is not a staff member of EREA Flexible Schools Ltd, the appropriate steps will be taken by the CEO, EREA Flexible Schools Ltd (or delegate) in association with the person's employer.

After discussions with the Queensland Police Service and upon their advice, the delegate appointed by the CEO, EREA Flexible Schools Ltd will inform the parent(s) or carer(s) of the student/s – child/ren involved, that a Student Protection Report - Form A has been made in relation to suspected abuse/harm of the student by a staff member, other

employee, volunteer or contracted group/individual. Appropriate confidentiality of the matter will be discussed.

The CEO, EREA Flexible Schools Ltd/Director of Safeguarding will keep a copy of the Student Protection Report - Form A in a confidential file. The Director of Safeguarding will establish a liaison with the Queensland Police Service to assist in managing the issue.

**Upon the commencement of any investigation by EREA Flexible Schools Ltd into an allegation of harm to a student by a registered teacher, the CEO, EREA Flexible Schools Ltd (or delegate) will make a written notification to the Queensland College of Teachers.**

If the Student Protection Report - Form A concerns the behaviour of a staff member or volunteer who is a cleric or member of a religious order, or who was a cleric or member of a religious order at the time of the alleged behaviour, the CEO, EREA Flexible Schools Ltd (or delegate), after discussion with the Queensland Police Service and on their advice, will ensure that the relevant church authority is informed without delay. The CEO, EREA Flexible Schools Ltd (or delegate) will inform the Director of the Office of Professional Standards (Qld) (*Towards Healing*) as soon as practicable.

#### **2.7.1.2 Notifying the staff member, volunteer or contracted group/individual**

The CEO, EREA Flexible Schools Ltd (or delegate) will seek advice from the Queensland Police Service regarding when the staff member, volunteer or contracted group/individual should be informed of the allegation. As soon as it is deemed appropriate to inform the staff member, volunteer or contracted group/individual, a meeting will be held between the staff member, volunteer or contracted group/individual and the CEO, EREA Flexible Schools Ltd (or delegate). The staff member, volunteer or contracted group/individual will be advised that he/she can have a support person at this meeting. At the meeting, the staff member, volunteer or contracted group/individual will be informed that a suspicion of harm or abuse/unacceptable risk of abuse has been reported about him/her and whether this information has been reported to the Queensland Police Service. The requirement for the staff member, volunteer or contracted group/individual to observe confidentiality will also be advised. He/she will also be given the details of a nominated person to contact who will be available to provide information regarding the processes being undertaken and to facilitate the accessing of other support. The information communicated verbally at the meeting will also be provided in writing. The staff member will be reminded that he/she may access the confidential counselling services available through the Employee Assistance Program. If the employee is not a staff member of EREA Flexible Schools Ltd, the appropriate steps in this regard will be taken in association with that person's employer.

#### **2.7.1.3 Suspension from duties**

If as a result of a risk assessment it is decided that the staff member should be suspended from duties, or have duties restricted, the Queensland Police Service should be consulted to ensure that the timing and circumstances of the person being informed of this does not unnecessarily interfere with Queensland Police Service inquiries. Decisions regarding suspension will be made with the rights of an employee being balanced with the best interests of the student; however, the welfare and best interests of any young people involved will be paramount.

The staff member concerned will be informed of the decision to suspend or restrict duties. The basis for this decision will be provided to the staff member in writing following the meeting at which this information has been communicated verbally. He/she will also be given the details of a nominated person to contact who will be available

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to provide information regarding the processes being undertaken and to facilitate the accessing of other support.

In the case of a staff member being named as the cause of concern in a Student Protection Report - Form A he/she will be reminded that he/she may access the free confidential counselling services available through the Employee Assistance Program.

A staff member will normally continue on full pay during the suspension period unless disqualified or prevented from performing those duties by an external authority. The CEO, EREA Flexible Schools Ltd (or delegate) will discuss with the person what statement, if any, will be made to staff and or the school/entity/community concerning their absence from the school. The contents of any such statement may be limited by legislation.

If the employee is not a staff member of EREA Flexible Schools Ltd, the appropriate steps will be taken in association with that person's employer.

#### 2.7.1.4 Pastoral care and support

Pastoral care and support will be offered to the student and their family, to the staff member, employee or volunteer against whom the allegation has been made, and any others involved. The welfare and best interests of any students involved will be paramount and advice will be sought from the Director of Safeguarding about appropriate support for the student and their family.

#### 2.7.1.5 Outcome of QPS investigation

After a matter relating to the behaviour of a staff member, volunteer or contracted group/individual is reported to the Queensland Police Service there can be one of two outcomes. These can be summarised as follows:

- Conviction of a criminal offence; or
- No conviction (Queensland Police Service may decide not to investigate, to discontinue an investigation or not to lay a charge following an investigation, a prosecution may not go ahead following a charge having been laid, or a matter may go to court but not result in a conviction).

In addition to the scenarios set out above, EREA Flexible Schools Ltd may become aware that a staff member, volunteer, contracted group/individual has been under investigation or has been prosecuted for an offence against a student in circumstances where a Student Protection Report - Form A has not been made by an EREA Flexible Schools Ltd Queensland region staff member.

The procedure below will be followed for the scenarios set out above. Where the matter involves a volunteer or contracted group/individual who is not a staff member of EREA Flexible Schools Ltd Queensland region, action will be taken, with the relevant employer if necessary, to deal with the matter in a manner that is consistent with the procedures outlined in this document as they apply to an employee of EREA Flexible Schools Ltd Queensland region.

#### 2.7.1.6 Conviction

If a current staff member or volunteer is convicted in a court of law for an offence against a student that is deemed an act of serious professional misconduct, then the CEO EREA Flexible Schools Ltd, will proceed to dismiss the staff member or volunteer. The CEO, EREA Flexible Schools Ltd (or delegate) will document the outcome of the court proceedings in the formal communication regarding the termination of the staff member's or volunteer's employment.

If the staff member or volunteer who is convicted is a teacher, the CEO, EREA Flexible Schools Ltd (or delegate) will inform the Queensland College of Teachers in writing of the conviction.

If the conviction is for a charge that is deemed to be less than serious misconduct but is contrary to the *Code of Conduct*, then the CEO, EREA Flexible Schools Ltd (or delegate), will proceed to take disciplinary action against the staff member or volunteer.

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The pastoral care of student/s and staff will be monitored, and support offered.

#### 2.7.1.7 No conviction

The decision of a court not to record a conviction against the staff member, volunteer or contracted group/individual against whom a charge has been laid or a decision by the Queensland Police Service not to charge or prosecute, does not necessarily mean that the allegation was unwarranted and that the staff member, volunteer or contracted group/individual has no case to answer as a staff member, volunteer or contracted group/volunteer within EREA Flexible Schools Ltd. The fact that a staff member, volunteer or contracted group/individual has been found 'not guilty' of an offence does not automatically mean that a matter has been closed.

The standard of proof required for disciplinary action within the employer-employee relationship is '*on the balance of probabilities*', rather than the criminal standard of '*beyond reasonable doubt*'. In addition, a serious breach of the *Code of Conduct* may not be a criminal offence. For this reason, the matter concerned must still be appropriately dealt with by EREA Flexible Schools Ltd as a disciplinary matter.

A level 2 intervention process, as detailed in section 2.8, will be implemented in the situation where the outcome of a mandatory Student Protection Report - Form A to either the Queensland Police Service or the Department responsible for Child Safety in relation to a staff member is finalised by the relevant State Authority with no further investigation or action being taken on their part.

When EREA Flexible Schools Ltd Queensland region becomes aware that a Queensland Police Service investigation or prosecution will not proceed, that a person has not been found guilty of an offence with which they have been charged or that a conviction has not been recorded, a risk assessment will be carried out by the Principal, and a recommendation will be made to the CEO, EREA Flexible Schools Ltd (or delegate), in relation to the staff member's employment. Documents on the public record as a result of court proceedings, and/or materials made available due to a Queensland Police Service investigation may be considered as part of any investigation conducted by or on behalf of EREA Flexible Schools Ltd.

#### 2.7.2 Allegations of sexual abuse or likely sexual abuse against a Principal

A staff member may form a reasonable suspicion that a student has been sexually abused or is likely to be sexually abused by the school Principal.

In these circumstances, the reporting processes detailed in [section 2.2](#) must be followed and the report from the staff member must be made to the CEO EREA Flexible Schools Ltd, not the Principal.

The processes detailed in section 2.7.1.1 to 2.7.1.7 must then be followed.

#### IMPORTANT NOTE: Sexual Activity between staff members and students

**The involvement of any staff member or volunteer within a school in sexual activity with, or sexual exploitation of, a student attending that school is always to be regarded as sexual abuse.**

#### 2.7.3 Allegations of harm against a staff member, volunteer or contracted groups/individual

A staff member may form a reasonable suspicion that a staff member, volunteer or other contracted group/individual has harmed a student. In these circumstances, follow processes detailed in Section 2.3 when there may be **no** parent willing and able to protect the student. In these circumstances, staff members should use the **Student Protection Report - Form A** and follow the processes outlined in Section 2.3.

Where there **is** a parent willing and able to protect the student, these allegations are reported and dealt with in accordance with Level 2 intervention processes detailed in Section 2.8. The staff member **must** report the matter to the Principal or another Student Protection Contact and complete a Part A (Record of Concern) of the Student Protection Report – Form A and submit it to the Principal.

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If the student has experienced significant physical harm, (for example, bruises and nonaccidental injuries), the Principal **must** inform the parents that they may notify the Queensland Police Service of the assault. The Principal **must record** this discussion and keep it in a confidential file at the school. Depending on the circumstances, the Principal, Director of Safeguarding or CEO, EREA Flexible Schools Ltd may make a report to the Queensland Police Service.

#### 2.7.4 Allegations of harm against a Principal

A staff member may form a reasonable suspicion that a Principal has harmed a student. In these circumstances, follow the processes detailed in Section 2.3 when there may be **no** parent willing and able to protect the student. In these circumstances, staff members should use the **Student Protection Report - Form A** and follow the processes outlined in Section 2.3.

Where there **is** a parent willing and able to protect the student, these allegations are reported and dealt with in accordance with Level 2 intervention processes detailed in Section 2.8. The staff member **must** report the matter to the CEO EREA Flexible Schools Ltd and complete Part A (Record of Concern) of the Student Protection Report - Form A and submit it to the CEO, EREA Flexible Schools Ltd .

If the student has experienced significant physical harm, (for example, bruises and nonaccidental injuries), the CEO, EREA Flexible Schools Ltd (or delegate) **must** inform the parents that they may notify the Queensland Police Service of the assault. The CEO, EREA Flexible Schools Ltd (or delegate) **must** record this discussion and keep it in a confidential file.

Depending on the circumstances, the CEO EREA Flexible Schools Ltd (or delegate) may make a report to the Queensland Police Service.

#### 2.7.5 Allegations of inappropriate behaviour against a staff member, volunteer or contracted group/individual

A staff member who:

- reasonably suspects inappropriate behaviour by a staff member towards a student, which does NOT involve sexual abuse or likely sexual abuse; or
- becomes aware of a complaint or report in relation to behaviour by a staff member towards a student that a student (or a student’s parent or another person) considers to be inappropriate, but which does NOT involve sexual abuse or likely sexual abuse, **must** report the matter to the Principal or another Student Protection Contact and complete Part A (Record of Concern) of the Student Protection Report - Form A and submit it to the Principal. If the report is about the Principal, Part A (Record of Concern) of the Student Protection Report - Form A **must** be submitted to the CEO, EREA Flexible Schools Ltd (or delegate).

##### 2.7.5.1 Student Protection Contact (SPC)

If a concern is reported to a Student Protection Contact other than the Principal, the Student Protection Contact **must** submit Part A (Record of Concern) of the Student Protection Report - Form A to the Principal without delay, unless the report of inappropriate behaviour is made against the Principal, in which case the Student Protection Contact **must** submit Part A (Record of Concern) of the Student Protection Report - Form A to the CEO, EREA Flexible Schools Ltd.

##### 2.7.5.2 Principal

A Principal who:

- reasonably suspects inappropriate behaviour of a staff member towards a student, which does **NOT** involve sexual abuse/likely sexual abuse; or becomes aware of a complaint or report in relation to a staff member’s alleged behaviour towards a student that a student (or a student’s parent) considers to be inappropriate but which does **NOT** involve sexual abuse/likely sexual abuse, **must** take action in relation to the matter and document it in accordance

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with the following requirements for a **Level 1** or **Level 2** intervention as detailed in sections 2.7 and 2.8.

In some circumstances, a **Level 2** intervention will also require a Student Protection Report - Form A to the Department responsible for Child Safety under **section 2.3** of these processes (if the student has suffered, is suffering or is at unacceptable risk of suffering significant harm and there may not be a parent able and willing to protect the student from harm). Additionally, if the staff member's alleged behaviour results in significant physical harm to a student, a Student Protection Report - Form A to the Queensland Police Service may be required to be made. The Principal will be advised by the Director of Safeguarding if these actions are required following the submission of the **Level 2** intervention request to the Director of Safeguarding.

### 2.7.6 Allegations of inappropriate behaviour against a Principal

A staff member may form a reasonable suspicion that a Principal has behaved inappropriately towards a student. In these circumstances, the staff member **must** report the matter to the CEO, EREA Flexible Schools Ltd and submit a Part A (Record of Concern) of the Student Protection Report to the CEO, EREA Flexible Schools. The processes detailed in section 2.7 and 2.8 are then followed as applicable.

## 2.8 Dealing with inappropriate behaviour

### 2.8.1 Intervention and reporting levels

There are two intervention levels that may be used when responding to alleged inappropriate behaviour by a staff member towards a student:

Level 1 – Reports of minor inappropriate behaviour; or

Level 2 – Reports of repeated serious\* or more complex inappropriate behaviour (which does **NOT** involve sexual abuse/likely sexual abuse which is reportable under **section 2.2** of this document).

The Principal (or CEO, EREA Flexible Schools Ltd where the report is against the Principal) will determine as quickly as possible the level of response required (Level 1 or Level 2 as detailed below) and action the appropriate procedures to be followed. Guidance on determining the appropriate response can be obtained from the Director of Safeguarding.

### 2.8.2 Level 1 intervention – situations that constitute minor inappropriate behaviour

A level 1 Intervention relates to reports of minor inappropriate behaviour by a staff member. A typical incident covered by Level 1 intervention could include a one-off report of minor inappropriate behaviour by a staff member. Level 1 incidents relate to reports that, if substantiated, may constitute a minor breach of the *Code of Conduct*. When reports relate to repeated or multiple minor breaches reported at the same time, they may need to be actioned differently, as explained in **section 2.8** of this document.

A Level 1 Intervention **must not** be undertaken if there is a report or reasonable suspicion of significant harm/unacceptable risk of significant harm to a student caused by a staff member. A Level 2 Intervention **must be requested** in these circumstances (and in some cases, a Student Protection Report – Form A may also be required to be made to the Department responsible for Child Safety if there may not be a parent able and willing to protect the student from the harm and/or the Queensland Police Service in the case of significant physical harm to a student).

Examples of incidents that may give rise to a Level 1 Intervention include a staff member transporting a student in a private vehicle with a mistaken belief that they have parental consent for doing so, a staff member referring to a student by an unwanted nickname or staff members discussing a personal party overheard by students.

Reports giving rise to a Level 1 Intervention are generally resolved through processes managed locally by the Principal and may include such responses as supervisory guidance and correction and in some cases mediation and/or conciliation. If the report involves the Principal, the response is coordinated by the CEO, EREA Flexible Schools Ltd.

A Level 1 Intervention is carried out by the Principal (or the CEO, EREA Flexible Schools Ltd if the report is against the Principal). A documented record of the actions and outcomes is provided to the Director of Safeguarding at the end

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of the intervention process.

### 2.8.3 Level 1 intervention responsibilities

#### (a) Principal or CEO, EREA Flexible Schools Ltd

The Level 1 Intervention response to a complaint or report against a staff member will be coordinated locally by the Principal (or CEO, EREA Flexible Schools Ltd where the report is against the Principal). The Principal (or CEO, EREA Flexible Schools Ltd where the report is against the Principal) will determine how to best address the situation with the staff member (or Principal) and how to initiate any consequences that may be determined to be appropriate. This might involve consultation with relevant persons such as the Director of Safeguarding.

Where a report of inappropriate behaviour is made against a staff member who is a cleric or member of a religious order, or who was a cleric or member of a religious order at the time of the alleged behaviour, the Principal will inform the CEO, EREA Flexible Schools Ltd as soon as possible. The CEO, EREA Flexible Schools Ltd (or delegate) will ensure that the relevant church authority is informed. This action should be documented.

The resolution of all minor incidents remains the responsibility of the Principal (or the CEO, EREA Flexible Schools Ltd where the report is against the Principal). The Principal will normally seek advice from the CEO, EREA Flexible Schools Ltd (or delegate such as Director of HR or Director of Safeguarding) to formulate a plan to address the issue with the staff member. Strict confidentiality shall be maintained regarding the matter.

Should a staff member deny or contest the allegation of inappropriate behaviour towards a student, the Principal (or, if the matter involves the Principal), the CEO, EREA Flexible Schools Ltd) must decide whether or not further information gathering at the school level is required or whether management guidance will suffice. The decision regarding whether to, and how to, gather further information will depend on factors such as the seriousness of the allegation, the attitude of the complainant(s), any record of past reports of inappropriate behaviour on the part of the respondent and the likelihood of an allegation being able to be substantiated given the circumstances.

A Level 1 Intervention Report should be completed by the Principal (or CEO, EREA Flexible Schools Ltd). The Level 1 Intervention Report will include:

- the details and circumstances of the reported matter;
- the action taken by the Principal (or CEO, EREA Flexible Schools Ltd) to assess the matter; and
- the outcome.

The outcome should also:

- document the staff member's account of the incident;
- state whether or not the behaviour alleged has been admitted to or not by the staff member; and
- should contain clear details of the advice/guidance that has been provided to the staff member.

The outcome should also indicate if the behaviour alleged is assessed to be contrary to the EREA *Code of Conduct*.

A staff member may admit inappropriate behaviour. The inappropriate behaviour will be addressed through documented management guidance and/or correction. Conciliation/mediation may be provided if desired by the complainant.

At the completion of the intervention process and following a review by the CEO, EREA Flexible Schools Ltd (or delegate), the staff member will be formally advised of the outcome. The parent/carer of the student concerned must be advised in writing of the completion of the intervention unless there are extraordinary reasons why this should not occur, in which case the reasons should be documented. Any other complainants (including students) are also advised of the completion of the intervention. The original of the Level 1 Intervention Report should be kept on a confidential file at the school level (or by the CEO, EREA Flexible Schools Ltd if the report concerns the Principal). A copy of the Level 1 Intervention Report is forwarded to the CEO, EREA Flexible Schools Ltd and Director of Safeguarding.

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**(b) Director of Safeguarding**

The Director of Safeguarding is responsible for ensuring that Level 1 Intervention Reports are checked for completeness, accuracy, and relevance, and whether any previous Level 1 Intervention Reports have been received concerning the staff member. Where previous level 1 Intervention Reports have been received concerning the staff member, the Director Safeguarding will determine what further action, if any, needs to be taken. The Director of Safeguarding will receive and keep the level 1 Intervention Report in a confidential file.

**2.8.4 Pastoral care and support**

Pastoral care and support will be offered to the student concerned and their family, to the staff member against whom the report has been made, and any others involved. The welfare and best interests of any students involved will be paramount and advice may be sought from the Director of Safeguarding about appropriate support for the student and their family.

**2.9 Level 2 intervention – situations that constitute repeated, serious or more complex inappropriate behaviour**

Level 2 Interventions relate to reports of repeated, serious or more complex inappropriate behaviour by a staff member towards a student (including significant physical or emotional harm to a student). Such behaviour, if substantial, would constitute misconduct and would justify a formal disciplinary sanction, against the staff member. A Level 2 Intervention **must not** be undertaken if there is a report or reasonable suspicion of sexual abuse or likely sexual abuse of a student. The appropriate interventions for such situations are covered in **Section 2.2** of this document.

A Level 2 Intervention **must** be undertaken if there is a report or reasonable suspicion that significant harm/unacceptable risk of significant harm to a student has been caused by a staff member, volunteer or contracted group/individual where is there is a parent able and willing to protect the student from the harm.

Examples of repeated, serious or more complex inappropriate behaviour requiring a Level 2 intervention request include but are not restricted to:

**Repeated Behaviours**

- repeated behaviour of a kind that has previously been dealt with by a Level 1 Intervention(s)
- multiple instances of behaviour, reported at or about the same time, of a type that would normally be dealt with by a Level 1 intervention, but which taken together could justify a formal disciplinary sanction
- significant repeated victimisation
- other repeated inappropriate behaviours

**Serious Behaviours**

- serious inappropriate physical contact \*
- serious emotional abuse
- aggressive or abusive interactions (verbal/nonverbal/physical)
- other serious inappropriate behaviour

**Complex Behaviours**

- multiple boundary violations in one incident
- personal circumstances for the student such as mental health issues, history of trauma or disability
- personal circumstances for the staff member
- other complex inappropriate behaviour

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*\*Even minor assaults can be criminal offences. The management of these matters will depend on factors like the seriousness and circumstances of the allegation, the wishes of the parties involved, whether the Queensland Police Service have been involved, and whether the staff member, volunteer or contracted group/individual has a previous history of similar conduct. If it is reasonably suspected that harm has been caused or there is an unacceptable risk of harm the Principal must also consider the appropriate response described under **sections 2.3, 2.6.3 and 2.6.4** of this document.*

A Level 2 Intervention is carried out under the authority of the CEO, EREA Flexible Schools Ltd or delegate. The matter is formally reported to the CEO, EREA Flexible Schools Ltd (or delegate) at the commencement and end of the intervention process.

A Level 2 Intervention is initiated by the Principal (or the CEO, EREA Flexible Schools Ltd in the case of a report against a Principal) formally notifying the CEO, EREA Flexible Schools Ltd of the report. If, in the opinion of the Principal a more formal investigation is warranted because the matter is repeated, serious or more complex, a Level 2 Intervention request, including the rationale for the request, should be made to the CEO, EREA Flexible Schools Ltd to obtain authorisation for an investigation. A formal investigation (as opposed to information gathering to allow an assessment of the case to be made) **must not** be undertaken at the school level without the authorisation of the CEO, EREA Flexible Schools Ltd (or delegate).

A Level 2 Intervention process will also be implemented in the situation where the outcome of a mandatory Student Protection Report to either the Queensland Police Service or the Department responsible for Child Safety in relation to a staff member is finalised by the relevant State authority with no further investigation or action being taken on their part.

### **2.9.1 Level 2 intervention responsibilities**

#### **(a) Principal or CEO, EREA Flexible Schools Ltd**

As soon as the Principal or CEO, EREA Flexible Schools Ltd is aware that the report is of such a nature as to require a Level 2 Intervention, a Level 2 Intervention request **must be** completed and forwarded to the CEO, EREA Flexible Schools Ltd without delay.

Where a report is made against a staff member who is a cleric or member of a religious order, or who was a cleric or member of a religious order at the time of the alleged behaviour, the Principal will inform the CEO, EREA Flexible Schools Ltd as soon as possible. The CEO, EREA Flexible Schools Ltd will ensure that the relevant church authority is informed and that the actions taken are documented.

#### **(b) CEO, EREA Flexible Schools Ltd (or delegate)**

On receipt of a Level 2 Intervention request, the CEO, EREA Flexible Schools (or delegate) will assess the matter and determine how it is to be progressed. The CEO, EREA Flexible Schools Ltd (or delegate) will consider the details of the report and the rationale for the Level 2 Intervention request and as necessary, will seek clarification of any issues related to it by consulting with relevant persons. The CEO, EREA Flexible Schools Ltd (or delegate) will also consider any previous reports on file of inappropriate behaviour made against the staff member.

If the CEO, EREA Flexible Schools Ltd (or delegate) forms the view that the matter should be handled as a Level 1 Intervention, the matter is referred back to the Principal/Regional Director.

If the CEO, EREA Flexible Schools Ltd (or delegate) forms the view that a Level 2 Intervention is appropriate, a decision is made as to who should most appropriately investigate the allegation. The CEO, EREA Flexible Schools Ltd (or delegate) may authorise the Principal or an external party to conduct the investigation.

The CEO, EREA Flexible Schools Ltd (or delegate) will take immediate steps to ensure that a risk assessment is carried out to determine if the staff member subject to the allegations should continue to be allowed to work in the school. As a result of the risk assessment, the staff member may be suspended from duties, or have duties restricted.

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If the CEO, EREA Flexible Schools Ltd (or delegate) forms the view that the matter involves an allegation or reasonable suspicion of sexual abuse or likely sexual abuse of a student, the CEO, EREA Flexible Schools Ltd (or delegate) **must immediately** make a mandatory Student Protection Report (**see section 2.2**) if the matter has not already been reported by the Principal. If the student has suffered significant harm or an unacceptable risk of harm the CEO, EREA Flexible Schools Ltd (or delegate) must also consider the appropriate response to be made under **Sections 2.3, 2.6.3 and 2.6.4** of this document which includes assessing the appropriateness of making a Student Protection Report to the Queensland Police Service or the Department responsible for Child Safety if the matter has not already been reported by the Principal.

The CEO, EREA Flexible Schools Ltd (or delegate) will inform the parent or carer of the student towards whom the inappropriate behaviour is alleged to have occurred in writing that an investigation into the matter has been authorised. The name of a contact person who can provide information about the process being followed will also be provided.

### **2.9.2 Notifying the staff member**

As soon as the CEO, EREA Flexible Schools Ltd (or delegate) deems it to be appropriate to inform the staff member, a meeting will be held between the staff member and the CEO, EREA Flexible Schools Ltd (or delegate). The staff member will be advised that he/she can have a support person at this meeting. At the meeting, the staff member will be informed that a report of inappropriate behaviour has been made against him/her, and will be provided with the details of the reported inappropriate behaviour and advised that an investigation into the matter has been authorised.

The requirement for the staff member to observe confidentiality will also be advised. The staff member will be reminded that he/she may access the confidential counselling services available to all staff members through the Employee Assistance Program. He/she will also be given the details of a nominated person to contact who will be available to provide support regarding the processes being undertaken and to facilitate the accessing of other support. The information communicated verbally at the meeting will also be provided in writing. In circumstances where it is not possible to meet with the staff member, all required information will be advised in writing.

### **2.9.3 Suspension from duties**

If as a result of a risk assessment it is decided that the staff member should be suspended from duties, or have duties restricted, the staff member concerned will be informed of the decision to suspend them or restrict their duties. The basis for this decision will be provided to the staff member in writing following the meeting at which this information has been communicated verbally. The staff member will be reminded that they may access the confidential counselling services available to all staff members through the Employee Assistance Program. He/she will also be given the details of a nominated person to contact who will be available to provide information regarding the processes being undertaken and to facilitate the accessing of other support.

The staff member will normally continue on full pay during the suspension period unless disqualified or prevented from performing those duties by an external body. The CEO, EREA Flexible Schools Ltd (or delegate) will discuss with the person what statement, if any, will be made to staff and the school/entity community concerning their absence from school/entity. Any such statement will be subject to restrictions contained in legislation.

### **2.9.4 Pastoral care and support**

Pastoral care and support will be offered to the student and their family, the staff member against whom the report has been made, and any others involved. The welfare and best interests of any students involved will be paramount and advice may be sought from the Director of Safeguarding about appropriate support for the student and their family.

### **2.9.5 Investigation process**

The investigator shall as soon as possible arrange for a meeting to be held to inform the staff member of the specific nature of the allegation(s). Prior to the meeting, the staff member will be advised that he/she can have a support

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person at this meeting. He/she will be reminded of the free confidential counselling services available to all staff members through the Employee Assistance Program. A written record of the allegation(s) will be provided and the staff member will be asked to reply to the allegation(s) within a reasonable time (normally five but no more than ten working days).

The investigator will contact the parent(s) or carer of the student(s)/child/ren against whom the inappropriate behaviour is alleged to have occurred and the following issues will be discussed

- the allegation that has been made and the decision to investigate;
- the investigation process;
- the provision of parental/carer permission for the student to be interviewed;
- student/parent/carer views, concerns and support needs;
- the communication process for the parent/carer to be updated re the investigation and other related issues; and
- the need for confidentiality.

If the investigator determines that it is desirable for other students (e.g. students named as witnesses) to be interviewed, the above guidelines relating to parents/carers will be followed in relation to them.

In conducting the investigation, the investigator shall ensure that appropriate confidentiality is maintained.

If, during the course of the investigation, the investigator forms the view that the matter involves an allegation or reasonable suspicion of sexual abuse/likely sexual abuse of a student or an allegation or reasonable suspicion that a student has suffered or is at an unacceptable risk of suffering harm caused by abuse/neglect to a student then:

- if the investigator is a staff member of EREA Flexible Schools Ltd, they **must immediately** make a mandatory Student Protection Report in relation to sexual abuse/likely sexual abuse (see **section 2.2**) and a Student Protection Report to the Department responsible for Child Safety where appropriate (see **section 2.3**); or
- If the investigator is not a staff member of EREA Flexible Schools Ltd, they **must immediately** make a written report to the CEO, EREA Flexible Schools Ltd who will then **immediately** make a mandatory Student Protection Report in relation to sexual abuse/likely sexual abuse (see **section 2.2**) or a Student Protection Report to the Department responsible for Child Safety where appropriate (see **section 2.3**).

At the conclusion of the investigation, a written report, outlining the process of investigation, the evidence gathered, and the conclusions reached will be provided to the CEO, EREA Flexible Schools Ltd (or delegate) by the investigator. The report will indicate whether, in the investigator's opinion, the allegation(s) are substantiated on the balance of probabilities and, where required, whether the *Code of Conduct* has been breached.

The CEO, EREA Flexible Schools Ltd (or delegate) will receive and keep the investigation report in a confidential file.

The CEO, EREA Flexible Schools Ltd (or delegate) is responsible for informing the Principal of the outcome of the investigation. The CEO, EREA Flexible Schools Ltd (or delegate) advises the parent/carer of the student concerned of the outcome unless there are extraordinary reasons why this should not occur, in which case the reasons should be documented.

The CEO, EREA Flexible Schools Ltd (or delegate) is responsible through the Principal for implementing appropriate support processes for students and staff to prevent further harm, enable students feel emotionally and physically safe and repair relationships.

### 2.9.6 Determination of misconduct

If, following the presentation of the investigation report, the CEO, EREA Flexible Schools Ltd (or delegate) has determined that allegations of inappropriate behaviour are substantiated and constitute misconduct, the CEO, EREA Flexible Schools Ltd (or delegate) will communicate this in writing to the staff member and advise the Principal accordingly.

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If the CEO, EREA Flexible Schools Ltd (or delegate) is not considering terminating the staff member's employment, the staff member will receive a letter stating the seriousness of the misconduct, any disciplinary action and a warning that further substantiated misconduct may lead to termination of the staff member's services.

If on the evidence the CEO, EREA Flexible Schools Ltd (or delegate) is considering the termination of the staff member's services, then the CEO, EREA Flexible Schools Ltd will provide the staff member with a timeframe within which the staff member is given the opportunity to show cause as to why the employment should not be terminated. The CEO, EREA Flexible Schools Ltd (or delegate) will consider any submission that the staff member chooses to make in response within the timeframe given. Following receipt of the submission from the staff member, the CEO, EREA Flexible Schools Ltd (or delegate) will make a decision in relation to the staff member's employment status and will communicate this in writing to the staff member.

The relevant authorities will be advised, where appropriate, if a staff member's employment is terminated by the CEO, EREA Flexible Schools Ltd Flexible Schools Ltd.

### **2.9.7 No determination of misconduct**

If, following the presentation of the investigation report, the CEO, EREA Flexible Schools Ltd has determined that the allegations of inappropriate behaviour are not substantiated and therefore no misconduct is substantiated the CEO, EREA Flexible Schools Ltd (or delegate) will communicate this in writing to the staff member and advise the Principal accordingly.

### **2.9.8 Finalisation**

The CEO, EREA Flexible Schools Ltd (or delegate) will advise the parent/carer of the student concerned in writing of the completion of the Intervention unless there are extraordinary reasons why this should not occur, in which case the reasons should be documented. Any other complainants (including students) are also advised of the completion of the intervention.

Pastoral care and support will be offered to the student and their family, the staff member against whom the allegation has been made, and any others involved. The welfare and best interests of any student involved will be paramount.

If the staff member continues to work at the school, the Principal will support the pastoral care of the staff member, and the staff member will be reminded of the confidential counselling services available to all staff members through the Employee Assistance Program. Reasonable steps will be taken by the Principal to manage risks and to provide appropriate ongoing supervision of, and support for, the staff member.

If the staff member has been stood down during the investigation and returns to work at the school, all reasonable steps will be taken by the Principal to assist the staff member to reintegrate into the school community.

## **2.10 Situations involving volunteers, or employees who are not staff members of EREA Flexible Schools Ltd or contracted group/individual**

If the person against whom a report of inappropriate behaviour has been made is a volunteer or an employee who is not a staff member of EREA Flexible Schools Ltd or a contracted group/individual, the Principal will take appropriate steps, with the relevant employer as necessary, to deal with the matter in a manner that is consistent with the procedures outlined in this document as they apply to a staff member of EREA Flexible Schools Ltd.

**All staff members should report any concerns of inappropriate behaviour towards a student by a volunteer, other employees who are not staff members of EREA Flexible Schools Ltd or contracted group/individual to the Principal.**

## **3. After the report is made**

Once a report is made under these processes, consideration must be given to any ongoing or resulting action that is

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required. This includes:

- Follow up by the Principal with Queensland Police Service and/or the Department responsible for Child Safety to confirm both receipt of the report, and any action that these agencies may take;
- Implementing any risk management and pastoral [support processes](#) to address the safety and wellbeing of students, particularly in relation to allegations of sexual abuse between students, and maintain as far as possible, supportive relationships with parents, carers and families;
- Ensure that all parties involved respect the [confidentiality](#) and privacy of students and families involved; and
- Where relevant, make any preparation for the interview of a student by Queensland Police Service and/or the Department responsible for Child Safety at school – see the [QCEC guideline](#) and [sample record of interview form](#).

## 4. Advising parents

When a Student Protection Report to the Queensland Police Service and/or the Department responsible for Child Safety is required, it is important that parents are not contacted before the Student Protection Report is made.

If a Student Protection Report submitted to Queensland Police Service and/or the Department responsible for Child Safety relates to suspected abuse or neglect by a member of the student’s family, the Principal will only inform the parent(s) or carer(s) of the student protection concern once confirmed as appropriate with the Queensland Police Service or the Department responsible for Child Safety. This is to ensure that any potential child protection or criminal investigation is not compromised.

In order to assist at the school level in the management of any situation and to ensure the immediate safety of any students involved, the school should request from the Queensland Police Service and/or Department responsible for Child Safety feedback on the possible timing of their intervention and obtain some guidance about when the school may discuss the matter with the student’s parent(s) or carer(s). This is particularly significant in cases of student to student sexual behaviour where it is important for the student’s wellbeing to enable the parent to support the student and take steps to protect them.

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## 5. Definitions

Term	Definition
<b>Accountable Person</b>	As defined by the Criminal Code Act 1899 -an adult who is associated with an institution (entity that provides services to children or operates a facility for, or engages in activities with children under the entity's care, supervision or control), other than a regulated volunteer.
<b>Adult/s</b>	Include students over 18 years of age, parents/guardians and volunteers of the school
<b>Child</b>	A child is a person under 18 years of age.
<b>Child in need of protection</b>	A child in need of protection is a child who - (a) has suffered significant harm, is suffering significant harm, or is at unacceptable risk of suffering significant harm; and (b) does not have a parent able and willing to protect the child from the harm.
<b>Child sexual offence (Criminal Code 1899 Chapter 22)</b>	Section 207A of the Criminal Code defines child sexual offence as an offence of a sexual nature committed in relation to a child. Child sexual offence means an offence of a sexual nature committed in relation to a child.
<b>Colleague</b>	As defined by section 13H of the <i>Child Protection Act 1999</i> , colleague, of a relevant person, means a person working in or for the same entity as the relevant person
<b>Director of the Governing Body</b>	As defined by section 364 of the <i>Education (General Provisions) Act 2006</i> : <i>director</i> , of a non-State school's governing body, means a director of the governing body within the meaning of the <i>Education (Accreditation of Non-State Schools) Act 2017</i> , section 9
<b>EREA Flexible Schools</b>	Edmund Rice Education Australia Flexible Schools Ltd.
<b>First Person</b>	The "first person" is a staff member who reasonably suspects, in the course of the staff member's employment at the school, that a student under 18 years attending the school has been sexually abused by another person or is likely to be sexually abused by another person.
<b>Failure to protect</b>	Section 229BB of the Criminal Code defines Failure to protect a child from child sexual offence as follows. (1) An accountable person commits a crime if: (a) the person knows there is a significant risk that another adult (the "alleged offender" ) will commit a child sexual offence in relation to a child (b) the alleged offender (i) is associated with an institution (ii) is a regulated volunteer (c) the child is under the care, supervision or control of an institution; and (d) the child is either— (i) under 16 years (ii) a person with an impairment of the mind (e) the person has the power or responsibility to reduce or remove the risk (f) the person wilfully or negligently fails to reduce or remove the risk. <b>Maximum penalty—5 years imprisonment.</b>
<b>Failure to report</b>	As per s229BC of the Criminal Code states a criminal offence is committed when any adult in Queensland, including students who are 18 years or older, fails to report to the Queensland Police Service (QPS) a reasonable belief that a child sexual offence is being or has been committed against a child by another adult without a reasonable excuse. A reasonable excuse not to make a report includes that a report has already been made under: a) the <i>Education (General Provisions) Act 2006</i> (reporting sexual abuse or likely sexual abuse)

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Term	Definition
	b) the <i>Child Protection Act 1999</i> (reporting significant harm or risk of significant harm). <b>Maximum penalty—3 years imprisonment</b>
<b>First Person (s366-366A Education (General Provisions) Act 2006)</b>	The First Person is a staff member who becomes aware of or reasonably suspects, during the staff member’s employment at the school, that a student under 18 years attending the school has been sexually abused by another person or is likely to be sexually abused by another person. The First Person has <b>responsibility</b> for commencing the reporting processes once they become aware of or reasonably suspect significant abuse, harm or the risk of significant abuse, harm to a student and/or another child in the community. This responsibility <b>cannot</b> be delegated to someone else.
<b>Gender or Sex Descriptor</b>	<i>Gender or ‘Sex Descriptor’ (Child Protection Act 1999)</i> <i>Refers to ‘male’; or ‘female’; or any other descriptor of sex. Example—‘agender, ‘genderqueer’, ‘non-binary’. The Term ‘sex descriptor’ of the child/young person seeks to recognise gender identity and diversity. This term is also intended to allow for ‘No sex descriptor’ where the child does not have a sex descriptor.</i>
<b>Harm</b>	As defined by section 9 of the <i>Child Protection Act 1999</i> : (1) Harm, to a child, is any detrimental effect of a significant nature on the child’s physical, psychological or emotional wellbeing. (2) It is immaterial how the harm is caused. (3) Harm can be caused by— (a) physical, psychological or emotional abuse or neglect; or (b) sexual abuse or exploitation. (4) Harm can be caused by— (a) a single act, omission or circumstance; or (b) a series or combination of acts, omissions or circumstances.
<b>Inappropriate behaviour</b>	Inappropriate behaviour includes but is not limited to any behaviour, including words, towards a student that is contrary to what is required of staff members under the <i>Code of Conduct</i> . Further, any report from a person, including a student, about a staff member’s behaviour towards a student that the person making the report considers to be inappropriate is to be taken as an allegation of inappropriate behaviour and must be responded to in accordance with the processes contained within this document.
<b>Reasonable suspicion</b>	<i>A reasonable suspicion</i> is a suspicion that would be formed by a reasonable person based on a reasonable view of the evidence available to them. In other words, a reasonable suspicion is an objectively justifiable suspicion that is based on specific facts or circumstances.
<b>Reportable suspicion</b>	As defined by section 13E of the <i>Child Protection Act 1999</i> means a reasonable suspicion that a child has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse; and may not have a parent able and willing to protect the child from the harm.
<b>Relevant person (Child Protection Act 1999)</b>	A relevant person for the purposes of mandatory reporting under section 13E of the <i>Child Protection Act 1999</i> is any of the following — (a) a doctor; (b) a registered nurse; (c) a teacher; (d) a police officer who, under a direction given by the commissioner of the police service under the <i>Police Service Administration Act 1990</i> , is responsible for reporting under this section; (e) a person engaged to perform a child advocate function under the <i>Public Guardian Act 2014</i> .
<b>Sexual abuse</b>	As defined by section 364 of the <i>Education (General Provisions) Act 2006</i> : <i>sexual abuse</i> , in relation to a relevant person, includes sexual behaviour involving the relevant

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Term	Definition
	person and another person in the following circumstances— (a) the other person bribes, coerces, exploits, threatens or is violent toward the relevant person; (b) the relevant person has less power than the other person; (c) there is a significant disparity between the relevant person and the other person in intellectual capacity or maturity.
<b>Source of concern</b>	The person alleged responsible for the harm/abuse or inappopait behaviour towards a student.
<b>Staff Member</b>	A staff member is any person who is employed by EREA Flexible Schools Ltd on a casual, fixed term, or continuing basis, either pursuant to a contract of employment or appointed to a role at the school pursuant to an agreement with a religious order.
<b>Student</b>	A student is any person enrolled as such at a school under the control of EREA Flexible Schools Ltd. This includes a “relevant person” for the purposes of mandatory reporting under sections 366 and 366A of the <i>Education (General Provisions) Act 2006</i> : (a) a student under 18 years attending the school; (b) a kindergarten age child registered in a kindergarten learning program at the school; (c) a person with a disability who— (i) under section 420(2), is being provided with special education at the school; and (ii) is not enrolled in the preparatory year at the school.
<b>Student Protection Contact (SPC)</b>	A Student Protection Contact (SPC) is one of at least two persons who are nominated in each school in compliance with <i>the Education (Accreditation of Non-State Schools) Regulation 2017 (section 16 (3))</i> to whom a student can report behaviour by a staff member that the student considers inappropriate.
<b>Teacher</b>	means an approved teacher under the <i>Education (Queensland College of Teachers) Act 2005</i> employed at a school.
<b>Volunteer</b>	means any person who provides assistance or support at a EREA Flexible Schools Ltd school or site on a voluntary basis.

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## 6. Legislative references

### Child Protection Act 1999

Term	Definition
<b>Reporting of a child in need of protection</b>	Section 13 A states <i>“(1) Any person may inform the chief executive if the person reasonably suspects—                      (a) a child may be in need of protection; or                      (b) an unborn child may be in need of protection after he or she is born.                      (2) The information given may include anything the person considers relevant to the person’s suspicion.”</i>
<b>Forming a reasonable suspicion of significant harm</b>	Section 13C of the <i>Child Protection Act 1999</i> offers some guidance around forming a reasonable suspicion that a student has suffered, is suffering or is at unacceptable risk of suffering significant harm: <i>(2) (a) whether there are detrimental effects on the child’s body or the child’s psychological or emotional state—                      (i) that are evident to the person; or                      (ii) that the person considers are likely to become evident in the future; and                      (b) in relation to any detrimental effects mentioned in paragraph (a)—                      (i) their nature and severity; and                      (ii) the likelihood that they will continue; and                      (c) the child’s age.                      (3) The person’s consideration may be informed by an observation of the child, other knowledge about the child or any other relevant knowledge, training or experience that the person may have.</i>
<b>Reportable Suspicions</b>	Section 13E of the <i>Child Protection Act 1999</i> includes the mandatory reporting requirement for teachers to report a reasonable suspicion to the Department responsible for Child Safety, that a child has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse where there may not be a parent willing and able to protect the child from the harm (a “reportable suspicion”). Section 13G(5) states that a person does not commit an offence under the <i>Child Protection Act 1999</i> or any other act only for failing to make a mandatory report under section 13E.
<b>Conferral with colleagues</b>	13H of the <i>Child Protection Act 1999</i> - Conferrals with colleague and related information sharing, states that: <i>(1) A relevant person may give information to a colleague, and a colleague may give information to a relevant person, for any of the following purposes—                      (a) for the relevant person to form a suspicion about whether a child has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse;                      (b) in the case of a relevant person under section 13E—for the relevant person to form a suspicion about whether a child has a parent able and willing to protect the child from harm mentioned in paragraph (a);                      (c) for the relevant person to give a report under section 13G or keep a record about giving a report;                      (d) for the relevant person or colleague to take appropriate action to deal with suspected harm or risk of harm to a child.</i>
<b>Interviews with Young</b>	Section 17 of the <i>Child Protection Act 1999</i> provides Department responsible for Child Safety and Queensland Police Service officers with the legislative authority to have

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<b>People at School</b>	contact with a child at a school prior to the parents being told of the contact with the child and the reasons for the contact, as part of an investigation and assessment.
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## Education (Accreditation of Non-State Schools) Act 2017 and Education (Accreditation of Non- State Schools) Regulation 2017

The *Education (Accreditation of Non-State Schools) Act 2017* establishes an accreditation regime for the accreditation of non-state schools. The Act also establishes the penalties for non-compliance with the accreditation criteria.

The *Education (Accreditation of Non-State Schools) Regulation 2017* prescribes the accreditation criteria relevant for a non-state school's accreditation as mentioned in section 11 of the Act. Sections 16(1) to 16(7) of the Regulation deal with the accreditation requirements relating to the conduct of staff and students and response to harm.

## Education (General Provisions) Act 2006

The *Education (General Provisions) Act 2006* contains mandatory reporting requirements for all non-state school staff who become aware of or who reasonably suspect that a student has been sexually abused or is likely to be sexually abused by another person (sections 366 and 366A).

These requirements are designed to capture sexual abuse, suspected sexual abuse and likely sexual abuse of students by another person. A staff member or Principal who fails to comply with the mandatory reporting requirements in relation to the sexual abuse or suspected sexual abuse of a student commits an offence under section 366 of the *Education (General Provisions) Act 2006* and is liable for a penalty of up to 20 penalty units. However, a person does not commit an offence for failing to report the likely sexual abuse of a student under section 366A of the *Education (General Provisions) Act 2006*.

Staff making a report pursuant to the *Education (General Provisions) Act 2006* will be protected from civil or criminal liability e.g. from defamation or breach of confidence. However, staff making a knowingly false, malicious or vexatious report will not be protected by this immunity and may risk action for defamation, disciplinary action by their employer or disciplinary action by the Queensland College of Teachers.

## Criminal Code Act 1899

Section 229BC of *Criminal Code Act 1899* establishes a general requirement that applies to all adults (18 years or over) in Queensland to report to the Queensland Police Service any information that causes the adult to believe on reasonable grounds, or ought reasonably to cause the adult to believe, that a child sexual offence is being or has been committed against a child by another adult.

At the relevant time of the offending behaviour, the child victim must be under 16 years of age or a person with an impairment of the mind. A 'child sexual offence' means an offence of a sexual nature [whether or not it meets the definition of sexual abuse under the *Education (General Provisions) Act 2006*] committed in relation to a child, including for example, an offence against a provision of chapter 22 and 32 of the *Criminal Code Act 1899*.

### Accountable Person

In accordance with S229BB of the *Criminal Code Act 1899*, an "Accountable Person" means an adult who is associated with an institution such as Catholic Education, who becomes aware that there is a significant risk that another adult, that is, the 'alleged offender' will or has committed a child sexual offence to a child. The Accountable Person is someone who has the power or responsibility to reduce or remove the risk. An Accountable Person is **responsible** for **safeguarding** students from sexual offences and **must act** to reduce or remove the risk.

It a criminal offence for an Accountable Person to fail to protect a child from a child sexual offence.

### Failure to protect child from sexual offence s229BB

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- (1) An accountable person commits a crime if –
- (a) the person knows there is a significant risk that another adult (the "alleged offender") will commit a child sexual offence in relation to a child
  - (b) the alleged offender –
    - (i) is associated with an institution
    - (ii) is a regulated volunteer
  - (c) the child is under the care, supervision, or control of an institution
  - (d) the child is either –
    - (i) under 16 years
    - (ii) a person with an impairment of the mind
  - (e) the person has the power or responsibility to reduce or remove the risk
  - (f) the person wilfully or negligently fails to reduce or remove the risk.

**Penalty – Maximum penalty – 5 years imprisonment**

### Failure to make a report s229BC

It is a criminal offence when any adult (including students over 18 years of age, parents/guardians and volunteers of the school) in Queensland, fails to report to the Queensland Police Service a reasonable belief that a child sexual offence is being or has been committed against a child by another adult without a reasonable excuse. ~~is a criminal offence.~~ A reasonable excuse not to make a report under the *Criminal Code Act 1899*, includes that a report has already been made under:

- a) the *Education (General Provisions) Act 2006* (reporting sexual abuse or likely sexual abuse)
- b) the *Child Protection Act 1999* (reporting significant harm or risk of significant harm).

**Penalty – Maximum penalty – 3 years imprisonment**

### Education (Queensland College of Teachers) Act 2005

The Education (Queensland College of Teachers) Act 2005 requires an employing authority to notify the Queensland College of Teachers (QCT):

- about particular allegations
  - as soon as practicable, after starting to deal with an allegation of harm or likely harm to a child due to the teacher's conduct (section 76)
- about the outcome of particular allegations
  - as soon as practicable, after dealing with the allegation, the employing authority must also inform QCT of the outcome (section 77)
- about certain dismissals
  - an employing authority must notify QCT within 14 days if the authority has dismissed a teacher in circumstances that call the teacher's competence to be employed as a teacher into question (section 78).

### Evidence Act 1977

Section 93A provides the legislative authority for the Queensland Police Service and the Department responsible for Child Safety to conduct an interview and obtain a recorded statement from a child under 16 years, or a person who was 16 or 17 years when the statement was made and who, at the time of the proceeding, is a special witness, or an intellectually impaired person who has personal knowledge of the matters dealt with by the statement.

### Education (General Provisions) Regulation 2017

Section 68 specifies particulars required for a Report about sexual abuse:

A report under section 365(3) or 366(3) of the Act must include the following particulars—

- (a) the name of the person giving the report (the first person);
- (b) the student's name and sex;
- (c) details of the basis for the first person becoming aware, or reasonably suspecting, that the student has been sexually abused by another person;

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- (d) details of the abuse or suspected abuse;
- (e) any of the following information of which the first person is aware—
  - (i) the student’s age;
  - (ii) the identity of the person who has sexually abused, or is suspected to have sexually abused, the student;
  - (iii) the identity of anyone else who may have information about the abuse or suspected abuse. Section 69 specifies particulars required for a Report about suspicions of likely sexual abuse:

A report under section 365A(4) or 366A(5) of the Act must include the following particulars—

- (a) the name of the person giving the report (the first person);
- (b) the student’s name and sex;
- (c) details of the basis for the first person reasonably suspecting that the student is likely to be sexually abused by another person;
- (d) any of the following information of which the first person is aware—
  - (i) the student’s age;
  - (ii) the identity of the person who is suspected to be likely to sexually abuse the student;

the identity of anyone else who may have information about the suspected likelihood of abuse.

### Child Protection Regulations 2023

Section 4 specifies information to be include in child protection reports to the department responsible for Child Safety.

For section 13G(2)(b) of the Act, the following information is prescribed—

- (a) the child’s name, age and sex descriptor;
- (b) details of how to contact the child; Examples of how to contact a child—
  - the address at which the child usually lives
  - the name and address of the school the child attends
- (c) details of the harm to which the reportable suspicion relates;
- (d) particulars of the identity of the person suspected of causing the child to have suffered, suffer, or be at risk of suffering, the harm to which the reportable suspicion relates;

particulars of the identity of any other person who may be able to give information about the harm to which the reportable suspicion relates.

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## FORM C- Template

### Child Safeguarding Officers and School Authority Details EREA Flexible Schools Ltd – Queensland Region

A current completed copy of this proforma must be kept at the school/entity and be freely available to staff, students and parents/caregivers. A current completed copy must also be given to each Student Protection Officer.

#### XXX FLEXIBLE SCHOOL

Concerns about inappropriate behaviour of employees and all harm/likely harm to students at this school/entity may be reported to the Student Protection Officers whose names appear below.

There must be at least two staff members at the school/entity who are appointed as Child Safeguarding Officers by the Principal/Entity, Director and Chief Executive Officer. The Principal/Regional Director and Chief Executive Officer and Head of Campus (HOC) must be listed.

- Principal/Area Principal – name, position, email
- Head of Campus – name, position, email
- School Child Safeguarding Officer – name, position, email
- School Child Safeguarding Officer – name, position, email

The Edmund Rice Education Australia Flexible Schools Ltd Director and Chief Executive Officer. Dr Matthew Hawkins can be contacted on 07 3741 1111

#### The Catholic school authority for this school/entity is known as:

Edmund Rice Education Australia.

#### For which the Governing Body is:

Edmund Rice Education Australia Flexible Schools Ltd.

#### The Directors of the School/Entity's Governing Body are:

Peter Norman Fredrick Pearce, Robert Loring Feeney, Christopher Peter Veraa, , Toni-Lee Banfield, Ciaran William Handy, John Patrick O'Connor, Helen Margaret Spain, Debra Maureen Patricia Sayce.

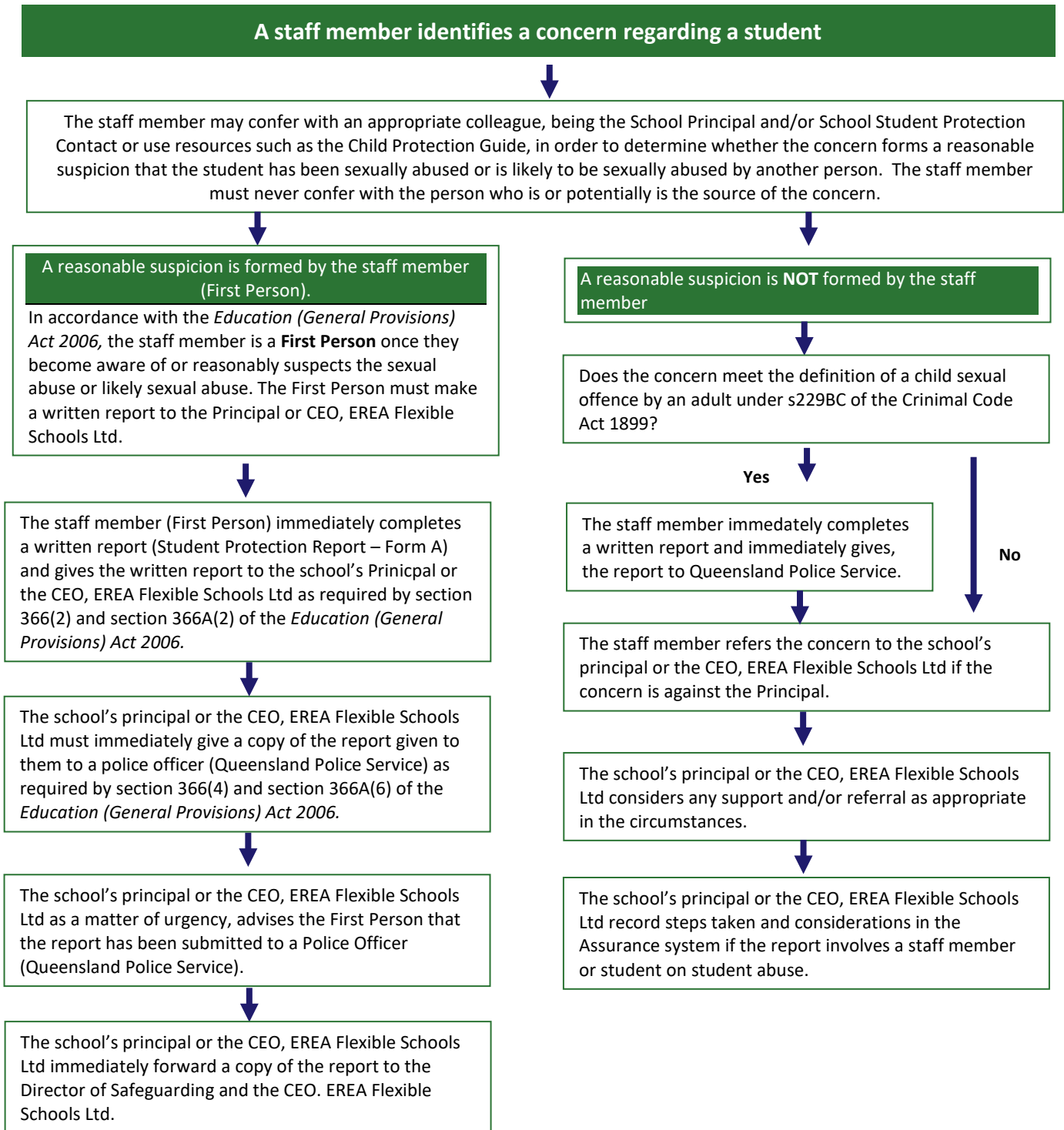
#### IMPORTANT INFORMATION

Although employees are required to follow the Child Safeguarding processes and guidelines laid down by Edmund Rice Education Australia Flexible Schools Ltd (Queensland Region), this does not limit the freedom of any person to take immediate action to notify police of any complaint or concern about the safety of a student, particularly if they believe that it is essential to ensure a student's safety.

Please note: this form must be kept up to date and retained to meet legislative requirements. A copy of this information must also be displayed in the foyer of the school/entity and on posters displayed throughout the school/entity. The form should also be put on the school's website.

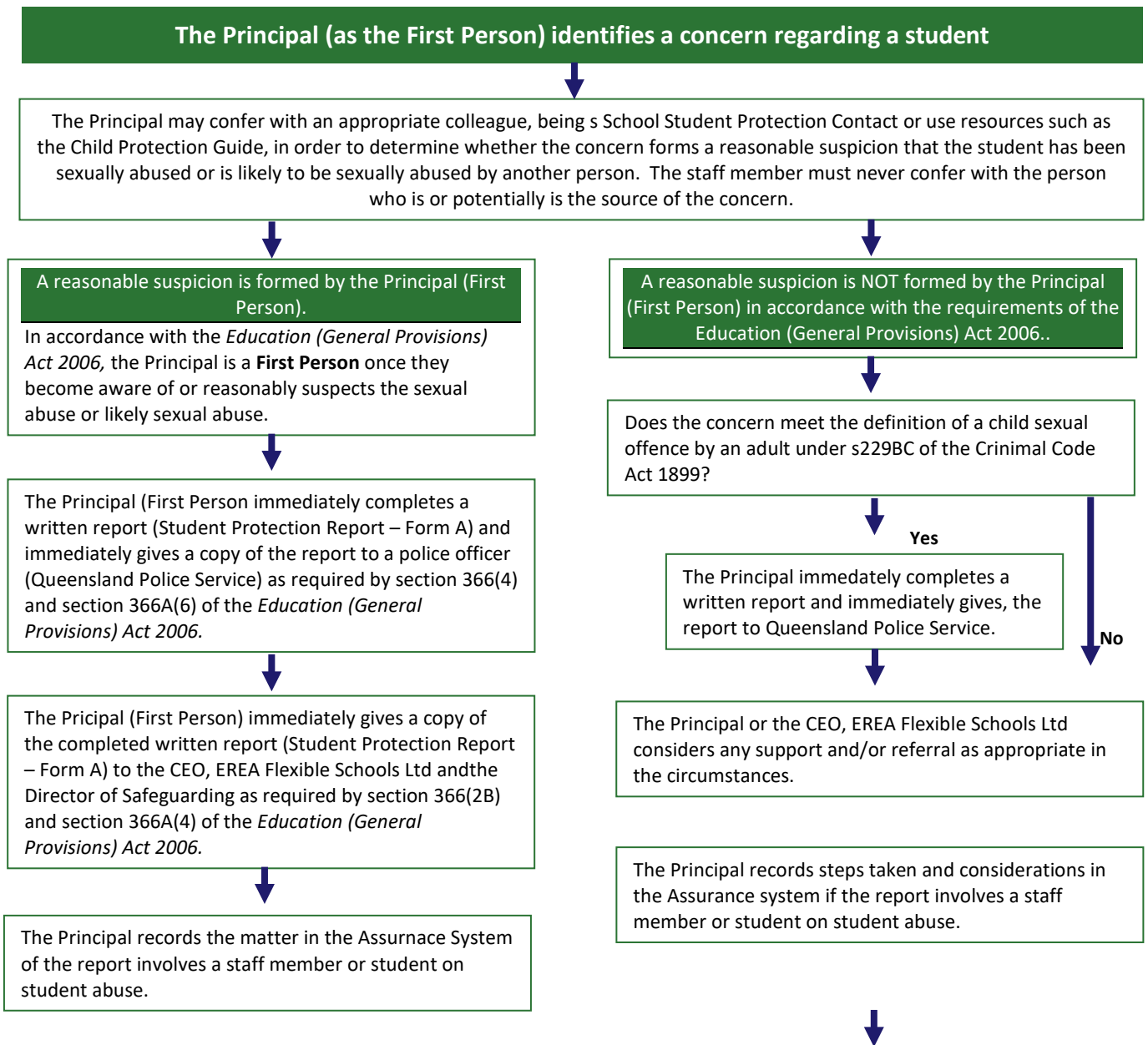
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# Flowchart 1: Reporting Sexual Abuse & likely Sexual Abuse



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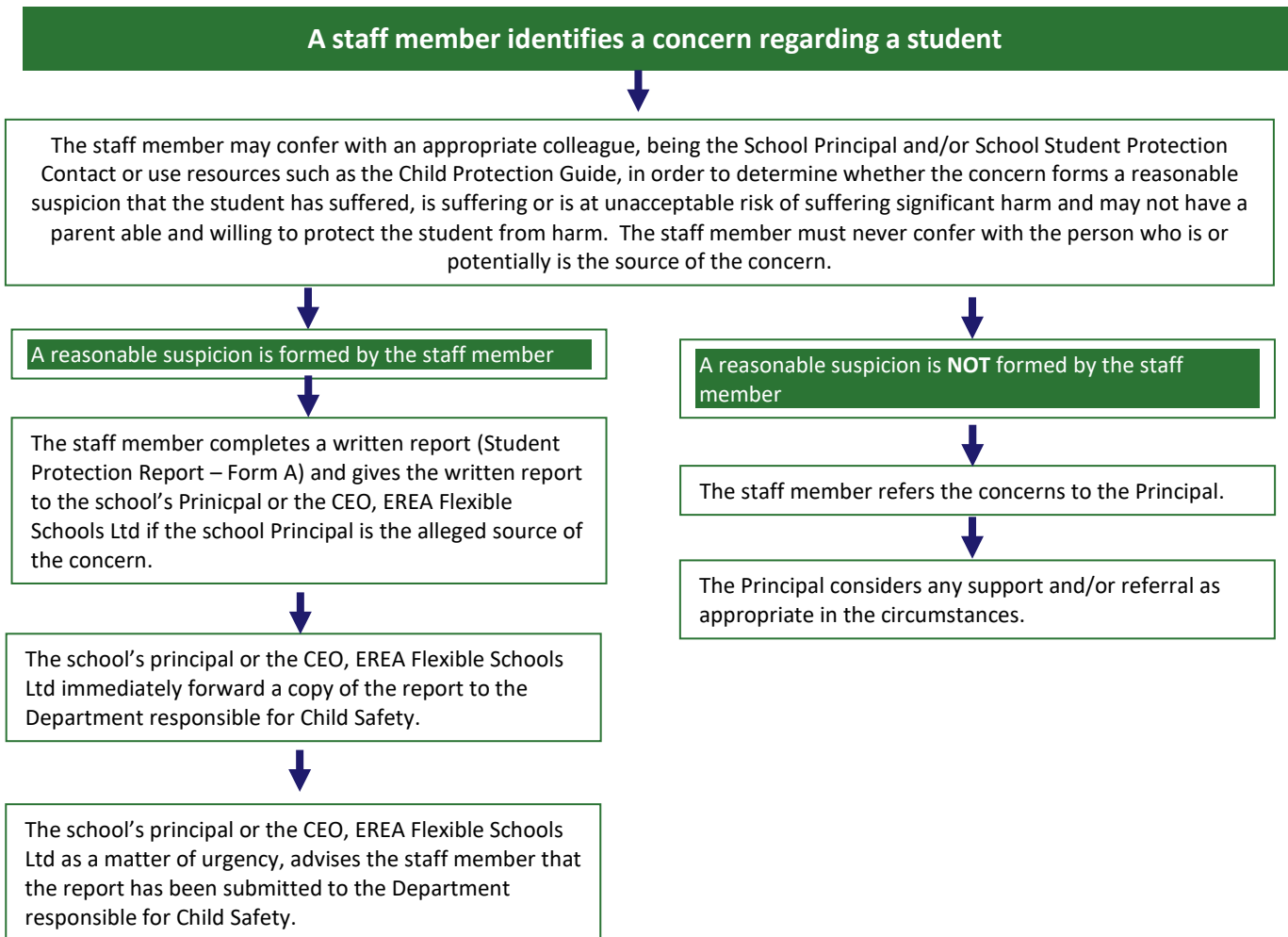
# Flowchart 2: Reporting Sexual Abuse & Likely Sexual Abuse where the First Person is the Principal



**Important Notice:** If there is reasonable suspicion that the student has been sexually abused or is likely to be sexually abuses or has been the victim of child sexual offence perpetrated by an adult and may not have a parent able and willing to protect them, the processes as outlined in Flowchart 3 must also be followed.

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## Flowchart 3: Reporting Significant Harm to the Department responsible for Child Safety



**Important Notice:** If there is a reasonable suspicion that the student has been sexually abused or is likely to be sexually abused by another person, then the processes as outlined in Flowchart 1 must also be followed, or Flowchart 2 if the first person is the Principal.

**Mandatory Responsibilities for Teachers:** If the staff member is a teacher, and the reasonable suspicion is that the student has suffered, is suffering, or is at an unacceptable risk of significant harm caused by physical or sexual abuse and may not have a parent able and willing to protect the student from the harm (a reportable suspicion under section 13E of the *Child Protection Act 1999*), the teacher is responsible, as a matter of urgency, to ensure that the report has been submitted to the Department responsible for Child Safety, unless they become aware, or reasonably suppose, that the matter has already been brought to the attention of the authorities.

If a teacher forms a reportable suspicion and is not able to progress a report through the process detailed in the Flowchart above, they are able to meet their mandatory reporting obligation through reporting directly to Department responsible for Child Safety via the online reporting form: <https://secure.communities.qld.gov.au/cbir/ChildSafety>

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# Form A – Student Protection Report to the Queensland Police Service and/or the Department responsible for Child Safety

**SEE NEXT PAGE**

*(NB – For completion of this form, EREAFSL staff can find the form within their School's CompliSpace PolicyConnect site)*

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FLEXIBLE SCHOOLS LTD

**FORM A**

**Child Safeguarding Report  
to Queensland Police Service  
and/or the Department responsible for Child Safety**

**Type of Report**

- Mandatory Report of Sexual Abuse/Likely Sexual Abuse to the Queensland Police Service
- Mandatory Report of a Reportable Suspicion to the Department responsible for Child Safety (Sexual Abuse/Physical Abuse) (this is compulsory reporting for non-teachers)
- Report of a reasonable suspicion that a child may be in need of protection caused by emotional abuse or neglect to the Department responsible for Child safety
- Report of sexual abuse, significant physical harm, risk of significant harm of a student by another student to Queensland Police Service
- Report of Inappropriate Behaviour towards a student by a staff member/volunteer to Principal / EREA Flexible Schools Ltd CEO

**THE QLD CHILD PROTECTION GUIDE WAS USED TO SUPPORT THE DECISION TO SUBMIT THIS REPORT**

- Yes
- No

**PART A: FIRST PERSON REPORT (RECORD OF CONCERN) ALL sections of Part A should be completed**

**SCHOOL DETAILS**

School Name

School Address

School Telephone

School Suburb

Name of Principal

**DETAILS OF THE AFFECTED CHILD**

Please note: If you have more than one affected child (who is not a sibling), a separate child safeguarding report will have to be completed.

First Name

Surname

Preferred Name

Gender

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Date of Birth

Year Level

Indigenous Status

Main Language

Interpreter Required  Yes  
 No

Disability  Yes  
 No  
 Verified

Disability Details

Residential Address(es)

Current Location of the Child

Are there additional affected children in relation to this matter?

Please note: If you have more than one affected child (who is not a sibling), a separate child safeguarding report will have to be completed. If the additional affected children are siblings, indicate below

- Yes  
 No

**PARENT/GUARDIAN/CARER OF THE CHILD (MAIN CARER)**

Legal Name

Preferred Name

Gender

Proximate Age

Relationship to Child

Lives with the affected child  Yes  
 No

Contact Telephone Numbers(s)

Residential Address(es)

Indigenous Status

Main Language

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Interpreter Required  Yes  
 No

Disability  Yes  
 No  
 Verified

Disability Details

**ADDITIONAL PARENT/GUARDIAN/CARER OF THE CHILD**

Legal Name

Preferred Name

Gender

Proximate Age

Lives with the affected child  Yes  
 No

Contact Telephone Number(s)

Residential Address(es)

Indigenous Status

Main Language

Interpreter Required  Yes  
 No

Disability  Yes  
 No  
 Verified

Disability Details

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**SIBLINGS/OTHER FAMILY MEMBERS**

Please type name, DOB (where known or approximate age) and relationship to the affected child for each family member. Please indicate if the siblings are also considered affected children in relation to this matter.

Eg John Smith (DOB (where known or approximate age), sibling, also an affected child

**TYPE OF ABUSE**

- Sexual abuse
- Likely sexual abuse
- Physical abuse/unacceptable risk of physical abuse
- Emotional abuse/unacceptable risk of emotional abuse
- Neglect/unacceptable risk of neglect

**INAPPROPRIATE BEHAVIOUR**

Which does not include sexual abuse or likely sexual abuse

**TYPE OF INAPPROPRIATE BEHAVIOUR**

- Physical Boundary Violation
- Emotional Boundary Violation
- Behaviour Boundary Violation
- Other

**AWARENESS OF CONCERN**

- Disclosure by student
- Information from another student
- Information from a relative of the student
- Information from another parent at the school
- Observations of a staff member
- Anonymous report
- Other

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**DESCRIPTION OF CONCERN**

Please refer to EREA Code of Conduct for description of Inappropriate Behaviour. Please include as much information as possible to facilitate a thorough assessment of safety/harm by QPS and Child Safety. Include information

What happened, who was involved?  
When did it happen? (approx date/time)  
Where did it happen?

If your description of concern can not fit in the text box please attach separate document

Has the concern (or similar) occurred previously?  Yes  No

**INJURIES TO CHILD**

Please describe any physical injuries if known, include information such as - location, shape, size, colour

Yes  
 No  
 Unknown

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Details

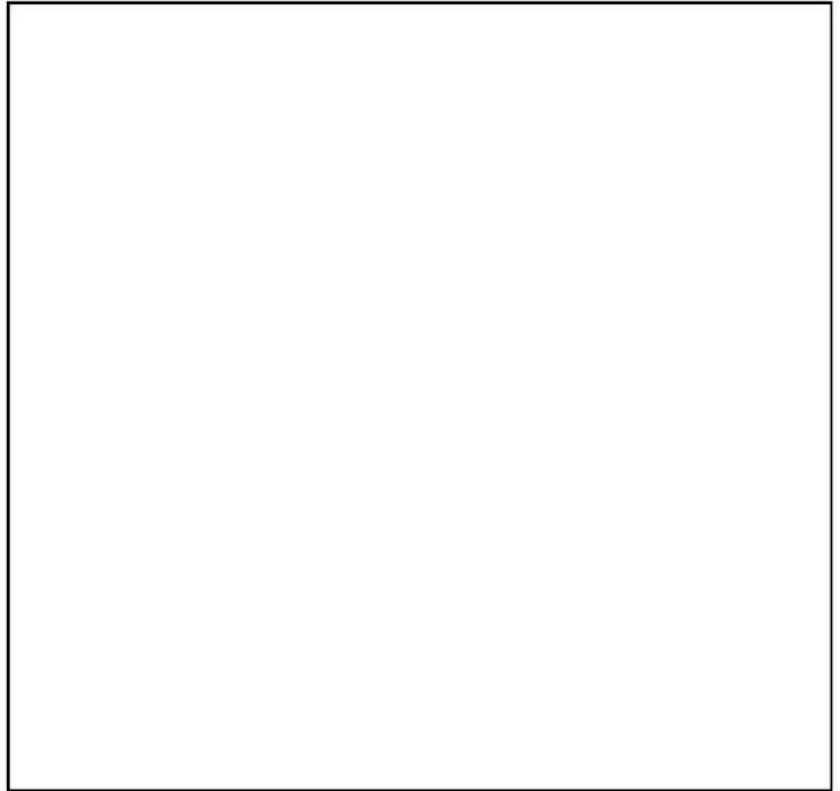
**IMMEDIATE SAFETY CONCERNS**

Please detail any concerns you may have about the affected child's immediate safety

- Yes
- No
- Unknown

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**OBSERVATION OF AFFECTED CHILDS BEHAVIOUR**

Please provide details of the affected child's current behavioural/emotional presentation where known or relevant. For example, please indicate whether these behaviours were present prior to the disclosure or observed post disclosure

**SOURCE(S) OF CONCERN**

Details of person believed to have caused the harm

Legal Name	
Preferred Name	
Gender	
Date of Birth/Approximate Age	
Contact Telephone Number(s)	

**SOURCE OF CONCERN BY CATEGORY**

Staff member, other employee of volunteer

Parent, carer, family member or other person in the community

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Other student enrolled at the school

Self-harm

Is the source of concern a parent  Yes

No

Unknown

Relationship

Does this parent have current access to the affected child

Yes

No

Unknown

**PERSON(S) WITH MORE INFORMATION**

Please include information on each person, name, position, contact number/s

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**FIRST PERSON REPORT (REPORT OF CONCERN) COMPLETED BY**

Name

Position

Contact Telephone Number(s)

Other contact Information

List other actions (if applicable)

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**PART B: ADDITIONAL INFORMATION (COMPLETED BY THE PRINCIPAL) / DELEGATE**

Family court orders

Details

Child protection orders

Details

Departmental out of home care

Details

Departmental intervention

Details

Previous child safeguarding reports

Details

**RISK FACTORS**

Please provide details of any known risk factors. This includes issues that may impact of the child's vulnerability - medical issues, challenging behaviour, social issues and any issues that may impact on the parent's ability and willingness to protect the child - substance misuse, domestic violence, mental illness

Child risk factors

Details

Parent(s) risk factors

Details

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**PROTECTIVE FACTORS**

Please provide details of any known protective factors such as - any actions parent/s have taken to address the concerns, involvement of support agencies, family support network

Yes

No

Unknown

Details

**OTHER ADDITIONAL INFORMATION**

To be completed if the principal has knowledge of any other relevant information not included above, for example - previous discussion with parent, support offered by the school any any actions taken by school staff

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**PERSON(S) WITH MORE INFORMATION**

Please include information on each person: name, position, contact number/s

The young person is aware a report is being made

The parents/guardians are aware a report is being made

**REPORT SUBMITTED BY (PRINCIPAL/DELEGATE) DETAILS**

Name

Position

Date

Time

Contact Telephone Number/s

Email

School

Suburb

**REPORT SUBMITTED VIA PRINCIPAL/DELEGATE EMAIL TO**

Queensland Police Service Child Protection Investigation Unit

Name of Officer and Region

Department responsible for Child Safety Regional Intake Service Team

Name of Staff Member and Region

Family and Child Connect (FaCC)

Reason/Information

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**REQUEST BY SCHOOL FOR OUTCOME ADVICE**

EREA Flexible Schools Ltd (Queensland Region) request that the outcome of the state authorities (QPF/Child Safety) assessment of the reported concerns be communicated to the Principal.

**FINALISED REPORT PROCESS for Principals of EREA Flexible Schools (Queensland Region)**

1. Save a copy of the Child Safeguarding Report Form (Form A) before submitting
2. Ensure all Child Safeguarding Reports (Form A) are forwarded via email to the EREA Flexible Schools Ltd Director of Safeguarding and CEO
3. All Child Safeguarding Reports (Form A) sent to QPF/DCCSDC must be submitted by the Principal. A signature is not required as emailing of the report fulfills the legislative obligations of the Principal.
4. The Principal must inform the author of the First Person Report (Record of Concern) section that the report has been made

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# STUDENT SAFEGUARDING GUIDELINES

FOR THE EDMUND RICE EDUCATION AUSTRALIA FLEXIBLE SCHOOLS LTD  
QUEENSLAND REGION



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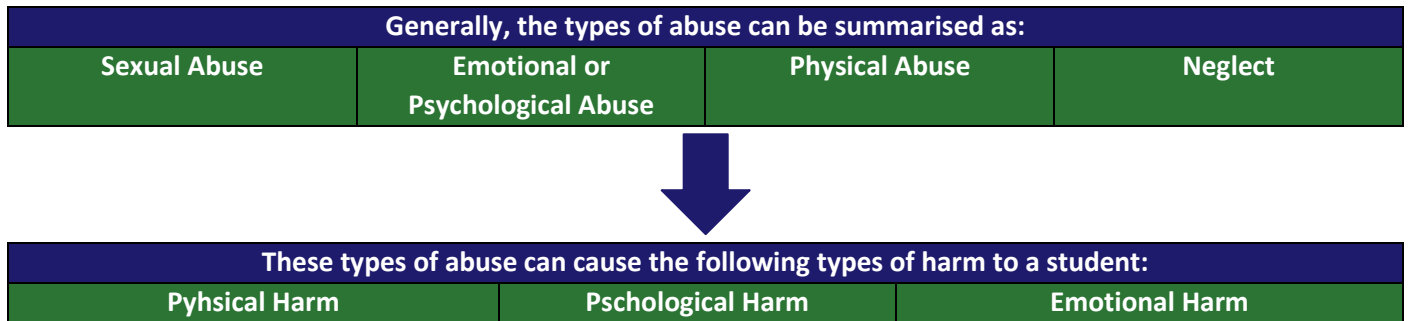
## Preface

These guidelines have been developed by the Queensland Catholic Education Commission (QCEC) in conjunction with Catholic School Authorities to provide information to support the implementation of the *Student Protection Processes for Queensland Catholic Schools*. These guidelines may change in line with child protection practice developments and may be subject to customisation to reflect the resources and systems in place for a particular Catholic School Authority.

## 1. Understanding Abuse and Harm

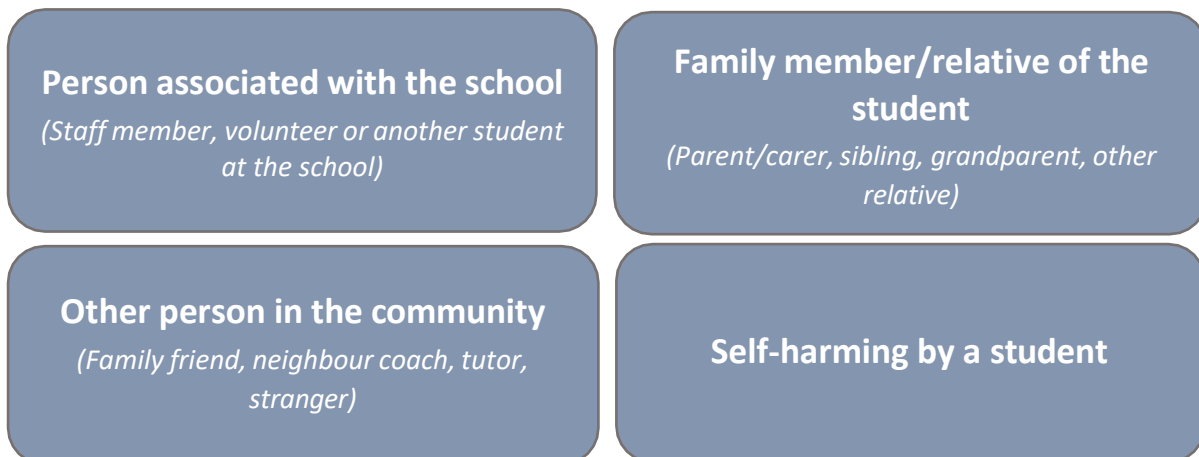
All young people have the right to be safe in environments free from abuse and harm. Where this is not the case, adults have a responsibility to act. This part explains the key concepts that underpin the processes for ensuring the safety of students, to inform the actions staff members must take if they form a reasonable suspicion of abuse, harm or staff inappropriate behaviour towards a student.

As a first step, it is important that staff members have an understanding of what is meant by the terms 'abuse' and 'harm'.



### 1.1. Sources of abuse and harm

Students can be abused, or experience harm from many sources. These include:



## 2. Types of Abuse

### 2.1 Sexual abuse and likely sexual abuse

Sexual abuse of a student occurs where a person engages in sexual behaviour with a student, and:

- the other person bribes, coerces, exploits, threatens or is violent toward the relevant person; and/or
- the student has less power than the other person; and/or

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- there is a significant disparity between the student and the other person in intellectual capacity or maturity.<sup>1</sup> Characteristics of a power imbalance include: significant differences in age, developmental ability, authority, influence or some kind of control over the student.

Likely sexual abuse is where it is more probable than not that a student will be sexually abused in the future. One situation where a reasonable suspicion of likely sexual abuse could be formed is where 'grooming' behaviours towards a student are identified.

**IMPORTANT NOTE: Sexual activity between staff members and students**

The involvement of any staff member or volunteer within a school in sexual activity with, or sexual exploitation of, a student attending that school is always to be regarded as sexual abuse.

## What does sexual abuse involve?

Sexual abuse involves an imbalance of power between a student and the other person. The imbalance of power allows force, trickery, emotional bribery, blackmail or emotional pressures to be used against the student to involve him/her in sexual activity or to sexually exploit him/her. Secrecy, the misuse of power and distortion of adult-person relationships may also be involved.

Sexual abuse involving physical contact with a student could include:

- touching, kissing, holding or fondling a student's body in a sexual manner;
- touching, kissing or fondling a student's genital area;
- engaging in or attempting to engage in vaginal or anal intercourse with a student;
- penetrating or attempting to penetrate a student's vagina or anus with a finger or other object;
- engaging or attempting to engage in oral sex with a student; or
- engaging or attempting to engage in masturbation with a student.

It does not matter whether the student is clothed or unclothed whilst sexual abuse involving physical contact takes place. Engagement of a student in sexual acts by duress or through inducements of any kind is considered sexual abuse.

Sexual abuse/likely sexual abuse of a student may not necessarily involve physical contact. It could, for example, involve behaviour that occurs in the student's direct presence or that occurs indirectly including through electronic communications. Examples include:

- requesting a student to expose a sexual body part;
- making obscene or sexually explicit remarks to a student;
- sending obscene or sexually explicit material to a student;
- blatant or persistent intrusion into a student's physical privacy;
- voyeurism - covertly observing intimate behaviour that is normally private;
- exposing a student to pornographic films, photographs, magazines or other material;
- having a student pose or perform in a sexually explicit manner;
- exposing a student to a sexual act;
- forcing a student to witness a sexual act; or
- communicating with a student in a sexually intrusive way.

<sup>1</sup> See Section 364 of the *Education (General Provisions) Act 2006* exposing a sexual body part to a student;

## What is Grooming?

Sexual offending against a young person is rarely a random act by a stranger. It is commonly based on a relationship with the young person formed over time. The abuse is commonly well thought out and planned.

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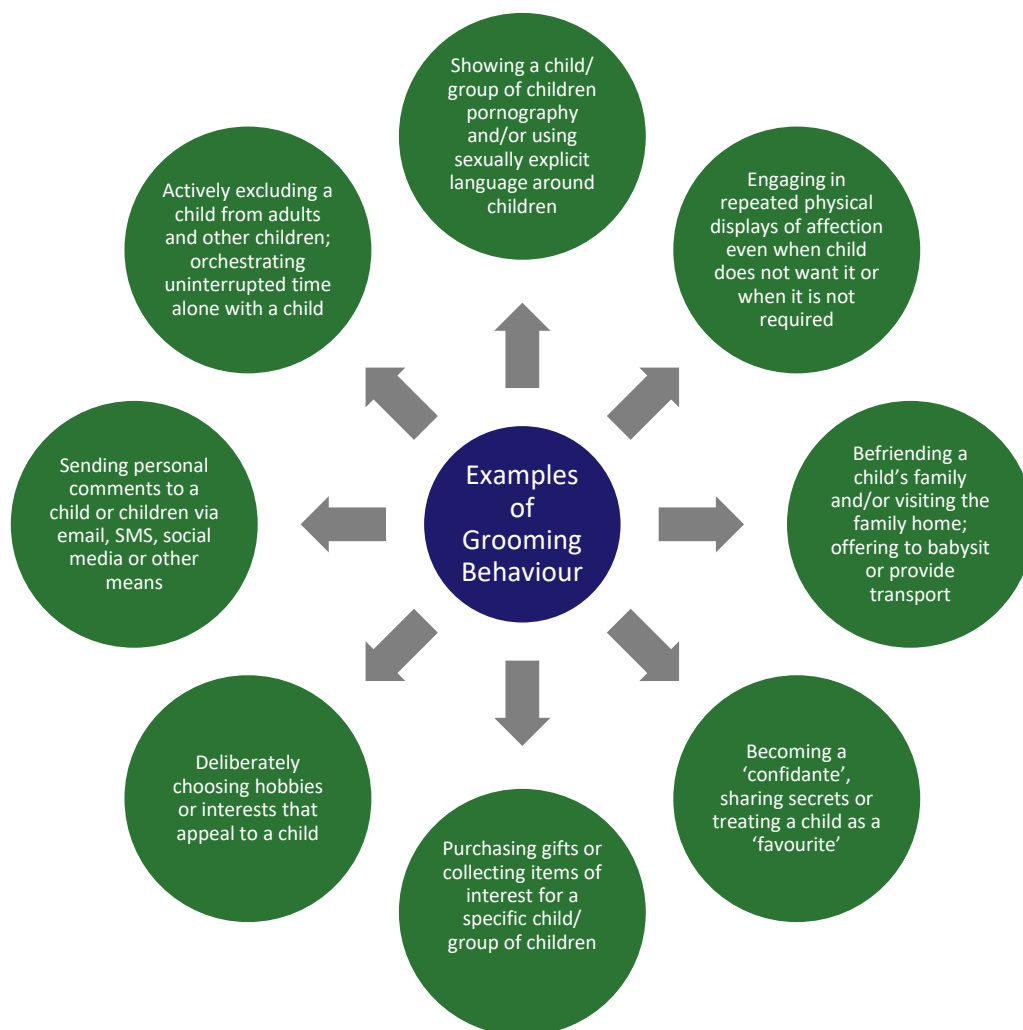
Offenders may often take time to ‘groom’ their victim, often over a lengthy period. They will also often ‘groom’ the young person’s parents, care-providers or others who might otherwise protect them from the abuse. This occurs so that the young person and their parents or care-providers will trust the offender and not suspect any intended wrongdoing.

The establishment of a relationship of trust which is then misused is often very confusing and damaging to the young person, who may not even immediately recognise what is happening to them as abuse. Grooming behaviour is unlikely to be recognised when observed as a one-off event, but a pattern of grooming of the intended victim and/or the intended victim’s parents or care-providers is likely to be recognised. Grooming will tend to develop in intensity over time. It will also tend to include elements of secrecy and concealment.

It is important to be aware of the types of behaviours that can be used in the process of grooming a young person, while remembering that some of the behaviours might equally reflect normal interactions based on genuine motives of care and concern. This is the reason that, for staff members, the observance of clear professional boundaries and transparency in the declaration of potential conflicts of interest is a vital part of the protection of young people and of the professional integrity of staff members themselves.

Recognition of the grooming process that is used as a preparation for the sexual abuse of a young person is an indicator of likely sexual abuse.

**Some examples of ‘grooming’ behaviour could include:**



## Activities between peers

**Sexual activity between students**

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It is important to note that activity between peers may also be considered abusive, especially if the relationship is coercive or the behaviour forceful, degrading or threatening. Sexual activity between young people under 16 years of age is not automatically considered to be sexual abuse, even though technically it is unlawful in Queensland. The dynamics and characteristics of the sexual activity is a key consideration. For example, if a young person under the age of 16 years engages in sexual activity with a peer and there is no imbalance of power, coercion or manipulation involved, this may not be considered sexual abuse. On the other hand, if there is a power imbalance, coercion or manipulation in the sexual activity between a young person 16 years and older and another person, this may be considered sexual abuse.

## Student sexual behaviour

Suspensions that a student has been sexually abused may also be formed when a young person exhibits concerning sexual behaviour. [Resources](#) such as those published by the Department responsible for Child Safety can assist in identifying age-inappropriate sexual behaviour, and [Section 4.2](#) details further signs of sexual abuse.

## 2.2 Physical abuse



*Physical abuse refers to non-accidental use of physical force against a child by another person that results in significant harm to the child.*

## What does physical abuse involve?

Examples of physical abuse include but are not limited to hitting, shaking, throwing, burning, biting, poisoning and female genital mutilation. The definition of physically abusive behaviour extends to the fabrication, exaggeration and inducing of illness symptoms in a young person.

A person does not have to intend to physically harm a young person to have physically abused them (for example, physical punishment that results in bruising or fractures would generally be considered physical abuse). Physical abuse does not always leave visible marks or injuries. Physical abuse can result in significant physical harm (for example, fractures, burns or bruises) and/or emotional/psychological harm (for example, hypervigilance, depression or a persistent state of fear and anxiety) to a young person.

When considering if a child is at unacceptable risk of suffering harm caused by physical abuse by a person, a range of factors are considered. Examples include:

- the person's propensity towards violence,
- the degree of control a person has over their own behaviour or the behaviour of others,
- the physical force used and
- the ability and willingness of another adult to act protectively to prevent the physical abuse.

Examples of situations that give rise to an unacceptable risk of physical abuse include, though are not limited to:

- domestic violence involving the throwing of objects; or
- situations in which a baby is shaken but not obviously injured.

## 2.3 Emotional/Psychological Abuse

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*Emotional or psychological abuse is the persistent emotional ill-treatment of a child which causes severe and persistent adverse effects on a child's emotional development.*

## What does emotional or psychological abuse involve?

Examples of emotional abuse include but are not limited to constant criticism, public humiliation, belittling, constant yelling, withholding praise and affection, excessive teasing, scape-goating, rejection, hostility, exposure of a young person to domestic and family violence and conveying that a young person is worthless or unloved, inadequate, or valued only insofar as the young person meets the needs of another person.

Emotional or psychological abuse may feature age or developmentally inappropriate expectations being imposed on young people. These may include interactions that are beyond the young person's developmental capability, as well as overprotection and limitation of reasonable exploration and learning or preventing the young person from participating in normal social interaction. Emotional abuse can result in significant harm to a young person, for example, it can result in significant emotional / psychological harm such as depression, attachment disorders, chronic feeling of fear/anxiety or self-harm.

A young person is considered to be at unacceptable risk of suffering harm caused by emotional abuse in several situations for example the frequent, chronic and entrenched verbal criticisms and hostility directed at the young person by another person.

### 2.4 Neglect



*Neglect is the persistent failure to provide for a child's basic physical and emotional necessities of life such that the child's health and development are affected.*

## What does neglect involve?

Neglect is the persistent failure to provide for a young person's basic physical and emotional necessities of life such that the young person's health and development are affected. Basic needs include: food, housing, adequate clothing; personal hygiene and hygienic living conditions; health care, including the timely provision of medical treatment and dental care; and adequate supervision and protection needed for the young person's optimal growth and development. Neglect may occur during pregnancy because of maternal substance abuse.

Neglect can result in a significant impact on a young person's physical, emotional and psychological wellbeing. It can result in significant physical harm such as serious injury or death. For example, failure to supervise a young person may result in a young person ingesting poison, or getting seriously injured or getting burnt. Neglect can also result in serious emotional/ psychological harm such as attachment disorders, failure to thrive in infants and significant developmental delays.

A young person is considered to be at unacceptable risk of neglect in situations such as severe or chronic substance misuse, significant mental illness, lack of parenting skills and addiction to gambling by the young person's primary parent or care provider inhibiting their capacity to provide sufficient care.

**More information around understanding child abuse and harm can be found on the Department**

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responsible for [Child Safety website](#).

## 3. Significant Harm

Harm can be caused by physical, psychological or emotional abuse, sexual abuse or neglect. Harm refers to the detrimental effect or impact of abuse/neglect on a young person. For statutory intervention to occur, there must be information to suggest:

- that the child has suffered, is suffering or is at any unacceptable risk of suffering significant harm; and
- there may not have a parent able and willing to protect the child from harm.

Harm can be caused by a single act, omission or circumstance or a series or combination of acts, omissions or circumstances. This series or combination of acts, omissions or circumstances is often referred to as "cumulative harm".

### 3.1 What is "unacceptable risk" of harm?

A young person is considered to be at an unacceptable risk of suffering harm if there are grounds to suspect that unless someone intervenes to prevent it, the actions of a person will result in, or is likely to result, in a detrimental effect of a significant nature on the child's physical, emotional and/or psychological wellbeing.

### 3.2 Relationship between abuse and harm

In essence, abuse is the action towards a young person, and harm is the impact of that action on the young person. Young people can experience multiple types of abuse, which can cause multiple types of harm.

Types of Abuse	Physical abuse	Emotional abuse	Sexual abuse	Neglect
	Hitting	Rejection	Sexual exploitation	Inadequate supervision
	Punching	Persistent hostility	Penetration	Poor hygiene/nutrition
			Exposure to pornography	



Types of harm (impact on the young person)	Physical (refers to body)	Emotional (ability to express emotions)	Psychological (mind & cognitive processes)
	Bruising	Depression	Learning and developmental delays
	Fractures	Hypervigilance	Impaired self-image
	Internal injuries	Self-harm	

## 4. Recognising Abuse and Harm

### 4.1 Recognising the signs of abuse and harm

Many signs might lead staff members to have concerns about a young person. It is important to keep an open mind when encountering these signs, as their presence does not necessarily mean the young person is experiencing harm caused by abuse and/or neglect. However, they may identify concerns for a young person and indicate that further consideration and monitoring is the appropriate response.

It is important to remember:

- the signs are generally more significant if they are severe, form a pattern, and/or show frequency

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- the younger the child involved, the greater the risk
- all factors need to be considered, including the young person’s circumstances and family context.

## 4.2. Identifying the signs of abuse and harm

### Observations of student behaviour

In general terms, something may be wrong if you observe student behaviour such as:

- nervousness/withdrawal;
- passivity/excessive compliance;
- evidence of deterioration in peer relationships and/or generally poor peer relationships;
- trouble concentrating at school/unexpected drop in school academic performance;
- frequent absences from school without substantiated or acceptable explanations;
- being extremely aggressive, stealing or running away;
- evidence of extreme or continually aroused emotional states;
- out of character behaviour;
- behaviour that is not age appropriate or typical of peer behaviour;
- in younger students: separation anxiety, changed eating patterns;
- in older students: drug/alcohol use, sexual promiscuity, self-harm or reckless and risk-taking behaviour.

In relation to possible harm or risk of harm to a young person that may be a result of sexual, physical or emotional abuse and/or neglect you may observe the following:

#### Physical

- bruises or lacerations, especially on face, head and neck;
- burns/scalds;
- multiple injuries or bruises, especially over time;
- fractures, dislocations, twisting injuries;
- explanations offered by the young person not consistent with the injury or the injury is unable to be explained by the young person;
- A young person hiding injuries
- repeated injuries with a recurring or similar explanation.

#### Neglect

- delay in achieving developmental milestones;
- medical or therapeutic needs not attended to;
- poor personal hygiene leading to social isolation;
- scavenging for/stealing food; lack of adequate school lunches;
- extreme seeking of adult affection;
- flat and superficial way of relating.

#### Domestic Violence

- difficulties in eating and sleeping;
- hyper vigilance;
- regression to age-inappropriate behaviours;
- developmental delays;
- young person is over-protective of a parent;
- excessively controlling or aggressive/violent behaviour;

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- abuse of siblings/parent.

### Emotional / Psychological

- inability to value self and others;
- lack of trust in people;
- statements from the young person e.g. “I’m bad; I was born bad”;
- extreme attention-seeking behaviours.

### Sexual

- direct or indirect disclosures of abuse;
- concerning sexual behaviour and/or age-inappropriate sexual knowledge;
- use of threats, coercion or bribery to force other young people into sexual acts;
- sexual themes/fears expressed in artwork, written work or play;
- repeated urinary tract infections, especially in younger girls;
- physical trauma to buttocks, breasts, genitals, lower abdomen, thighs;
- unexplained accumulation of money/gifts;
- presence of sexually-transmitted infections, especially in younger children

**More information around recognising the signs of abuse can be found on the Department responsible for [Child Safety Website](#).**

## 5. Forming a Reasonable Suspicion

A reasonable suspicion of abuse or harm is a suspicion that would be formed by a reasonable person based on a reasonable view of the evidence available to them. In other words, a reasonable suspicion is an objectively justifiable suspicion based on specific facts or circumstances. When a reasonable suspicion is formed, a staff member must act in accordance with the processes outlined in this document.

Generally, the ways in which a staff member may form a reasonable suspicion are as follows:



- A young person makes a direct disclosure about another person's behaviour (see Section 5.1)
- A parent or any person reports information of concern about a young person and/or another person’s behaviour (this information may come from another student, relative, friend, or acquaintance of the young person, or sometimes could be anonymous)



- Direct observation of abusive or inappropriate behaviour towards a young person
- Relevant observations (appearance, behaviours, and situations) are witnessed, or other relevant firsthand knowledge is gained.

Additionally, section 13C of the *Child Protection Act 1999* offers some guidance around forming a reasonable suspicion that a young person has suffered, is suffering or is at unacceptable risk of suffering significant harm:



- Whether there are detrimental effects on a child’s body or psychological/emotional state, or are likely to become so the in the future
- The nature and severity of the detrimental effects and the likelihood that they will continue
- The age of the child

A staff member may **confer** with an appropriate colleague, being the School Principal and/or a School

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Student Protection Contact, as part of the decision-making process as to whether they have formed a reasonable suspicion – further detail around [conferral](#) processes can be found in the Student Safeguarding Processes. The staff member must never confer with the person who is or potentially is the source of the concern.

It should be noted that at times information may come to a staff member’s attention indirectly (e.g. perhaps third hand). In these cases, the following should be considered:

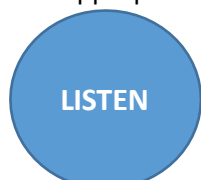
- it is not the role of the staff member or of the school to investigate, confirm or substantiate the validity of the information;
- in some cases, it may be appropriate to seek additional information to clarify the situation, to the extent necessary to determine any action that may be required under these processes;
- if the information received gives rise to a staff member forming a reasonable suspicion of harm to a student resulting from abuse or neglect, from any source, the staff member must follow the relevant [reporting requirements](#) described in the Student Safeguarding Guidelines;
- if the information received by the staff member suggests inappropriate behaviour by a staff member towards a student, then the staff member must follow the relevant [reporting requirements](#) described in the Student Protection Processes for Queensland Catholic School Authorities.

**NOTE: Staff members must not photograph student injuries or audio/ video record the discussion with the student – this is the role of Police.**

Details about how the information came to the staff member’s attention should be included in any report made under these processes.

## 5.1 Responding to a disclosure

Staff members in schools are often the first people a young person may tell when they are feeling unsafe, therefore it is important for staff members to be aware of how young people disclose and how to respond in the most appropriate manner. If a young person tells a staff member about being abused or harmed:



- **Move to a suitable environment** - free of distractions.
- **Be calm and patient** - allow for the young person to be heard.
- **Let the young person use their own words** - avoid asking leading questions.
- **Avoid “quizzing” the young person about details of the abuse.**
- **Don’t be afraid of saying the ‘wrong’ thing.** Listening supportively is more important than what you say.



- Reassure the young person that **it is okay to tell you** what’s been happening.
- **Address any concerns about the young person’s safety.**
- Reassure the young person s/he is **not at fault and is not the cause of any distress** you may feel.



- **Respect that the young person may only reveal some details.**
- **Acknowledge the young person’s bravery and strength.**
- **Avoid making promises you can’t keep** - manage the young person’s expectations.
- **Explain to the young person that in order for them to be safe you will need to report their experience to someone else.**

*Adapted from an AIFS infographic: [Responding to children and young people’s disclosure of abuse](#)*

**Remember - it is not a school staff member’s role to investigate** a suspicion of an unacceptable risk of abuse/ harm from any source, rather to report a reasonable suspicion of abuse or harm in accordance with the student safeguarding processes. It is the role of officers of Queensland Police Service and qualified officers of the Department responsible for Child Safety to investigate and collect evidence in the required circumstances, such as conducting interviews with students.

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**Only ask enough questions to help you decide whether you have honest and reasonable grounds to form a suspicion** of harm/abuse or an unacceptable risk of harm/abuse. Be aware that any questioning beyond this could cause distress and confusion and could interfere with the integrity of any subsequent investigation undertaken by relevant authorities.

**As soon as possible after the disclosure, make detailed relevant notes** about any signs, disclosures, injuries, and behaviours that caused you to be concerned for the young person’s safety or wellbeing.

Any response must be focused on the best interests of the young person. As such, the immediate support needs of the young person are the priority and staff members must act promptly to raise the concerns with the Principal.

## 6. Considering whether there is a parent able and willing to protect a young person

Where there is no parent able and willing to protect a young person from significant harm, then the Department responsible for Child Safety intervenes to ensure the safety of the child. This is therefore an important consideration when determining if a matter should be reported to the Department responsible for Child Safety.

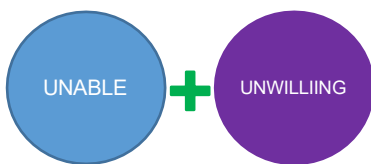
**A parent must be able AND willing to protect the young person from significant harm.**



In some cases, a **parent may be willing to protect their child from significant harm, but they may not be able to do so**, for example, the parent may be suffering from a severe mental health condition, physical illness or injury; or where existing court orders precludes the parent from taking protective action.



**A parent may be able but not willing to protect their child**, for example, where the parent continues in a relationship with a person who is sexually abusing their child and does not cease contact with the abusive person.



In some circumstances, **a parent may be both unable AND unwilling** to protect their child from significant harm. An example of this is a parent who has significant substance misuse issues and continues a relationship with someone who sexually abuses or is violent to their child.

In some cases, parents will seek to minimise or reduce the significance of harm suffered by a young person (or that the young person is at risk of suffering) and this may indicate the parent may not be able and willing to protect the young person from harm. For example, this includes a parent minimising serious self-harming

behaviours exhibited by their child or failing to recognise the serious and/or long-term impacts of a young person’s medical needs or significant developmental delays.

Forming a reasonable suspicion around whether a parent may be able and willing is based on several factors, including:

- the observations and knowledge the Principal and staff members may have of the family circumstances;
- disclosures made by a young person;
- information provided by another person.

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A staff member is not expected to conduct an investigation to ascertain if a parent is able and willing to act protectively, rather must act on the information available to them. Staff members may confer with colleagues to assist in their decision-making.

**NOTE: If a reasonable suspicion of sexual abuse or likely sexual abuse is formed a report to the Queensland Police Service is to be made even if there is a parent able and willing to protect the child from harm.**

## 7. Responsibilities Under the Criminal Code Act 1899

Under section 229BC of the *Criminal Code Act 1899*, an adult who gains information that causes the adult to believe on reasonable grounds, or ought reasonably to cause the adult to believe, that a child sexual offence is being or has been committed against a child by another adult and at the relevant time the child is or was under 16 years or a person with an impairment of the mind, must report the matter to the Queensland Police Service.

Non-abusive sexual relationships in the following circumstances may fall outside of the mandatory responsibilities of teachers to report sexual abuse under the *Child Protection Act 1999* and staff members to report sexual abuse under the *Education (General Provisions) Act 2006*, but must be reported under the Criminal Code.

- a) Student (18 years or older) commits a child sexual offence against a student under the age of 16 years that does not meet the threshold of 'sexual abuse'
- b) Peer (18 years or older) commits a child sexual offence against a student under the age of 16 years that does not meet the threshold of 'sexual abuse'
- c) Student (18 years or older) commits a child sexual offence against a peer under the age of 16 years that does not meet the threshold of 'sexual abuse'
- d) An allegation against any adult (including students over 18 years of age, parents/guardians and volunteers of the school) who commits a child sexual offence (where the information is obtained outside the course of employment).

Matters which may be encountered include:

- a) carnal knowledge with or of children under the age of 16
- b) distributing intimate images or prohibited visual recordings
- c) maintaining a sexual relationship with a child.

Without a reasonable excuse (see Legislative References in Section 4 of the Student Safeguarding Processes), an adult who fails to disclose the information to a police officer as soon as reasonably practicable after the belief is, or ought reasonably to have been formed, commits a misdemeanour with a maximum penalty of three years imprisonment.

An adult who, in good faith, discloses information about a child sexual offence to a police officer is not liable civilly, criminally or under an administrative process for making the disclosure.

## 8. Confidentiality, Record Keeping and Information Sharing

It is essential that student safeguarding processes are managed in a confidential manner that both preserves the dignity and privacy of all affected parties, and ensures that any investigative process is not impaired.

The management of any student safeguarding concern should be well-documented, with clear records of any disclosures made by a young person and any actions taken by the school. All information relating to student safeguarding concerns, including notes, reports and other documents must be stored securely and confidentially.

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### Will a student’s family know I have made a report?

A person who notifies the Department responsible for Child Safety around a suspicion that a child has been, or is likely to be harmed (known as the “notifier”) cannot be identified unless certain exceptions apply. Where a student protection report results in a criminal court proceeding, the report may form part of the prosecution’s evidence, therefore the staff member who made the report may be required to give evidence. Consequently, student protection reports must be completed in an impartial, accurate and factual manner.

## Information Sharing

Within the school, information should not be shared around student safeguarding matters with other staff members unless for a specific purpose under these processes, for example conferring with the Principal to determine whether a matter constitutes a reasonable suspicion of abuse or harm. Information may also be provided to staff members as part of ongoing support or risk management processes for a student.

There are a number of circumstances where a School Principal may be asked to share information, or be required to do so in order to support a young person and their family:

- Under Part 4 of the *Child Protection Act 1999*, the Department responsible for Child Safety may request information around a student who may need protection. Such requests should be in writing, and clearly specify what information is requested. The Principal should keep clear records around what information was provided in response and ensure that any information is accurate and factual.
- A Principal, as a ‘particular prescribed entity’ under the *Child Protection Act 1999* may share information with certain service providers to obtain support for a young person and their family. As best practice, any referral for support should be with the knowledge and consent of a young person’s parents or care- providers. However, a Principal may refer to service providers such as **Family and Child Connect** or **Intensive Family Support Services** without the prior consent of a parent or care-provider. These services will then seek the consent of the parent to engage them in providing support.
- Police may seek information from a Principal in relation to a law enforcement activity, for example in the investigation of a criminal offence, or in attempting to locate a missing young person. Again, the Principal should keep clear records around what information was provided in response and ensure that any information is accurate and factual.

## 9. Support and Referral Services

When young people and families receive support services early, it can avoid the escalation of concerns towards statutory intervention by the Department responsible for Child Safety or Police. Where a concern is identified that does not meet the threshold for a report to Department responsible for Child Safety or Police, or indeed where the outcome of a report is that no intervention by the authorities will occur, the Principal should consider any referral to appropriate support services:

### Family and Child Connect

Community-based intake and referral services, known as ‘[Family and Child Connect](#)’ have been established across Queensland to provide an additional pathway for referring concerns about young people and their families. Family and Child Connect provides information and advice to people seeking assistance for young people and families where there are concerns about their wellbeing, and can connect families to local services. Families can also contact Family and Child Connect themselves for advice and help

### Intensive Family Support Services

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In addition to Family and Child Connect, Intensive Family Support services are funded services that provide family support delivered under a lead case management model to address multiple and/or complex needs and assist families to build their capacity to care for and protect their children.

Intensive Family Support services include:

- Intensive Family Support
- Referral for Active Intervention
- Aboriginal and Torres Strait Islander Family Support Services
- Fostering Families.

Information around making a referral to these services can be found via the Department responsible for Child Safety [website](#). Particular information around information sharing provisions for Principals are detailed in [Section 7](#).

### Other referral options

In some cases, it may be desirable to refer a family to a specific local service in the community, particularly where the family’s needs are clearly identified. For example, a family may need financial or housing support. The Infoxchange website [Ask Izzy](#) provides useful information about support services.

### School based supports

There are several options to support young people at risk within the school environment that can be implemented in addition to any external referral, including:

- Referral to the school counsellor
- Engaging specific educational services to meet a young person’s needs
- Consideration of academic demands and providing flexible alternatives
- Identifying other school support staff, including pastoral care options and peer support
- Implementing risk management plans, particularly involving situations between students
- Providing protective behaviours education to young people, including safety planning

## 10. Understanding Inappropriate Behaviour by a Staff Member

For the purposes of these processes, staff inappropriate behaviour includes (though is not limited to) any behaviour, including words, towards a student that is contrary to what is required of staff members under the Code of Conduct.

Inappropriate behaviour by a staff member towards a student can be described in terms of *violations of professional boundaries*. These boundaries can be described as follows:

### Physical Boundaries

Exist to protect the body. Physical boundaries define appropriate physical contact between staff members and students in appropriate circumstances whilst respecting and responding to the physical needs of students

### Behavioural Boundaries

Exist to protect actions. Behavioural boundaries determine the appropriate behaviours expected of a staff member towards students, including respecting the rules of the Catholic School Authority or School.

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### Examples of Boundary Violations\*

\*See also The [Professional Boundaries: A Guideline for Queensland Teachers](#) as published by the QCT

Physical Boundary Violations	Emotional Boundary Violations	Behavioural Boundary Violations
<ul style="list-style-type: none"> <li>• pushing</li> <li>• pulling</li> <li>• grabbing</li> <li>• hitting</li> <li>• poking shoving</li> <li>• shaking</li> <li>• throwing</li> <li>• kicking</li> <li>• pinching</li> <li>• punching</li> <li>• using physical force to ensure a child cooperates</li> <li>• holding or restraining a child (unless in imminent danger of harm)</li> <li>• using an object (ruler, book, whiteboard marker) to manage a student</li> <li>• refusing biological necessities</li> <li>• applying painful or noxious conditions to a student</li> <li>• inappropriately touching or massaging a student</li> <li>• unnecessary or unwanted physical contact</li> </ul>	<p>Making inappropriate comments about a student and/or a student’s family by:</p> <ul style="list-style-type: none"> <li>• shaming,</li> <li>• embarrassing, humiliating</li> <li>• using sarcasm</li> <li>• making derogatory remarks belittling</li> <li>• teasing</li> <li>• unprofessional criticism</li> </ul> <p>Exerting power over a student through the use of:</p> <ul style="list-style-type: none"> <li>• intimidating behaviour</li> <li>• fear</li> <li>• threats</li> <li>• moral pressure</li> </ul> <p>Shouting at a student</p>	<p>Having inappropriate interactions with a student through:</p> <ul style="list-style-type: none"> <li>• inappropriate use of social media in relation to a student</li> <li>• phone calls emails or texts to the student’s personal email or phone</li> <li>• gift giving or showing special favours</li> <li>• sharing secrets with a student</li> <li>• disclosing inappropriate personal information to a student</li> <li>• inappropriate questioning of a student about personal and private matters</li> <li>• engaging in social activities with students (with whom there is not a declared personal relationship) outside school</li> <li>• driving students without appropriate authority</li> <li>• visiting students at home without appropriate authority</li> </ul> <p>Using unprofessional language:</p> <ul style="list-style-type: none"> <li>• swearing at or in the presence of a student</li> <li>• making otherwise inappropriate comments to or in the presence of a student</li> </ul> <p>Failing to follow a school’s behaviour support policy and procedures:</p> <ul style="list-style-type: none"> <li>• unreasonable, unfair and/or unjust disciplinary measures</li> <li>• the imposition of manifestly unreasonable expectations or excessive demands on a student</li> <li>• using inappropriate locations or social isolation outside of the school’s behaviour support guidelines as punishment</li> </ul> <p>Using a personal device or private email address to make contact with a student (with whom there is not a declared personal relationship or appropriate authority)</p> <p>Photographing a student other than for an appropriate professional reason Supplying substances to a student (e.g. unauthorised medication, tobacco, alcohol, illicit drugs)</p> <p>Exposing students to material that contains adult content or themes that is offensive or inappropriate to the age and/or maturity of the student</p>

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## 11. National Response Protocol

The Catholic Church has established a [National Response Protocol](#) to provide a framework for Church entities to offer a consistent response to children and adults who have been subjected to child abuse by Church personnel. Church personnel include clerics and religious, employees and volunteers currently or previously associated with a Church Authority or entity.

Queensland specific mandatory reporting requirements, as set out in the *Student Protection Processes for Queensland Catholic School Authorities*, will apply to Catholic School Authorities prior to the *National Response Protocol*.

If an individual seeks information concerning the *National Response Protocol*, a referral should be made to the Queensland Catholic Church Professional Standards Office at:

Phone: (07) 3324 3070

Toll Free: 1800 337 928

Email: [psqld@catholic.net.au](mailto:psqld@catholic.net.au)

PO Box 3264, Brisbane QLD 4001.

## 12. Historical Allegations

### Overview of response

From time to time a person may contact a school or Edmund Rice Education Australia/ Edmund Rice Education Flexible Schools to report an historical matter of abuse or harm that relates to a past student of EREA/EREA Flexible Schools. All staff members are required to report such historical matters to the Principal who in turn **must** report the matter to the CEO, EREA Flexible Schools Ltd (or delegate) who will determine the appropriate action to be taken.

#### CEO of EREA Flexible Schools Ltd (or delegate)

The CEO, EREA Flexible Schools Ltd (or delegate) will report historical allegations of sexual and/or physical abuse of past students of EREA Flexible Schools in the Queensland region to the Queensland Police Service and after confirming with the police inform the Director of the Office of Professional Standards Qld (*Towards Healing*).

Where the person against whom an allegation is made is currently an employee of EREA Flexible Schools Ltd, the CEO, EREA Flexible Schools Ltd (or delegate) will carry out a risk assessment in relation to the staff member's employment. EREA Flexible Schools Ltd should work closely with the Queensland Police Service and if/when their investigation concludes, determine whether an EREA Flexible Schools Ltd investigation needs to occur.

Where the person against whom the allegation is made is no longer an employee of EREA Flexible Schools Ltd, the matter should be referred to the Executive Director Christian Brothers Professional Standards Office or to the Director of the Office of Professional Standards Qld (*Towards Healing*).

In relation to historical complaints of harm other than sexual or physical abuse matters, where the person against whom the allegation has been made still works for EREA Flexible Schools, the matter should be addressed by EREA Flexible Schools. Where the person is no longer an employee of EREA Flexible Schools, the matter should be referred to the Director of the Office of Professional Standards Qld (*Towards Healing*), who can assist in assessing whether the information should be provided to the Queensland Police Service.

Where the staff member is a cleric or member of a religious order, or was a cleric or member of a religious order at the time of the alleged behaviour, the CEO, EREA Flexible Schools Ltd (or delegate) will ensure that the relevant

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church authority is informed without delay and that this action is documented. The CEO, EREA Flexible Schools Ltd (or delegate) will also inform the Director of the Office of Professional Standards Qld (*Towards Healing*) as soon as practicable.

**Referrals to external support services**

Where appropriate, the person may be referred to the Director of the Office of Professional Standards Qld (Towards Healing) or to other community-based support services appropriate to their needs.

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