

Managing allegations of sexual misconduct in SA education and care settings guideline

This guideline is a recommended course of action under the operational policy framework. Any edits to this guideline must follow the process outlined on the [creating, updating and deleting operational policies](#) page.



Managing allegations of sexual misconduct in SA education and care settings



Government of South Australia
Department for Education



Association of
Independent Schools
of South Australia

Acknowledgments

This document is very closely adapted from Chapter 15 of the *Royal Commission 2012–2013 Report of Independent Education Inquiry*. The adaptations give effect to recommendation 39 of the Report that the guideline be applicable to government, Catholic and Independent education sectors. Grateful acknowledgment is made of the advice provided by the Hon Bruce DeBelle AO QC in his drafting of Chapter 15, specifically his setting out of the application of various laws to the considerations to be made by education and care sites when responding to allegations of sexual misconduct by adults against children or young people.



A catalogue record for this book is available from the National Library of Australia

Title: Managing allegations of sexual misconduct in SA education and care settings

ISBN: 9780980547269 (paperback)

Name of publisher: Department for Education, South Australia

Publication date: December 2023

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FOREWORD

The South Australian government and non-government education sectors have jointly developed policies of a child protection nature since an agreement established in 2004. The policies and practices developed under that agreement help ensure that staff, children and parents can expect the same standards of child protection practice no matter which sector they access. This document joins that collection of guidelines and affirms that learning about child safety in education and care settings will continue to be shared across the government and non-government sectors.

This document is very closely adapted from Chapter 15 of the *Royal Commission 2012–2013 Report of Independent Education Inquiry*. The adaptations give effect to recommendation 39 of the Report that the guideline be applicable to government, Catholic and Independent education sectors. Grateful acknowledgment is made of the advice provided by the Hon Bruce DeBelle AO QC in his drafting of Chapter 15, specifically his setting out of the application of various laws to the considerations to be made by education and care sites when responding to allegations of sexual misconduct by adults against children or young people.

An important feature of these incidents is that they involve the concerted and coordinated efforts of a number of professionals from different agencies. For this reason, it is unlikely that a site leader will undertake responses to an incident of this kind in isolation from other professionals. Site leaders can expect a high level of support and advice from their relevant sector office.

Education and care settings are expected to be safe environments for everyone who attends them. A range of processes and systems are utilised by the education sectors to prevent unsuitable individuals from working or volunteering in those settings. As leaders of the education sectors, we strongly support the ongoing development of legislative schemes to enable the most thorough assessments of an individual's suitability to work or volunteer with children and young people.

However, the best screening schemes are unlikely to remove all possibility of an adult exploiting their role in order to offend against children or young people. Education and care communities can help in limiting this risk by recognising and reporting *all* inappropriate adult behaviour towards children and young people. The introduction that follows strongly reinforces this responsibility and outlines the place of this guideline alongside other child protection responsibilities.

Finally, allegations against adults of sexual misconduct towards children and young people are complex matters. This guideline cannot be assumed to provide the appropriate directions for every case. It does not cover the full range of circumstances that an education or care site will encounter when assessing whether an individual is suitable to work or volunteer with children and young people. Therefore, in any situation of this kind, it may be necessary to seek legal advice. Nevertheless, it is hoped that this guideline will provide general assistance by removing confusion about the matters to be considered and actions that may need to be taken at different stages when allegations of sexual misconduct are made. In doing so, it is hoped that the guidance will help reduce any additional trauma for the affected children, young people, families and staff.

Key updates have been made to this document in 2023 to reflect changes in legislation and policy, new court processes, relevant publications, and to update wording to align with contemporary standards.



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CONTENTS

FOREWORD	3
SECTION 1: Introduction	7
1.1 A note for site leaders	7
1.1.1 Associated responsibilities	7
1.1.2 Differences between the sectors	7
1.2 Purpose	8
1.3 Definitions	8
1.4 Scope	8
1.5 Sexual misconduct	8
SECTION 2: Legislative framework	9
2.1 Underlying principles	9
2.2 Mandatory notification	9
2.3 Prohibitions on disclosure of identity	9
2.3.1 Restrictions on publication of identity	9
2.3.2 Suppression orders	9
2.3.3 Avoiding defamation	10
SECTION 3: Managing allegations of sexual misconduct	11
3.1 Importance of note taking	11
3.2 Immediate action	11
3.2.1 Actions of site leader	11
3.2.2 Actions of sector office	13
3.3 Further action	14
3.3.1 Future employment/engagement of accused person	14
3.3.2 Counselling and support	14
3.3.3 Risk assessment	15
3.3.4 Informing responsibly	15
3.3.5 Monitoring court proceedings	19
3.3.6 Responding to the media	19
3.3.7 Reporting the outcome	19
APPENDICES	
Appendix 1: Checklist for site leaders	20
Appendix 2: Checklist for sector office	21
Appendix 3: Record of allegation	22
Appendix 4: Record of meeting	23
Appendix 5: Sample letters to parents	24
Appendix 6: Support and safety plan for child/young person	28
Appendix 7: Course of a criminal prosecution	31
Appendix 8: Relevant legislation	34

SECTION 1: Introduction

1.1 A note for site leaders

Managing an allegation of adult sexual misconduct is a highly complex task for a site leader to face. This guideline document is designed to provide site leaders, their parent community and their respective sector offices with improved clarity about the actions to be taken and matters that require considerations at each stage. It is important to remember that the obligation to report and respond to allegations of sexual misconduct applies irrespective of whether the accused person is still working, volunteering or undertaking a role in connection to an individual site. The person may have moved, resigned, taken leave, or may be deceased. The obligation to report and respond remains.

In managing situations of this kind, site leaders can assume that sector office decisions impacting their school or care community will be made consultatively and that their local knowledge and professional judgment will contribute to those decisions. They can also assume that they will be kept informed of new information as it becomes available and of relevant actions undertaken by others. No two cases will be identical so matters such as whether and when to send a letter to parent communities, who signs letters, the content of letters or the facilitation of a parent meeting may differ in every circumstance and will always require consultation. Site leaders of Independent schools should expect the same kind of collaboration with those from whom they seek support.

The information in Section 3 and the checklists provided as Appendices 1 and 2 give site leaders the scope and general sequence of actions they and their sector office will need to undertake. At the time parents of a victim are informed that a matter of this kind is being managed, they should also be informed that this guideline will be followed. If and when other parents are informed of the matter, they should also be advised that the guideline is being followed.

1.1.1 Associated responsibilities

This guideline is closely linked with two other intersectoral child protection policies summarised below. The role of these two policy documents in helping prevent inappropriate adult conduct and in contributing to safe environments **cannot be over-emphasised**. Both documents are incorporated in the mandatory staff training used by the three sectors. However, it is assumed that site leaders routinely refer to these documents as part of their site-based professional development programs. Copies of both documents should be held in all education and care sites and can be downloaded from each sector's website.

Protective practices for staff in their interactions with children and young people

The Protective Practices document outlines the professional boundaries within which all staff members are expected to operate in their relationships with children and young people. Meeting the requirements outlined in Protective Practices is critical to helping prevent the circumstances of adult sexual misconduct. The Protective Practices policy requires all staff to act if they observe or are told about adult behaviour that represents a breach of a professional boundary. This point cannot be overstated: 'It is not acceptable to minimise, ignore or delay responding to such information. For the wellbeing of all members of the education or care community, the site leader must be informed as a matter of urgency ...' (p 14).

Immediate actions in response to inappropriate behaviour may enable more serious underlying behaviour to be identified, and may prevent sexual misconduct. The more vigilant and transparent an education or care community is in complying with the Protective Practices document the more likely it will be that sexual misconduct can be prevented—through early identification, intervention, and deterrence.

Sexual behaviour in children and young people – procedure and guideline

This procedure and guideline is to be followed when responding to sexual behaviour. The responsibilities staff members have in these circumstances are significantly different from those involving allegations of sexual misconduct by adults. They reflect the different rights and needs of children and young people and the different legislation within which staff must operate. The guideline applies to and is available in all sectors.

1.1.2 Differences between the sectors

One significant difference between the three sectors' implementation of this guideline is in the seeking of **legal advice**. In the government and Catholic sectors, seeking legal advice will occur through the respective sector office. An Independent school can seek legal advice on its own behalf. Generally, the different responsibility that is carried by the site leader and governing authority of an Independent school is identified, wherever appropriate, throughout the guideline and in the definition of 'sector office' in Section 1.3.

1.2 Purpose

This guideline document:

- Informs leaders in education and care settings of the procedures for managing and reporting allegations of sexual misconduct at an education or care site.
- Ensures that parents are informed at the appropriate time of allegations of sexual misconduct by an adult against a child or young person enrolled or previously enrolled, where relevant, at an education or care site.
- Assists parents to understand the process that is followed in managing allegations of sexual misconduct by an adult against a child or young person enrolled or previously enrolled, where relevant, at an education or care site.
- States the respective duties of site leaders and sector offices in managing allegations of sexual misconduct at a site.
- Provides a transparent policy that enables early intervention, effective management and provision of the support required in these complex and serious matters.

1.3 Definitions

‘accused person’ means a current or past employee of an education or care site or any other adult who has a connection to a site against whom allegations of sexual misconduct have been made

‘an adult who has a connection to a site’ means and includes current and past employees of the education or care site; current and past volunteers, contractors, professional service providers, other paid education and care participants, governing authority members, and tertiary students and supervisors; and any adult who has engaged with children and young people enrolled at the site

‘CARL’ means Child Abuse Report Line

‘child or young person’ means persons up to the age of 18 years and includes young adults with developmental disabilities attending education settings

‘governing authority’ means a site or service’s Governing Council or School Board

‘parent’ means and includes natural parents, step parents, foster parents, guardians, grandparents and any other relative or other person caring for a child

‘relevant time’ means the relevant time as defined in section 71A(5) of the *Evidence Act 1929*, provided in Section 2.3.1 below

‘sector office’ in this document means the policy, legal, case management support and/or direction provided through the:

- central office of the South Australian Department for Education
- central office of Catholic Education South Australia
- Office of the Association of Independent Schools of South Australia

Note: The relationship between sites and their sector offices differs. It may be one of direct governance and accountability or a partnership in which the individual site retains ultimate responsibility with its governing authority.

‘site’ means a school; preschool; children’s centre; a junior primary, primary, secondary or senior secondary school; an Out of School Hours Care service; and the home of a Family Day Care provider

‘site leader’ means the principal or director and any other person who has ultimate responsibility for the welfare of children and young people on that site

‘staff’ means all adults who have a duty of care to children and young people at the site and includes volunteers

‘victim’ means the child or young person against whom an act of sexual misconduct by an adult who has a connection to a site has been alleged

1.4 Scope

The procedures in this guideline apply to allegations of sexual misconduct made against any adult who has a connection with the site where the allegations affect the suitability of that adult to work or volunteer with children and young people.

These procedures apply to allegations of sexual misconduct where any of the following situations exist:

- the allegation is disclosed at or off the site
- the incident is alleged to have occurred at or off the site
- at the time of the alleged incident, the victim was or was not in the direct care of the site.

This guideline applies only to allegations of sexual misconduct by an adult against a child or young person. For incidents involving sexual harm between children and young people, please refer to *Sexual behaviour in children and young people procedure and guideline*, available at each site and located on each sector’s website.

This guideline is not intended to apply to instances where the alleged conduct is by an adult student. However, it might be a useful guide in such instances on a case-by-case basis.

1.5 Sexual misconduct

Sexual misconduct may take many forms. It includes, but is not limited to, sexual assaults of all kinds and other forms of unlawful sexual behaviour including such offences as being in possession of child exploitation material and acts of gross indecency. A sexual assault ranges from indecent assault through a number of offences to rape.

*Note: This definition is provided for general information. It is not necessary for staff to determine whether an alleged behaviour is sexually motivated. It is simply necessary that staff report **all** inappropriate behaviour as per the Protective Practices guidelines. Those guidelines identify any behaviour of a potentially sexual nature between an adult and a child or young person as a breach of professional conduct. In meeting that reporting obligation, it is then the site leader’s task to consult with their sector office regarding all allegations so that the appropriate response is made at all times.*

SECTION 2: Legislative framework

2.1 Underlying principles

Teachers and site leaders owe to the children and young people in their care a duty to take reasonable care to protect them from a reasonably foreseeable risk of harm or injury. That duty is not necessarily confined to events on the site or during site hours. In addition to observing sector policy, staff must comply with a number of statutory duties or obligations.

Note: Appendix 8 provides links to relevant legislation.

2.2 Mandatory notification

Section 31 *Children and Young People (Safety) Act 2017* (SA) imposes a duty on employees and volunteers in education and care settings to notify the Child Abuse Report Line (CARL) if, in the course of their work, they suspect on reasonable grounds that a child or young person is, or may be, at risk. The child or young person will be taken to be at risk if the child or young person has suffered harm or there is likelihood that the child or young person will suffer harm (being harm of a kind against which a child or young person is ordinarily protected). In practical terms, the duty to notify the Department for Child Protection is a duty to notify the CARL on 131 478 or via online notification (eCARL).

If an allegation is made to staff, or the staff member has a suspicion on reasonable grounds that a child has been or is being abused or neglected, the staff member must notify CARL as soon as practicable after a suspicion is formed or the allegation is learned. It is an offence to fail to do so.

All staff members in government, Catholic and Independent schools are required to undertake training in their child protection responsibilities, both when they are first employed and every three years thereafter. This training is jointly developed by the three education sectors and describes this responsibility in detail.

An outline of the process for documenting mandatory notifications in education and care settings is provided at <<https://www.education.sa.gov.au/schools-and-educators/child-protection>>.

2.3 Prohibitions on disclosure of identity

2.3.1 Restrictions on publication of identity

When a person has been, or is about to be, charged with a sexual offence, it is necessary to comply with the legal obligations imposed by section 71A of the *Evidence Act 1929*. Section 71A restricts publication of the identity of the alleged victim and of the alleged offender who, in this guideline, will be called ‘the accused person’.

Where the alleged victim is a child or young person under the age of 18, the name of the alleged victim or anything that might identify the victim can never be published. Therefore, care must be taken to ensure that nothing is said or published that might identify the alleged victim.

The name of the accused person can be published only after the ‘relevant time’, and only if there are no suppression orders in force (see section 2.3.2 “suppression orders”). Section 71A(5) defines ‘relevant time’ as follows:

relevant time means

in relation to a charge of an offence, means the time at which the accused person’s first appearance in a court (whether personally or by counsel or solicitor) in relation to the charge is concluded.

Appendix 7 to this document gives a brief outline of the steps in a criminal prosecution.

2.3.2 Suppression orders

Suppression orders are made by a court pursuant to section 69A of the *Evidence Act*. A suppression order is an order forbidding publication of whatever is the subject matter of the order. The order will state that it forbids publication of the subject matter of the order. For example, the order might read:

The name or anything tending to identify the accused be suppressed from publication in the interests of justice until further order.

A suppression order is not a statement made by a judge or magistrate that he or she does not intend to name a person or a school in order to protect the victim.

Before sending a letter to parents, the relevant sector office should inquire of the Registrar of the relevant court whether a suppression order exists. If an order exists, the sector office should examine the terms of the order and consider whether the order forbids the kind of letter under consideration. If there is any uncertainty about what is prohibited, legal advice should be sought.

It is still possible to give some information to staff, the governing authority and parents while complying with these restrictions. Section 3 of this guideline provides advice as to how and when that information is to be provided.

2.3.3 Avoiding defamation

When allegations of sexual misconduct have been made, care must be taken to avoid stating anything that might defame the person against whom the allegations have been made. If a site wishes to send a letter before a person has been charged with an offence, it is desirable to obtain legal advice as to the terms of the letter to ensure that nothing is said that defames that person. If that person has been charged by way of arrest or summons, it is lawful to state that fact but nothing should be said that would suggest the person is in fact guilty of the alleged misconduct.

SECTION 3: Managing allegations of sexual misconduct

Allegations might be made against a member of the teaching staff, administration or other support staff, employees of a governing authority, volunteers, or against an adult who has a connection to a site. In most cases, the steps to be taken by the site leader will essentially be the same.

It must be emphasised that these are guidelines only. The manner in which a site will learn of allegations will vary. Different circumstances may require a variation of the sequence of these actions. It is not possible to draft guidelines that will address every possible variation of fact. The fundamental steps that should always be observed are to notify immediately:

- SA Police
- Child Abuse Report Line
- parents of the victim, unless a parent is the accused person, and with due regard for the victim's wishes
- the relevant sector office.

3.1 Importance of note taking

Memories fade and recollections of events will be difficult at a later date when site leaders or members of staff are asked to recall events or conversations.

It is essential that site leaders and all other members of staff involved keep a written record of all conversations relating to the allegations. The notes should, if possible, be made in the course of the conversation or immediately after. In addition, site leaders and other members of staff should complete the 'Record of allegation' and 'Record of meeting' forms contained in Appendices 3 and 4. They can be downloaded from the sector's website. These forms should be completed in addition to the site leader's own notes of conversations.

Staff and volunteers should be aware that they may be called to give evidence in court proceedings. Contemporaneous notes will then be very helpful in assisting the recollection of events and conversations. It is also important to be aware that notes may be subpoenaed for court proceedings and, therefore, should be completed in a legible and professional manner.

The notes and forms should be placed in a file marked 'Confidential' and held in a secure place or location. The only person with access to the file should be the site leader or the site leader's delegate. The site leader will provide this documentation to the sector office, if required by that office.

3.2 Immediate action

Allegations of sexual misconduct might be made either to the sector office or directly to a member of staff at the site or to the site leader. The allegations may be made by a child or young person, a staff member, a parent, a volunteer or a member of the public. On other occasions, the first knowledge that either the sector office or anyone at the site has of the allegations is when police state that they are investigating or have charged a person by way of arrest or summons with a sexual offence.

The following is a list of the steps that should be taken by the site leader when allegations of sexual misconduct have been made. Which step a site leader begins with will vary according to whether the site leader is responding to the allegation 'first hand' or acting on information and instructions from the police or the sector office. Nevertheless, all the steps are important and need to be attended to immediately. The site leader has responsibility to undertake or, if tasks are undertaken by others, to oversee and confirm the execution of all the steps. Some steps can be taken simultaneously and most will be undertaken through consultation with, or by direction from, police and the sector office.

3.2.1 Actions of site leader

Reminder: The steps outlined are not necessarily sequential (see above).

Step 1: Obtain medical assistance for child or young person if required

The site leader should attend immediately to any medical treatment that the victim might require and attend to the victim's emotional needs in all ways appropriate until they are in the care of parents.

Step 2: Receive report of allegation

If an allegation of sexual misconduct is made to a member of staff or a volunteer at the site, it should be reported to the site leader immediately. The member of staff or the volunteer to whom the allegation is reported should record the allegations on the form in Appendix 3.

If the allegation involves the site leader, the report should be made to the relevant sector office or, in the case of an Independent school, the chairperson of the governing authority.

Step 3: Report to SA Police

Once the site is aware of an allegation of sexual misconduct, the site leader must immediately report the allegations to police on 131 444. If the site leader is the person against whom the allegation is made, it is the sector office (or governing authority of an Independent school) that has responsibility to make this report to police.

During this report, the site leader should seek and note SA Police's immediate advice on:

- restricting the staff member's access to children and young people (very important to executing step 7)
- preservation of evidence
- contact with parents of the victim
- police contact number to provide to parents of victim.

This will help inform the strategy discussions that the sector office, the site and police will undertake. Site leaders should expect that police will not normally interview children or young people at a site except as a matter of urgency or immediate necessity. In the ordinary course, children and young people should be interviewed at a place nominated by police that is off-site.

Step 4: Notify the Child Abuse Report Line

The site leader should, as soon as practicable, notify CARL on 131 478 or via online notification (eCARL) and ensure the report is documented using the mandatory report form used by the relevant education sector and securely stored in the site leader's file.

Step 5: Preservation of evidence (if applicable)

The site leader should immediately take basic steps to secure the place where the alleged offending occurred, if that is on the site, until police arrive. An example is blocking access to the site's network if an allegation regarding child exploitation material is made, or locking the room in which an incident is alleged to have occurred. Electronic material of any kind **must not be deleted** but must be quarantined as far as practicable for handover to SA Police. The police will properly secure the crime scene on arrival. The site leader should seek advice from police on this issue when making the initial report.

Step 6: Inform the sector office and establish who will be assisting

The site leader should inform the relevant sector office and establish who will be assisting the site (eg a nominated case manager) in its management of the allegation and begin discussions immediately regarding the steps below.

Step 7: Preventing access to children and young people

When it is necessary to prevent the accused person from having any further contact with children or young people at the site, the site leader should take steps to prevent the accused person from attending the site.

In some circumstances, the sector office or SA Police may ask the site leader not to indicate to the accused person that an allegation has been made until SA Police are able to complete their own preparations. The site leader will discuss with the sector office the most appropriate plan to either re-direct the individual from their teaching or care duties or to allocate another adult to the teaching or care situation in order to provide supervision until the end of the day. Each situation will provide different options and challenges for site leaders and their sector office to consider in managing this situation.

The responsibility of SA Police and the relevant education sector to work together in managing this circumstance is outlined in the *Interagency Code of Practice – Investigation of suspected harm to children and young people*.

Step 8: Inform parents of victim

Unless a parent is the accused person, the site leader should immediately seek the approval of SA Police to inform the parents of the victim of the allegations if the parents are not already aware. This should be done in a sensitive manner, taking into consideration the victim's wishes. Information about counselling services and support for the victim and family should be provided at this time.

When the victim is a child under the Guardianship of the Chief Executive, Department for Child Protection, the Chief Executive and their delegates are responsible for case management and planning for the safety, care and wellbeing of that child or young person. The Department for Child Protection has the additional responsibility to advise the Guardian for Children and Young People about sexual abuse involving children under the Guardianship of the Chief Executive Department for Child Protection. For these reasons, it is essential that the social worker is immediately informed so the special circumstances of the child or young person can be properly considered and managed.

Step 9: Inform the accused person of their immediate work requirements

In consultation with the relevant sector office and SA Police, the site leader should communicate which leave/employment/contract options are appropriate and available for the accused person. These will vary across the three sectors but the intent is that the accused person does not attend the site while an investigation proceeds.

Step 10: Complete sector specific reporting requirements

These reporting requirements vary across the three sectors:

- Department for Education: critical incident report system and Education Director
- Catholic Education SA: critical incident report through the relevant Schools Performance Leader
- Independent schools: school-based procedure.

Step 11: Document all information/discussions/observations

The template provided in Appendix 3 should be used to document all information, discussions and observations relating to the incident. They should be signed, dated and placed in a confidential, secure site leader's file and provided to the sector office as required.

3.2.2 Actions of sector office

Step 1: Liaise with SA Police

Under the Interagency Code of Practice, SA Police will provide the relevant sector office with the following information:

- the name, date of birth and address of the person who has been apprehended for offences by way of arrest or report
- details of the offences for which the person has been apprehended as set out in the charge sequencing report
- the conditions upon which the accused person has been bailed by police or the courts after being arrested, or upon appearing in court after being summoned on the basis of a police report
- the court bailed to and the date of the first court appearance
- the school or schools involved
- whether there is a reasonable suspicion that there might be other victims
- whether there are any complicating factors that would affect disclosure to parents
- the contact details of the investigating officer
- whether the offence is a major indictable offence, a minor indictable or a summary offence
- if apprehended for a class 1 or 2 offence prescribed under the *Child Sex Offenders Registration Act 2006* (the 'Act'), confirmation that the accused person has been served a notice under section 65(A) of the Act
- if served with an intervention order, any conditions in relation to any communication or facilities the accused person is not to approach or attend.

Step 2: Create a central file and appoint a case manager

The sector office, through its relevant divisions or personnel, will ensure that a central file is established and that a case manager is identified to support the site in its management of the allegation. In an Independent school, this will be the responsibility of the school principal.

Step 3: Assist the site in establishing appropriate leave for the accused person

The sector office will assist the site leader to manage these arrangements. It will ensure that the accused person is directed not to attend the site but it will assist the accused person to have personal materials delivered to them that have been approved by SA Police as appropriate.

In an Independent school, this will be the responsibility of the school principal.

Step 4: Check that all immediate responsibilities have been met

The sector office needs to check that the immediate responsibilities of the site have been met; for example:

- contact with parents
- contact with a social worker if the alleged victim is under the Guardianship of the Chief Executive, Department for Child Protection
- provision of counselling
- report to the Child Abuse Report Line
- documented notes and secure file established.

In an Independent school, this will be the responsibility of the school principal.

Step 5: Alert others as required

This responsibility varies across the three sectors but will include, as appropriate:

- relevant Minister (confirmed in writing)
- relevant Chief Executive/Director
- chairperson of the governing authority
- other education sectors, as per the Intersectoral Information Sharing Protocol
- Education Standards Board in the case of early childhood and care settings
- any other agency/organisation where risks to children's or young people's safety are identified.

Step 6: Alert media unit

The sector office should alert its media unit or advisor as appropriate:

- Department for Education: 8226 7990
- Catholic Education SA: 8210 8147
- Association of Independent Schools of South Australia: 8179 1400.

Step 7: Collate notes

The sector office should ensure that the site leader and other staff have made notes of any relevant events and conversations, using the record templates provided as Appendices 3 and 4, and ensure copies are placed on the sector office's central file.

In an Independent school, this will be the responsibility of the school principal.

3.3 Further action

As soon as the sector office has satisfied itself that the steps listed in Section 3.2 'Immediate action' have been carried out, liaison should occur with the site in considering the following:

- the future employment of the accused person
- providing counselling and support
- undertaking a risk assessment
- responsibly giving out appropriate information.

The previous section (Section 2 Legislative Framework) outlines actions that must be taken immediately. The tasks under this 'further action' section should be undertaken as promptly as possible without compromising the consultation, risk assessment and information gathering that is required for those tasks to be undertaken appropriately. It is understood that maintaining an unqualified focus on the protection of children and young people will mean varying lengths of time are taken to complete the required actions. However, the guiding principle for sites and sector offices is that all the steps outlined in Section 3.3 must be maintained as priority actions and shown to be so by the records kept.

3.3.1 Future employment/ engagement of accused person

Where the accused person is a staff member, the site leader should consult the relevant sector office to ascertain whether the accused person can be suspended from duty pending the outcome of the investigations.

If the accused person is a volunteer, the services of that person should be terminated immediately.

If the accused person is a contractor, legal advice should be obtained whether the contract can be terminated.

If the accused person is an employee of the governing authority, the site leader and the governing authority should seek advice from the sector office on suspending that person.

In the event of the charges being withdrawn or in the event of an acquittal, the sector office should inform the site leader about what is to occur in relation to the future employment of the accused person.

In an Independent school, this will be the responsibility of the school principal.

3.3.2 Counselling and support

Appropriate support should be provided as required to:

- the victim and their parents
- other children or young people and parents of the school or care community
- staff members
- relatives of the accused person who are employees or enrolled students at the site or in the sector and who identify their needs.

Generally speaking, that support will be in the form of counselling.

Victim and victim's parents

The site leader should meet with the parents of the victim to discuss continuing support. Details of counselling services with contact numbers should be provided to the victim and their parents as part of this first meeting. The site leader should ensure that a written record of the meeting is made. A sample is provided as Appendix 4.

Over the following days, a support and safety plan should be finalised covering all aspects of the victim's and the family's ongoing needs and agreed actions (see Appendix 6). Copies of the plan, and all updated versions, should be provided to the victim and the family. A copy of the plan/s should also be provided to the sector office as required. The verbal offer of counselling to the victim and the family should be followed by a letter re-stating the offer and the specific service options. If these services have been taken up by the victim and the family and recorded as part of the support and safety plan, the letter should simply confirm those agreed arrangements and attach the support and safety plan. The site leader should consult with the sector office on drafting this letter.

The site and the sector office must continue to monitor the wellbeing of the victim and their family through regular reviews of the support and safety plan. Particular attention must be given to significant dates where court proceedings are likely to prompt further stress and emotional burden.

Other children or young people and parents of the school or care community

The nature of the support or counselling that may be appropriate for other children or young people and parents in the school or care community will vary depending on the circumstances of each incident. If the risk assessment indicates the appropriateness of informing a wider group of parents then, generally speaking, the same services as outlined above should be offered. This may happen via a letter, face-to-face meeting or small-group meeting, as appropriate. These actions will be undertaken in consultation with SA Police, the sector office and an appropriate provider of such counselling, for example Child and Adolescent Mental Health Services. Copies of letters and records of meetings must be stored with the site leader and provided to the sector office as required.

Staff members

Staff members may be profoundly impacted by sexual misconduct allegations. Consideration must continue to be given to the wellbeing of staff, particularly those who were in some way associated with the accused person (eg co-class teachers, friends, relatives), and to the site leader on whom the additional burden of ultimate responsibility for the safety of the site rests.

Particular care should be taken in explaining the restrictions that may be placed on the accused person to staff who are friends of the accused. Individual staff members may need specific help in knowing how to respond to requests for emotional or other support from the accused person without complicating their own obligations at the site or unwittingly complicating matters for the accused. It is reasonable and important that staff members are able to offer emotional support to others and that accused persons have access to the support of friends. However, staff will need clear guidance on how to respond to particular requests such as acting as a witness. Site leaders should seek sector office support in clarifying the advice they give in these circumstances.

As with any other kind of serious critical incident, the site or sector office may need to deploy additional personnel to the site to ensure that it can operate without placing staff wellbeing or the care of children and young people at risk. Staff members may not immediately appreciate the impact on their wellbeing so reminders about the availability of the relevant sector counselling service should be given to staff on a number of occasions in the weeks or months that follow. Important events such as the outcome of court proceedings can trigger new points of stress and need which the sector office must anticipate and monitor.

Relatives of the accused person who are employees or enrolled students at the site or in the sector

A sensitive plan of support may need to be developed with and for relatives of the accused person who make their needs known to the site leader or sector office. Each circumstance will differ but the site leader and sector office will need to consider the best ways to support relatives who identify their needs, including the provision of counselling and the option of alternative placements if requested.

In some instances, relevant information may need to be shared between the sector office and site leaders so that appropriate monitoring of an employee's or enrolled student's safety and wellbeing is maintained. The impact on relatives of media coverage or letters to the community should be anticipated and protected against wherever possible. The details of support plans for relatives should be provided to the sector office as required and filed by the site leader.

3.3.3 Risk assessment

A risk assessment will be made by the relevant sector office in consultation with the site leader and will draw on information provided by SA Police. In an Independent school, this will be the responsibility of the school principal. The risk assessment will consider whether there is a reasonable suspicion that there might be other victims and the most appropriate way of addressing that risk through informing identified people. Where necessary, the relevant sector office or Independent school principal should consult experts.

The risk assessment should consider relevant factors, including:

- the nature of the offending
- the circumstances in which the offending occurred
- the place or places where the offending occurred
- the age and gender of the victim
- the age and gender of the accused person, whether the accused person had regular and frequent contact with other individual children or young people, or a group or groups of children or young people, and the nature and circumstances of that contact
- the opportunities that were available to the accused person on which to offend against other children or young people.

3.3.4 Informing responsibly

Although the publication of the name of the accused person generally to the public may be forbidden, either by suppression order or by section 71A of the Evidence Act before the first court appearance, it is proper for those with a legitimate interest in the matter to be informed of the alleged offending. Those who have a legitimate interest in the offending are the staff at the site, the members of the governing authority of the site and parents of children or young people who are likely to have been in contact with the accused person.

As considerable care must be taken when informing staff, the governing authority and parents of the incident, site leaders and sector offices should follow the advice below.

It is necessary to consider the question of providing information at three stages. They are:

1. when no more is known than what is contained in the allegations
2. after the accused person has been charged by way of arrest or summons
3. after the accused person has appeared in court (whether personally or by counsel or solicitor) in relation to the charge.

Note: As with all other parent communications, site leaders should ensure that, wherever required, letters are translated and interpreters are available at meetings. Written communications should be marked 'Confidential' and signed either by the site leader or a senior official of the relevant sector office. The decision about who signs letters will be taken consultatively and will respond to the unique circumstances of each case.

Stage 1: When allegations only are known

Informing staff

It might be necessary for the site leader to make arrangements to replace the accused person who has been placed, for example, on special leave, and to make other consequential administrative arrangements. The site leader is at liberty to inform the staff involved in the administrative arrangements of the allegations but should not inform other staff at that stage. Those staff members who are informed of the allegations should be asked to keep the information confidential and if contacted by the accused person they should not discuss the allegation. Other staff members should be told that the member of staff will be on leave using a neutral term applicable to processes utilised in the relevant sector.

Once the decision of the relevant sector has been taken to suspend the accused person, the site leader should call a staff meeting and inform all staff that the accused person has been suspended.

It might be necessary to state that the accused person has been suspended because their conduct is being investigated but nothing should be said that might indicate that allegations of sexual misconduct had been made against the accused person.

Staff should be informed that the accused person is not allowed on the site and if the accused person is seen at the site to report it to the site leader. See Section 3.3.2 regarding support for staff in managing this circumstance. Staff should be instructed to keep the information confidential and to refer any parents with questions to the site leader (see section on managing rumour, misinformation and curiosity below).

Staff members should be instructed that, if they have any information that will assist the police investigation, they should contact police and provide that information. If that information is relevant to the safe operation of the site, it should also be provided to the site leader. If the identity of the victim is known and consent is obtained from the victim or the victim's parents, specific staff members such as the victim's class teacher or school counsellor may be told who the victim is on a confidential basis in order to provide appropriate support for the victim.

Informing governing authority

The members of the governing authority should be informed by the site leader. They should be given the same information as staff, namely, that the accused person has been suspended until further notice and that the accused person has been directed not to attend the site. They should be asked to keep the information confidential and to refer any questions from parents to the site leader.

Informing parents

Generally speaking, while allegations are being investigated, it is not appropriate to inform parents of those allegations. The allegations might prove to be false, may not be substantiated, or there may be insufficient evidence to warrant criminal proceedings. A letter that named the accused person and reports what are no more than allegations has a real potential to be defamatory. As a general rule, the site should not, therefore, inform parents of allegations.

Generally speaking, if there is an occasion when it is necessary to send a letter to parents referring to allegations, for example as a means of managing serious and harmful misinformation, that letter should not name the person against whom the allegations have been made. Legal advice through the sector office should be obtained before sending such a letter. It will be necessary, also, to consult SA Police.

Managing rumour, misinformation and curiosity

In some cases, sites can anticipate that discussion will occur within their parent community once a member of staff has been suspended. It is appropriate that staff be provided with instructions for dealing with potential queries or comments. That instruction should be to refer all inquiries to the site leader.

If an inquirer asks the site leader why the suspended person is no longer at the site, the site leader should give the inquirer an answer that is as neutral as possible and one that does not disclose the nature of the alleged offending. One example of an appropriate answer is 'The person has been suspended. I am sorry I cannot give you any further information at this stage. As soon as I am in a position to do so, I will let you have more information'. If the inquirer persists, the site leader should do no more than state that the person has been suspended because their conduct is being investigated by police and more information will be given when the outcome of the police investigation is known.

Staff members should also be instructed to alert the site leader immediately if they become aware of accusations or threats by community members that pose risks to the safety or wellbeing of individuals or the broader site community. The site leader should consult with the sector office and SA Police about the best course of action. In some circumstances, this may prompt the need for a letter to the whole community. However, as stated above, this should occur only through consultation with the sector office and SA Police and legal advice must be sought.

The prompt actions of the site leader and sector office in facilitating all of the actions required in this guideline will help prevent rumour and misinformation in the community.

Stage 2: After accused person has been charged by way of arrest or summons

Informing staff

An accused person is 'charged' with an offence once a charge has been laid before the court. This can occur by way of arrest by police, or after an accused person has been reported by police and summonsed to attend court.

If a person has been reported by police and has not received a summons to attend court, refer to Stage 1.

Following the arrest or charging of a member of staff, the site leader should convene a meeting of staff for the purpose of:

- informing them that a member of staff has been arrested and to name that person and the offence
- informing them of changes to staff required by the absence of the accused person
- informing them that the accused person is not permitted on the site
- asking staff to inform the site leader if the accused person is seen at or near site grounds so that the site leader may take appropriate action
- informing them that, if they have any information that will assist the police investigation, to report that information to police and to the site leader if relevant to the safe operation of the site
- informing them that if they are contacted by the accused person they should not discuss the allegation.

Staff should also be instructed to keep the matter confidential in order to protect the confidentiality and identity of the victim and also instructed that it may be an offence to publish any material identifying the accused person at this stage of the criminal proceedings.

See Section 3.3.2 regarding advice for staff members in managing their contact with or support of the accused person.

If new staff join the site, the site leader should give the same information to those new members of staff. Information should be given to a relieving teacher only if that teacher will be teaching the victim.

If the identity of the victim is known and consent is obtained from the victim or the victim's parents, specific staff members, such as the victim's class teacher or school counsellor, may be told on a confidential basis who the victim is in order to provide appropriate support for them.

Informing governing authority

The most suitable means by which to inform the governing authority is at an extraordinary general meeting called for that purpose. The site leader is at liberty to inform members of the governing authority of the same facts as revealed to staff members. Governing authority members should be given the same instructions regarding the requirement to maintain confidentiality and to inform SA Police and the site leader of any information relevant to the safety of the site.

The site leader should also advise the governing authority of parent communications (see below). Wherever practicable, this advice should be given ahead of the communications occurring.

Informing parents

The manner in which information is given to parents and the kind of information given to parents will depend on the result of the risk assessment (see Section 3.3.3).

Particular care must be taken when informing parents of the fact that a staff member has been arrested and charged with an offence. Parents will be advised either by letter, email or at a meeting, as described below.

Letters

As a general rule, the accused person should not be named in a letter to parents before the relevant time. The letter must be sent as soon as reasonably practicable. There is no one letter that will be suitable for all occasions. With the assistance of the sector office, the site leader will have to prepare a letter suitable to the occasion in question.

Before finalising the contents of the letter with the site leader, the sector office must consult with police as to the timing and content of the letter.

The letter to be sent to parents should have regard for the following five factors:

- the presumption of innocence
- the fact that section 71A of the Evidence Act restricts publication of the name of the accused person before the 'relevant time'. If, contrary to the recommendation in this guideline, it is decided to name the accused person in a letter to parents, legal advice should be taken as to whether the letter is permitted by section 71A
- the fact that a person who receives the letter might distribute it or post it on a website or social media
- the fact that the name of the accused person can lawfully be published after the 'relevant time', in accordance with section 71A of the Evidence Act
- whether a suppression order has been made by a court.

The purpose of a letter is twofold: to inform parents of the fact that a person connected to the site has been charged by way of arrest or summons with a sexual offence and to state whether there is any concern for the safety and welfare of children and young people other than the victim.

The letter should be sent by post or email as per the sector's or site's established process. It should not be sent home with the child or young person. It should not be posted on the site's noticeboard or published in a newsletter. It is strongly recommended against placing these communications on any social media or internet platform.

No other victims

If the result of the risk assessment is that there is no suspicion that there might be other victims, a letter should be sent to all parents at the site stating that fact.

The letter should inform parents that a person connected to the site has been arrested and/or charged and the offences with which they have been charged. The letter should not name the accused person if their identity is prevented from publication by section 71A of the Evidence Act or by suppression order. An example of this type of letter and a list of the topics the letter should contain are set out in Example 1 of Appendix 5.

Reasonable suspicion of other victims

Where the risk assessment has determined that there is a reasonable suspicion there might be other victims (see Section 3.3.3), the relevant sector office will consider the most appropriate way to inform parents of children or young people who are likely to have been in contact with the accused person. This should occur in consultation with the site leader, based on information and advice from SA Police.

Contact with parents may occur in writing, by telephone, or through individual or group meetings. Any written communication to parents should not name the accused person if their identity is prevented from publication by section 71A of the Evidence Act or by suppression order.

Parents may be given further information and instruction verbally that cannot be given in a letter. The site leader may name the accused person and answer any questions parents might have. The site leader should ask parents to treat the information as confidential. Parents can be told that the identity of the accused person is prevented from publication by section 71A of the Evidence Act or by suppression order (where applicable).

It is also recommended to encourage parents to treat the information as confidential by stating that it is in the interests of the victim and the victim's family to keep the matter confidential. It should also be stressed in the discussions that nothing should be said or done that might identify the victim.

If it is determined to inform parents at a group meeting, such a meeting should be planned with and attended by a qualified and experienced expert, such as a psychologist, with experience in assisting children who have been victims of abuse and who would be able to answer any questions parents might have.

Parents should be provided with appropriate information and advice on how to deal with any disclosures made by their child. This may include information that deals with such matters as informing parents of the kind of behaviour that is indicative of a child having been the victim of abuse, the appropriate way to provide opportunities for the child or young person to talk about what has been a traumatic

experience, and how to support the child or young person and manage the situation.

The information and instruction should be directed to the type of offending that has been alleged. It should include a strong message that parents should be available to their child but not to interrogate them. Parents should be provided with contact details for relevant support services.

When a group is identified

Where the risk assessment has determined that there is a reasonable suspicion there might be other victims among a particular group of children or young people who have had contact with the accused person, and it is determined that a meeting will be held with parents, two letters should be sent to parents. Neither letter should name the accused person if their identity is prevented from publication by section 71A of the Evidence Act or by suppression order.

The first of these two letters should be sent to the parents of those children or young people in the group in which it is suspected that there might be other victims. It will inform those parents of the fact that a person connected to the site has been arrested and/or charged and the offences with which they have been charged. It would inform those parents if a meeting is being called to give information to parents, or if parents are being invited to meet personally with the site leader. At the same time, the letter should not suggest that the children or young people of those parents who received the letter are, in fact, victims.

An example of this type of letter and a list of the topics the letter should contain are set out in the first letter of Example 2 of Appendix 5.

The second letter to be sent should be addressed to all other parents at the site. It will contain essentially the same information as the first letter except that it will state that, while there is no evidence that any child or young person at the site apart from the victim is involved, a group meeting or individual meetings are occurring with parents whose children or young people have been in contact with the accused person. The letter may state that the site is holding such a group meeting and the recipient may attend the meeting if they wish to do so.

An example of this type of letter and a list of the topics the letter should contain are set out in the second letter of Example 2 of Appendix 5.

When a particular group cannot be identified

In those cases where it is not possible to narrow down the group of children or young people because the accused person has had contact with most of the children or young people at the site, and it is determined that a meeting will be held with parents, one letter will be sent to all parents.

An example of this type of letter is Example 3 of Appendix 5.

Stage 3: After first court appearance (the ‘relevant time’)

After the accused person’s first court appearance (provided that no suppression order has been made), there are no restrictions on informing staff, members of the governing authority or parents of the fact that the accused person has been charged with a sexual offence. Any information given to people in those groups can name the accused person and state the offence with which the accused person has been charged. However, it should be noted that publication of any information that may identify a victim is prohibited under section 71A(4) of the Evidence Act.

Informing parents of previous students

In consultation with the sector office and where appropriate based on the risk assessment undertaken earlier, a site leader should ascertain the names of children or young people who in previous years would have been in contact with the accused person. Having done so, the site leader should send a letter to the parents of those children or young people whose addresses are known or to the young people themselves if they are now adults. This information should be given to those parents in accordance with Stage 2 above.

Informing other sites

Where the accused person has been employed at other education and care sites, the sector office will notify those other sites so that they can consider whether it is necessary to inform parents in the same way as described in Stage 2 above.

Informing other authorities

This responsibility to inform other authorities about changes to the situation and actions taken varies across the three sectors but will include, as appropriate:

- relevant Minister (confirmed in writing)
- relevant Chief Executive/Director
- chairperson of the governing authority
- other education sectors, as per the Intersectoral Information Sharing Protocol
- the Education Standards Board in the case of early childhood and care settings
- any other agency/organisation where risks to children’s or young people’s safety are identified.

3.3.5 Monitoring court proceedings

The sector office should monitor the court proceedings and inform the site leader of the stage the prosecution has reached. In an Independent school, this will be the responsibility of the school principal. The site leader should inform parents by letter of any significant development in the prosecution. Any letters should be drafted in consultation with the sector office and should not name the accused person if their identity is prevented from publication by section 71A of the Evidence Act or by suppression order.

3.3.6 Responding to the media

All media inquiries should be referred to the relevant sector’s media unit or advisor:

- Department for Education: 8226 7990
- Catholic Education SA: 8210 8147
- Association of Independent Schools of South Australia: 8179 1400.

3.3.7 Reporting the outcome

It is desirable to inform the staff, members of the governing authority and parents of the outcome of the criminal proceedings. It is essential to inform them of the outcome if the accused person is acquitted or if the charges against them are withdrawn or if the proceedings lapse for any reason. The letter should be drafted by the sector office and signed by a very senior leader. In an Independent school, this will be the responsibility of the school principal.

Should the accused person be acquitted or if the charges against them are withdrawn or if the proceedings lapse for any other reason, the sector office or the Independent school principal will have to make a number of decisions in relation to the future employment of the accused person. They include:

- whether the accused person will be subject to any disciplinary proceedings under section 114 of the *Education and Children’s Services Act 2019*, or any other sector specific policies or contractual arrangements
- whether the accused person will return to the site where they had been employed
- whether the accused person should be employed at another site.

APPENDIX 1: Checklist for site leaders

Note: These steps are not necessarily sequential. Different circumstances will dictate a variation in the sequence of actions. It is assumed site leaders will delegate responsibilities to ensure they are undertaken in a timely fashion. Many of the actions are undertaken under advice from SA Police or the sector office.

1. Attend to immediate welfare needs of victim. (Section 3.2.1)
2. Receive report of allegation and make notes of complaint. (Appendix 3)
3. Call SA Police on 131 444 to report allegations. Obtain appropriate police contact number for parents to use, and seek advice re steps 4, 5 and 6.
4. If SA Police approves, take steps to preserve evidence. (Section 3.2.1)
5. Following SA Police/sector office advice, prevent accused person from having access to children and young people. (Section 3.2.1)
6. Following SA Police advice, contact parents of victim, taking into consideration victim's views. (Section 3.2.1)
7. Notify CARL on 131 478 or by eCARL.
8. Inform victim and victim's parents of counselling and support options. Inform social worker if victim is under the Guardianship of the Chief Executive Department for Child Protection. Document allegations, meetings and support and safety plan. (Section 3.3.2 and Appendices 3, 4 and 6)
9. Follow sector reporting procedures regarding critical incidents and contact sector office. (Section 3.2.1)
10. Communicate with accused person in relation to sector specific leave as per sector office guidance. (Section 3.2.2)
11. Consider the support needs of relatives of the accused person who work or are enrolled at the site and who identify their needs. (Section 3.3.2)
12. Consider the support/advice needs of staff, in particular those closely associated with the accused person. (Section 3.3.2)
13. In consultation with the relevant sector office, provide written offer of counselling support to victim and victim's family and formalise the support and safety plan for the victim. (Section 3.3.2 and Appendix 6)
14. Inform staff and governing authority, in consultation with the sector office and in accordance with guideline (Section 3.3.4)
15. Write letters to parents, in consultation with sector office and SA Police, and in accordance with the guideline. (Section 3.3.4 and Appendix 5)
16. If appropriate, hold meeting of parents as outlined in the guideline. (Section 3.3.4)
17. Inform site community, staff and governing authority of progress of the prosecution. This is especially important if there is an acquittal. (Section 3.3.4)
18. Ensure all documentation is stored in a secure, confidential file and copies are provided to sector office as required. (Appendices 3, 4, 5 and 6)

APPENDIX 2: Checklist for sector office

Note: These steps are not necessarily sequential. Different circumstances will dictate a variation in the sequence of actions. The involvement of Association of Independent Schools of South Australia in supporting its Independent member schools will be at each individual school's request, however the Association of Independent Schools of South Australia recommends that its member schools adopt this checklist as best practice.

1. Receive the following information from SA Police, as per the Interagency Code of Practice:
 - (a) the name, date of birth and address of the person who has been charged or is under investigation
 - (b) details of the offences charged or under investigation
 - (c) the conditions upon which the accused person has been bailed
 - (d) the court bailed to and the date of the first court appearance
 - (e) the school or schools involved
 - (f) whether there is a reasonable suspicion that there might be other victims
 - (g) whether there are any complicating factors that would affect disclosure to parents
 - (h) the contact details of the investigating officer
 - (i) whether the offence is a major indictable offence, a minor indictable or a summary offence
 - (j) whether the accused person has been served a notice under section 65(A) and 66 of the *Child Sex Offenders Registration Act 2006*
 - (k) whether the accused person has been served with an intervention order, and if so, any conditions in relation to any communication or facilities the accused person is not to approach or attend.
2. Create file and appoint a person to supervise and manage the matter to its conclusion.
3. Assist site leader to manage the immediate placement of the accused person including preventing access to children/young people as necessary.
4. Meet reporting obligations to other authorities and information sharing with other sectors/organisations in accordance with the guideline.
5. Inform media unit.
6. Conduct risk assessment drawing on SA Police information and decide whether letter should be sent to parents in accordance with guideline.
7. Determine employment status of accused person.
8. Ensure site leader has met all responsibilities, including notification to CARL or eCARL and offer of counselling to victim and parents of victim. The offer should be made orally and be confirmed in writing.
9. Assist site leader to support/advise relatives of the accused person, who identify their needs and staff who are friends of the accused person as appropriate.
10. Check that relatives of the accused person who are employed or enrolled at different sites, and who identify their needs are supported as appropriate.
11. Work with site and SA Police to draft letter/s to parents.
12. Consider whether legal advice is needed on letter/s, especially if the matter is complex.
13. Collate notes of site leader and other staff and place copies of these and victim's support and safety plan on central file.
14. Assist site leader and other relevant child health professionals to facilitate a meeting with parents as relevant.
15. Notify parents of children/young people of past years and other sites as relevant.
16. Monitor court proceedings and the existence of suppression orders, and continue to consider the appropriateness of all actions as matters progress or new information comes to light.
17. Inform site leader of the progress of the prosecution, and assist site leader in keeping staff, governing authority members and relevant parents similarly informed.
18. Continue to meet reporting obligations to other authorities.



APPENDIX 4: Record of meeting

Note: This record can be used as a guide for recording meetings or conversations relating to the management of allegations of sexual misconduct by adults and stored in a confidential file.

Date of meeting

Location of meeting

Attendees

Include full names and titles of attendees

Example: John Smith Principal, Ms Jones mother of Marcus

Purpose of meeting

Example: Discuss allegation of sexual misconduct towards Ms Jones' son Marcus by staff member/volunteer

Discuss as much of support and safety plan as possible

Discuss options for changed enrolment, if considered appropriate by any party

Actions taken to date

Example: Police contacted, referral to <name of agency or support service>

Contact names and contact details

Include all relevant contact details

Example: Contact number for Principal, contact number of SA Police investigating officer

Future actions

List future actions to be taken and person responsible

Set date for finalising the support and safety plan

Signature of site leader

Name:

Signature:

Signatures of other attendees

Name:

Signature:

Name:

Signature:

APPENDIX 5: Sample letters to parents

Example 1: Where no other victims are suspected

The letter to all parents when there is no suspicion that there might be other victims would deal with the following topics:

1. a statement that the accused person has been arrested and charged but not naming the accused person
2. a statement of the offence with which the accused person has been charged
3. a statement indicating that the site does not suspect that there are other victims
4. an assurance that the Department/Catholic Education SA/Association of Independent Schools of South Australia will keep parents informed
5. a request to keep the matter confidential in order to protect the victim and the victim's family
6. contact numbers of support services for concerned parents
7. a statement that those who have questions or concerns may contact the site leader
8. a statement that the accused person has been removed from the site
9. an assurance that the site is managing the issue without impairing the provision of education and care at the site
10. a request that parents with information that may assist the police investigation to contact police and provision of a contact number.

The letter below uses a teacher as an example of an 'accused person'.

Confidential

Dear Parent/Caregiver

I regret to inform you that a teacher from our school has been arrested by police and charged with [NAME THE OFFENCE].

Police are investigating the matter. The teacher has been suspended from duty pending the outcome of the police investigation and prosecution. The teacher has been instructed not to attend the school. I will keep you informed of the progress of the prosecution.

The information available to the school suggests that there is no need for any concern for any other children at the school.

For the sake of the victim and the victim's family and particularly to protect the identity of the victim, please treat this information as confidential. I ask you not to distribute this letter, to post it or to display it in any public way including on social media or on any other internet site.

If you have any information that may assist the police investigation, please contact SA Police on 131 444.

A relief teacher has been appointed and the classes will proceed as normal.

If you have concerns about the safety and welfare of your child, please feel free to contact me directly at the school. Alternatively, you may seek advice from one of the services below:

- Kids Helpline on 1800 55 1800 or at www.kidshelpline.com.au
- *any other relevant public support service.*

If you have any questions or concerns, please do not hesitate to contact me.

Yours faithfully
Principal

Example 2: When a group is identified

Where the risk assessment has determined that there is a reasonable suspicion there might be other victims among a group of children or young people who have had contact with the accused person, two letters will be sent.

One letter will be sent to parents of the children or young people who have been identified in the risk assessment process as possible victims.

The other letter will be sent to all other parents at the school.

Both letters will refer to the meetings to be held to give information and instruction to parents. Both letters would deal with the following topics:

1. a statement that the accused person has been arrested and charged but not naming the accused person
2. a statement of the offence with which the accused person has been charged
3. a statement that the accused person has been suspended from duty and directed not to attend the site
4. a statement that a meeting is being called for parents whose children had contact with the accused person, including the purpose of the meeting
5. a statement that there is no evidence at this stage that, apart from the victim, any other child or young person at the site is involved
6. a statement that any parent with information that may assist the investigation should contact police, with provision of contact details of the investigating officer
7. a statement that the site is managing the issue without impairing the provision of education and care at the site
8. a request to keep the matter confidential in order to protect the victim and the victim's family
9. contact numbers of support services for concerned parents
10. a statement that parents who have a concern should contact the site leader or, if the site has one, the school counsellor.

The letters below use a teacher as an example of an 'accused person'. The first letter (to parents of the identified group) can be in the following or similar terms.

Confidential

Dear Parent/Caregiver

I regret to inform you that a teacher from our school has been arrested by police and charged with [NAME THE OFFENCE].

Police are investigating the matter. The teacher has been suspended from duty pending the outcome of the police investigation and prosecution. The teacher has been instructed not to attend the school. I will keep you informed of the progress of the prosecution.

There is no evidence at this stage that any child at the school other than the victim is involved. However, I am concerned about the welfare of those children who have had contact with the teacher. Your child might have had contact with the teacher. I invite you to attend a meeting which will be held at 6.00pm on [INSERT DATE] in the School Hall.

I appreciate that this is short notice but I urge you to attend the meeting. Alternatively, if you are more comfortable meeting with me privately, please contact the school directly.

The meeting will be addressed by a psychologist who has experience working with victims of child abuse. The psychologist will inform you of behavioural signs and possible effects of child abuse and will answer any questions you might have.

For the sake of the victim and the victim's family and particularly to protect the identity of the victim, please treat this information as confidential. I ask you not to distribute this letter or post this letter on social media or on any other internet site.

A relief teacher has been appointed and classes will proceed as normal.

If you have any information that may assist the police investigation, please contact SA Police on 131 444.

If you have concerns about the safety and welfare of your child, please feel free to contact me directly at the school. Alternatively, you may seek advice from one of the services below:

- Kids Helpline on 1800 55 1800 or at www.kidshelpline.com.au
- *any other relevant public support service.*

If you have any questions or concerns, please do not hesitate to contact me.

Yours faithfully
Principal

The second letter (the letter to all other parents at the school) can be in the following or similar terms.

Confidential

Dear Parent/Caregiver

I regret to inform you that a teacher from our school has been arrested by police and charged with [NAME THE OFFENCE].

Police are investigating the matter. The teacher has been suspended from duty pending the outcome of the police investigation and prosecution. The teacher has been instructed not to attend the school. I will keep you informed of the progress of the prosecution.

There is no evidence at this stage that any child at the school other than the victim is involved. However, I am concerned about the welfare of some children who have had contact with the teacher and am writing separately to their parents and inviting them to attend a meeting. The meeting will be held at 6.00pm on [INSERT DATE] in the School Hall. If you wish, you may also attend the meeting.

The meeting will be addressed by a psychologist who has experience working with victims of child abuse. The psychologist will inform parents of behavioural signs and possible effects of child abuse and will answer any questions parents might have.

For the sake of the victim and the victim's family and particularly to protect the identity of the victim, please treat this information as confidential. I ask you not to distribute this letter or post it on social media or on any other internet site.

If you have any information that may assist the police investigation, please contact SA Police on 131 444.

A relief teacher has been appointed and the classes will proceed as normal.

If you have concerns about the safety and welfare of your child, please feel free to contact me directly at the school. Alternatively, you may seek advice from one of the services below:

- Kids Helpline on 1800 55 1800 or at www.kidshelpline.com.au
- *any other relevant public support service.*

If you have any questions or concerns, please do not hesitate to contact me.

Yours faithfully
Principal

It might be necessary to adapt each of these letters to the particular circumstances of each case.

Example 3: When a particular group is not identified

When a risk assessment determines that there is a reasonable suspicion of other victims but it is not possible to identify a specific group because all children and young people at the site might have had contact with the accused person, the letter to parents should be in the following or similar terms.

The letter below uses a teacher as an example of an 'accused person'.

Confidential

Dear Parent/Caregiver

I regret to inform you that a teacher from our school has been arrested by police and charged with [NAME THE OFFENCE].

Police are investigating the matter. The teacher has been suspended from duty pending the outcome of the police investigation and prosecution. The teacher has been instructed not to attend the school. I will keep you informed of the progress of the prosecution.

There is no evidence at this stage that any child at the school other than the victim is involved. However, I am concerned about the welfare of all children at the school because they have all been in contact with the teacher at one time or another. For that reason, I invite you to attend a meeting to be held at 6.00pm on [INSERT DATE] in the School Hall.

I appreciate that this is short notice but I urge you to attend the meeting.

The meeting will be addressed by a psychologist who has experience working with victims of child abuse. The psychologist will inform you of behavioural signs and possible effects of child abuse and will answer any questions you might have.

For the sake of the victim and the victim's family and particularly to protect the identity of the victim, please treat this information as confidential. I ask you not to distribute this letter or post it on social media or any other internet site.

A relief teacher has been appointed and classes will proceed as normal.

If you have any information that may assist the police investigation, please contact SA Police on 131 444.

If you have concerns about the safety and welfare of your child, please feel free to contact me directly at the school. Alternatively, you may seek advice from one of the services below:

- Kids Helpline on 1800 55 1800 or at www.kidshelpline.com.au
- *any other relevant public support service.*

If you have any questions or concerns, please do not hesitate to contact me.

Yours faithfully
Principal

APPENDIX 6: Support and safety plan for child/young person

Support and safety plan

Note: The following is a guide to the actions and considerations that should be made in supporting a victim. It should be adapted to the age and needs of the victim.

Support categories	Support strategies	Responsible person/s
Internal support	<p>Who has discussed, as appropriate for age, all features of this plan with the child/young person?</p> <p>Has the child/young person been given full opportunity to share their view and has this view been respected to the fullest degree possible?</p> <p>What changes to the child/young person's routine are in place to support them?</p> <p>For example:</p> <ul style="list-style-type: none"> - yard duty arrangements - before/after school - timetable - work expectations (special provisions if year 11/12) - attendance arrangements - site-based counselling support. <p>What is the child/young person advised to do if they feel unsafe at any time at the site?</p> <p>For example:</p> <ul style="list-style-type: none"> - advise yard duty teacher - move to front office - report directly to director/principal - go to counsellor's office - access nominated friend - contact parent/caregiver. <p>Which adult at the site will be available for the child/young person to talk with and act as the 'support person'?</p> <p>How does the child/young person access the support person?</p> <p>What signs of stress in the child/young person will be reported immediately by staff to parents/caregivers?</p> <p>How will this communication be made and by whom?</p> <p>What is the agreed verbal response the child/young person will make to questions from others (eg staff, students, parents, friends)?</p> <p>What information is to be given to other relevant staff who must support the child/young person but for whom it isn't necessary or appropriate that they know the details of the underlying event?</p> <p>For example:</p> <ul style="list-style-type: none"> - other class teachers - relief staff - yard duty staff - front office staff. <p>Who is responsible for informing other relevant staff?</p> <p>Who will keep the child/young person's support person informed of upcoming events, such as court hearings?</p>	

Support categories	Support strategies	Responsible person/s
	<p>How will the child/young person's support person and the parent/caregiver contact person (see below) liaise with each other, if the one staff member does not undertake both roles?</p> <p>Has the child/young person consented to external professionals sharing information with the support person at the site, where relevant to the child/young person's safety and wellbeing?</p>	
<p>Parent/caregiver support and liaison</p>	<p>Who has provided parents/caregivers with counselling support services, verbally and in writing?</p> <p>Which staff member is the contact person for parents/caregivers on all matters associated with the support for the child/young person?</p> <p>How can parents/caregivers contact/access this staff member?</p> <p>What actions are being taken at home to help restore the child/young person's sense of safety and wellbeing?</p> <p>Are the actions at the site complementary to the parents/caregivers' actions?</p> <p>What signs of stress in the child/young person will parents/caregivers immediately report to the nominated parent/caregiver contact?</p> <p>Have parents/caregivers given permission for external professionals to share information with the support person at the site, where relevant to their child/young person's safety and wellbeing?</p>	
<p>Teaching and learning support</p>	<p>Are there any curriculum issues that need to be addressed?</p> <p>For example:</p> <ul style="list-style-type: none"> - a proposed teaching plan that must be modified to avoid distress to the child/young person - the introduction of a teaching program in order to reinforce particular behaviour. <p>Have these plans been discussed with other professionals supporting the child/young person?</p>	
<p>External support</p>	<p>Which other agencies or professionals are involved with the child/young person or his/her family?</p> <p>What is the nature and length of their support?</p> <p>For example:</p> <ul style="list-style-type: none"> - How do they liaise with the site? - Have they contributed to the development of this plan/been given a copy? - Have they agreed to liaise with the site? - How is this liaison to occur and through which staff member? 	
<p>Plan review</p>	<p>When will the plan be reviewed?</p> <p>Who is responsible for setting a review date?</p> <p>How can the site, child/young person or parents/caregivers initiate a meeting outside of the scheduled review?</p> <p>Have parents/caregivers and child/young person been informed of whom they can raise concerns with if they are not happy with the actions of the site in providing support?</p> <p>Do they have the contact details?</p>	

Support categories	Support strategies	Responsible person/s
Others with a duty of care	<p>Who else needs to know about the plan? For example:</p> <ul style="list-style-type: none">- OSHC/vacation staff- Family Day Care provider- boarding/residential staff. <p>What do the child/young person and parents/caregivers agree will be the information given to these individuals? What is necessary or relevant for them to know in order to follow the plan?</p>	
Signatures	<p>The plan is signed by key stakeholders, in particular:</p> <ul style="list-style-type: none">- child/young person- parent/caregiver- site leader.	

APPENDIX 7: Course of a criminal prosecution

Note: This is a brief overview only of the steps involved in prosecuting a person accused of a criminal offence.

Common to any criminal offences

1. Police investigation

SA Police will investigate alleged crimes that have been reported to them. In the ordinary course of an investigation, police will take statements from the victim/s involved and other witnesses and will interview the accused. Police need sufficient evidence before the accused can be prosecuted.

2. The accused is charged

When the police have reached the stage that they have reasonable cause to suspect that the crime has been committed, they will either arrest and charge the accused or summons them to appear in the Magistrates Court on a date stated in the summons.

When the accused has been arrested and charged, they will either be remanded in custody or bailed to a date to appear in the Magistrates Court.

3. Classification of the charge

Criminal offences can be classified as summary offences, minor indictable offences, and major indictable offences. Generally, summary and minor indictable offences are tried in the Magistrates Court, unless joined with a major indictable offence. Major indictable offences are the most serious of all offences and are tried in the District Court and in the Supreme Court.

Summary and minor indictable offences

4. Magistrates Court

The accused may either plead guilty or not guilty. If the accused pleads guilty, the magistrate will then determine the appropriate penalty.

If the accused pleads not guilty, the matter will be adjourned for a pre-trial conference. At the pre-trial conference, the magistrate will endeavour to clarify and limit the matters in dispute between the prosecution and the accused and, if the matter cannot be resolved, list the matter for trial on another date. The court may grant such adjournments as are necessary prior to the trial.

A magistrate will conduct the trial and decide whether the accused is guilty or not guilty. If the magistrate finds the accused guilty, the magistrate will then determine the appropriate penalty.

The prosecution has a right to appeal against acquittal where the magistrate has made an error of law or fact. An accused has a right to appeal against his or her conviction, sentence or both. Appeals against a decision made by a magistrate will be heard by a judge of the Supreme Court.

Major indictable offences

5. First appearance in Magistrates Court

Although trials for major indictable offences are heard in either the District Court or the Supreme Court, the first step in the prosecution of a person charged with a major indictable offence is the pre-committal process (conducted in the Magistrates Court). At this stage, the police prosecutor will advise the court how much time the police will need to prepare the preliminary brief (the evidence gained from the police investigation).

6. Charge determination

A solicitor from the Office of the Director of Public Prosecutions (ODPP) will consider the evidence in the preliminary brief and determine if there is enough evidence to support the charges, or to support alternative major indictable charges. If so, a charge determination will occur, the charges will be confirmed, and the matter will proceed. If not, the preliminary brief will be returned to the police for further investigation or withdrawal of the charges.

7. Committal

The committal stage commences once the ODPP has made a charge determination and involves two main hearings: a committal hearing and an answer charge hearing. If the accused pleads guilty at the committal hearing or at the answer charge hearing, the magistrate will transfer the matter to the District or Supreme Court for sentencing. In some circumstances, sentencing can take place in the Magistrates Court*. If the accused pleads not guilty at the answer charge hearing, the magistrate will transfer the matter to the District or Supreme Court for trial.

8. Arraignment

The first hearing in the District Court or the Supreme Court is called an arraignment hearing before a judge. If the accused has already pleaded guilty, the judge will either listen to sentencing submissions or adjourn the matter to a later date for submissions to be made. If the accused has pleaded not guilty, the judge will schedule a trial date, usually several months ahead. There can be further hearings between the arraignment and the trial date to make sure that prosecution and defence are ready for the trial.

9. Trial

The trial will typically be heard by a judge and a jury, or, if requested by the accused, only a judge.

The prosecutor must present sufficient admissible evidence to prove the accused committed the offences beyond reasonable doubt.

Once all the evidence has been heard, the jury (or judge, in a 'judge alone' trial) decides whether the accused is guilty or not guilty of the charges.

If the accused is found not guilty, the accused is free to go. This is called an acquittal and means the prosecution cannot appeal the verdict.

If the accused is found guilty, the judge will usually adjourn the matter to another day to hear sentencing submissions.

When the jury is not able to agree on a verdict ('hung jury'), there will be a re-trial.

Occasionally, a trial may result in a mistrial because some prejudicial event has occurred during the trial. The trial will then start again with a new jury.

10. Sentencing

Sentencing usually occurs in two stages: a hearing for sentencing submissions, and a hearing for the court to deliver the sentence. At the sentencing submissions hearing, the prosecutor and defence solicitor make submissions and victim impact statements are provided or read out to the court. The judge will consider submissions and deliver the sentence, usually at a sentencing hearing on a later date.

**The relevant parts of the Statute Amendment (Courts Efficiency Reforms) Act 2012, which makes provision for the defendant to be sentenced by a magistrate in certain circumstances, commenced on 1 July 2013.*

11. Appeals

The rights of appeal against a conviction or sentence are a little complicated. Broadly speaking, a defendant has to apply for permission to appeal against the conviction and the sentence. The appeal is heard by the Court of Criminal Appeal (CCA), which comprises three judges of the Supreme Court.

The ODPP has no right to appeal against a jury verdict of acquittal. The ODPP may, in certain circumstances, apply for permission to appeal against the decision of a judge acquitting a defendant. The ODPP may apply for permission to appeal against a sentence that is manifestly inadequate.

Where the CCA allows an appeal against conviction, the conviction will be quashed and the court will either order an acquittal or that the defendant be tried again.

In exceptional circumstances, the High Court of Australia will grant permission to appeal against a decision of the CAA.

APPENDIX 8: Relevant legislation

Note: All relevant legislation can be found at <<http://www.legislation.sa.gov.au>>.

Children and Young People (Safety) Act 2017 (SA)

[https://www.legislation.sa.gov.au/__legislation/lz/c/a/children%20and%20young%20people%20\(safety\)%20act%202017/current/2017.25.auth.pdf](https://www.legislation.sa.gov.au/__legislation/lz/c/a/children%20and%20young%20people%20(safety)%20act%202017/current/2017.25.auth.pdf)

Criminal Law Consolidation Act 1935

https://www.legislation.sa.gov.au/__legislation/lz/c/a/criminal%20law%20consolidation%20act%201935/current/1935.2252.auth.pdf

Education and Children's Services Act 2019

https://www.legislation.sa.gov.au/__legislation/lz/c/a/education%20and%20childrens%20services%20act%202019/current/2019.19.auth.pdf

Child Safety (Prohibited Persons) Act 2016

[https://www.legislation.sa.gov.au/__legislation/lz/c/a/child%20safety%20\(prohibited%20persons\)%20act%202016/current/2016.49.auth.pdf](https://www.legislation.sa.gov.au/__legislation/lz/c/a/child%20safety%20(prohibited%20persons)%20act%202016/current/2016.49.auth.pdf)

Evidence Act 1929

https://www.legislation.sa.gov.au/__legislation/lz/c/a/evidence%20act%201929/current/1929.1907.auth.pdf

Summary Offences Act 1953

https://www.legislation.sa.gov.au/__legislation/lz/c/a/summary%20offences%20act%201953/current/1953.55.auth.pdf

Criminal Procedure Act 1921

https://www.legislation.sa.gov.au/__legislation/lz/c/a/criminal%20procedure%20act%201921/current/1921.1479.auth.pdf

The background of the page is a repeating geometric pattern of orange triangles and hexagons. The triangles are arranged in a grid, with some pointing up and some pointing down, creating a tessellated effect. The hexagons are formed by the negative space between the triangles. The overall color palette is various shades of orange, from light to dark.

This guideline provides advice for leaders in education and care settings when responding to allegations of sexual misconduct by adults against children and young people. It outlines the actions to be taken and matters to be considered at different stages of the response. The guideline is designed to provide a transparent process to help support the people impacted by sexual misconduct incidents.

Record history

Published date: January 2024

Approvals

OP number: 139

File number: DECD17/12783-1

Status: approved

Version: 3.0

Policy officer: Manager, Critical Incident Response

Policy sponsor: Director, Incident Management Directorate

Responsible Executive Director: Chief Operating Officer

Approved by: Director, Incident Management Directorate

Approved date: 16 January 2024

Next review date: 16 January 2027

Revision record

Version: 3.0

Approved by: Director, Incident Management Directorate

Approved date: 16 January 2024

Review date: 16 January 2027

Amendment(s): December 2023 version of guideline jointly developed by Department for Education, Catholic Education South Australia and Association of Independent Schools of South Australia. Key updates to reflect changes in legislation and policy, new court processes, relevant publications, and to update wording to align with contemporary standards.

Version: 2.1

Approved by: Director, Incident Management Directorate

Approved date: 16 May 2023

Review date: 16 May 2026

Amendment(s): No policy amendments required currently, policy can continue to be used. Contact details changed.

Version: 2.0

Approved by: Director, Incident Management Directorate

Approved date: 16 June 2020

Review date: 16 June 2023

Amendment(s): Reference to Section 26 of Education Act 1972 in section 3.3.7 replaced by Section 114 of the Education and Children's Services Act 2019 as of 1 July 2020. The Education Regulations 2012 or Children's Services Regulations 2008 become the Education and Children's Services Regulations 2020 as of 1 July 2020.

Version: 1.0

Approved by: Director, Incident Management Directorate

Approved date: 11 April 2019

Review date: 11 April 2022

Amendment(s): Change of department name and Chief Executives.

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