

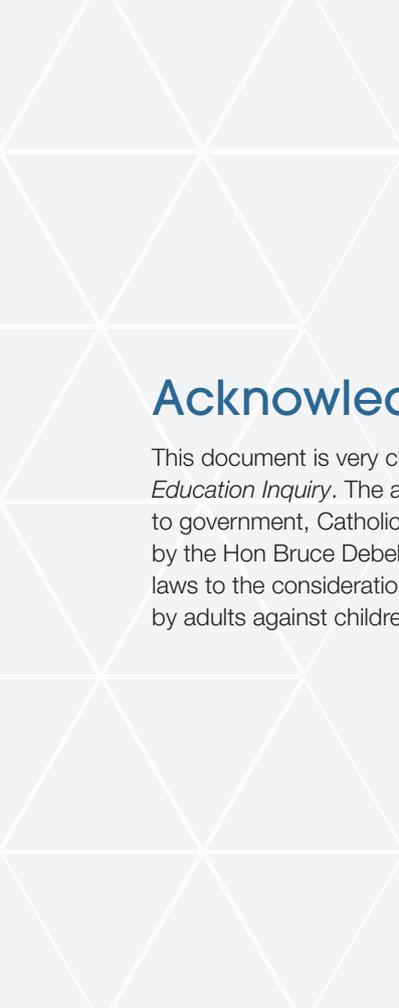
# Managing allegations of sexual misconduct in SA education and care settings



**Government of South Australia**  
Department for Education and  
Child Development



A I S S A  
**AS**  
ASSOCIATION of  
INDEPENDENT  
SCHOOLS of SA



## 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.

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## FOREWORD

The South Australian government and non-government education sectors have jointly developed all 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 meant 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 his or her 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.



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# 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 (2011 DECS) 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.

## Responding to problem sexual behaviour involving children and young people

This guideline (2013 DECD) is to be followed in all circumstances where a child or young person is alleged to have engaged in problem 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 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 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 date’** means the relevant date 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 and Child Development
- 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 the document *Responding to problem sexual behaviour in children and young people*, available at each site and located on each sector’s website.

## 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 pornography and acts of gross indecency. A sexual assault ranges from indecent assault through a number of offences to rape.

In some cases, a particular behaviour may become unlawful only by virtue of repeated instances.

*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 his or her 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 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 11 of the *Children's Protection Act 1993* imposes a duty on employees and volunteers in education and care settings to notify the Department (ie Families SA) if, in the course of their work, they suspect on reasonable grounds that a child has been or is being abused or neglected. Abuse or neglect includes sexual abuse of a child or physical or emotional abuse of a child or neglect of a child. In practical terms, the duty to notify Families SA is a duty to notify the Child Abuse Report Line (CARL) on 131 478.

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, he or she must notify CARL as soon as practicable after he or she forms that suspicion or learns of the allegation. 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.families.sa.gov.au/reporting-child-abuse>>.

### 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 document, 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 but only after certain events have occurred. Those events are identified in section 71A(5) of the *Evidence Act*. They are called 'the relevant date'. The definition of 'relevant date' in the *Evidence Act* is as follows:

*relevant date means*

- (a) *in relation to a charge of a major indictable offence or a charge of a minor indictable offence for which the accused person has elected to be tried by a superior court—the date on which the accused person is committed for trial or sentence; or*
- (b) *in relation to a charge of any other minor indictable offence or a charge of a summary offence—the date on which a plea of guilty is entered by the accused person or the date on which the accused person is found guilty following trial; or*
- (c) *in any case—the date on which the charge is dismissed or the proceedings lapse by reason of the death of the accused person, for want of prosecution, or for any other reason.*

The relevant dates are listed below according to the kind of offence with which the accused person has been charged.

The relevant sector office will be informed by SA Police of the kind of offence with which the accused person has been charged, that is, whether it is a major indictable offence or other kind of offence. This information should be provided to the site leader.

It is lawful to publish the name of the accused person after any of the following relevant dates.

- Major indictable offences
  1. The date on which the accused person is committed for trial or to be sentenced.
  2. The date on which the charge is dismissed or that proceedings lapse by reason of the death of the accused person or for want of prosecution or for any other reason.

These dates are also applicable to minor indictable offences for which the accused person has elected to be tried in the District Court.

- Minor indictable offences and summary offences
  1. The date on which the accused person pleads guilty.
  2. The date on which the accused person is found guilty following a trial.

3. The date on which the charge is dismissed or that proceedings lapse by reason of the death of the accused person or for want of prosecution or for any other reason.

Appendix 7 to this document gives a brief outline of the steps in a criminal prosecution. That outline will assist in understanding the relevant dates.

### 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 arrested and 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 arrested and charged, 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, or against volunteers at 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 cabinet. The only person with access to the cabinet should be the site leader or the site leader's delegate. At a relevant time, 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 have arrested a person and charged him or her 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 he or she is 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 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 pornography 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, on directions **from SA Police and the sector office**. The responsibility of SA Police and the relevant education sector to work together in managing this circumstance is outlined in Appendix G of the *Interagency Code of Practice—Investigation of suspected child abuse or neglect* (2013 Government of SA).

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.

### 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 Minister, the Minister and his or her delegates are responsible for case management and planning for the safety, care and wellbeing of that child or young person. Families SA has the additional responsibility to advise the Guardian for Children and Young People about sexual abuse involving children under the Guardianship of the Minister. 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 his or her immediate work requirements

In consultation with the relevant sector office and SA Police, the site leader should determine 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 and Child Development: critical incident report through the Incident Response Management System
- Catholic Education SA: critical incident report through the relevant Principal Consultant
- 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 charged
- details of the charge and apprehension report
- the condition upon which the accused person has been bailed
- the court bailed to and the date of the first court appearance
- the education or care site 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 or minor indictable offence or a summary offence.

#### Step 2: Create a central file and appoint a 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 him or her 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 Minister
- 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
- the Education and Early Childhood Services Registration and 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 and Child Development: 8226 7904
- 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 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 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 suspended, the site leader or sector office should send that person a formal letter of suspension.

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 his or her 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 for him or her. Details of counselling services with contact numbers should be provided to the victim and his or her parents as part of this first meeting. After the meeting, the site leader should complete a written record and have it signed by the parents. 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 his or her 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.

*Note: It is likely that processes for identifying and assessing risk will change as the work is informed by further research and experience. Sectors will share learning and updated risk assessment resources to inform practice and maintain consistency.*

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 a suppression order and section 71A of the Evidence Act forbid publication of the name of the accused person generally to the public, 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
3. after the committal or other appropriate relevant date.

*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. Other staff members should be told that the member of staff is on special leave, or another kind of 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 his or her 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 his or her 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

### Informing staff

Following the arrest 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.

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 is 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 him or her.

### 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 the letter to parents. The letter should 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 alleged offender until committal or 'relevant date' pursuant to section 71A of the Evidence Act. If, contrary to the recommendation in this guideline document, it is decided to name the accused person and, if the letter is to be sent to a large number of parents, advice should be taken as to whether the letter is permitted by section 71A
- the fact that a person who receives the letter might post it on Facebook or another internet site
- the fact that the name of the person alleged to have committed the offence can lawfully be published once that person has been committed for trial or sentence or after the 'relevant date'
- 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 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.

### 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 state that a person connected to the site has been arrested and charged with an offence, naming the offence but not naming that person. 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.

### ***When a group is identified***

If the result of the risk assessment is that there is a group of children or young people who might include victims, two letters should be sent to parents. Neither letter should name the accused person.

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 charged with committing an offence, naming the offence but not naming that person. 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, it would endeavour not to 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 he or she wishes 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 there is a reasonable suspicion of other victims but 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, a communication process with all parents must be planned.

It will be necessary for only one letter to be sent to all parents. An example of this type of letter is Example 3 of Appendix 5.

### ***Contact with parents***

Where, as a result of the risk assessment, there is a reasonable suspicion that there might be other victims, contact should be made with the parents of those children or young people. Through that contact (eg telephone, individual meetings, group meetings), parents should be given information and instruction that cannot be given in a letter.

The information and instruction provided should deal 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 had been alleged. It should include a strong message that the parents should be available to their child but not to interrogate him or her.

The discussions 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 child abuse and who would be able to answer any questions parents might have. The discussions should include giving parents appropriate advice on how to deal with any disclosures made by their child. Parents should be provided with the contact details for the relevant support services.

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. They can be told that publication of the name of the accused person would be in breach of section 71A of the Evidence Act. It might be preferable to encourage parents to treat that information as confidential by stating that it is in the interests of the victim and the parents of the victim to keep the matter confidential.

It should be stressed in the discussions that nothing should be said or done that might identify the victim.

Following the discussions, parents should be provided with an information sheet containing information about good parenting practice when dealing with a victim or possible victim of sexual abuse. That document should also include guidance as to how best to respond to a disclosure by a child or young person who has been abused.

The information sheet should also be made available to those parents who cannot or do not wish to attend the site.

## **Stage 3: After committal (or other relevant date)**

After the accused person has been committed to stand trial or been sentenced, or after any other relevant date, there are no restrictions on informing either 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. At this stage, there is no need for confidentiality about any of those facts.

However, if a suppression order has been made, legal advice should be obtained on the question as to whether it is possible to give information to staff, members of the governing authority or parents. It should also be noted that publication of any information that tends to identify a victim may still be prohibited under section 71(A) 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 after committal or other relevant date, unless their child is identified during the risk assessment as being at risk of having been abused. They should then be informed in accordance with the procedure in the last part of 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 and Early Childhood Services Registration and 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.

Unless a suppression order has been made, the site leader may inform parents by letter of the fact that the prosecution has reached any of the following stages:

- when a plea of guilty has been made
- at the end of a trial, whether the accused person has been acquitted or convicted
- after the accused person has been sentenced
- after any appeal.

Any letters should be drafted in consultation with the sector office. Before sending any letters, it is necessary to check whether a suppression order has been made.

## 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 and Child Development: 8226 7904
- 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.

If the accused person is acquitted or if the charges against him or her are withdrawn or if the proceedings lapse for any reason, it is essential to inform staff, members of the governing authority and parents of the fact. 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 him or her 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 26 of the *Education Act 1972*, or any other sector specific policies or contractual arrangements
- whether the accused person will return to the site where he or she 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.
8. Inform victim and victim's parents of counselling and support options. Inform social worker if victim is under the Guardianship of the Minister. 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. (Section 3.2.1)
10. Place accused person on 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. 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 locked, confidential file and copies are provided to sector office as required. (Appendices 3, 4, 5 and 6)





## APPENDIX 4: Record of meeting

*Note: This record should be completed after all 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 CAMHS*

---

**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 especially to protect the identity of the victim, would you please keep this information confidential. I ask you not to distribute this letter, to post it or to display it in any public way including on Facebook or on any other internet site.

If you have any information that may assist the police investigation, please contact [PROVIDE NAME AND TELEPHONE NUMBER OF INVESTIGATING OFFICER].

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:

- Child and Adolescent Mental Health Services (CAMHS) on 8161 7198
- Kids Helpline on 1800 55 1800.

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 especially to protect the identity of the victim, would you please keep this information confidential. I ask you not to distribute this letter or post this letter on Facebook 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 [PROVIDE NAME AND TELEPHONE NUMBER OF INVESTIGATING OFFICER].

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:

- Child and Adolescent Mental Health Services (CAMHS) on 8161 7198
- Kids Helpline on 1800 55 1800.

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 especially to protect the identity of the victim, would you please keep this information confidential. I ask you not to distribute this letter or post it on Facebook or on any other internet site.

If you have any information that may assist the police investigation, please contact [PROVIDE NAME AND TELEPHONE NUMBER OF INVESTIGATING OFFICER].

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:

- Child and Adolescent Mental Health Services (CAMHS) on 8161 7198
- Kids Helpline on 1800 55 1800.

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 especially to protect the identity of the victim, would you please keep this information confidential. I ask you not to distribute this letter or post it on Facebook 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 [PROVIDE NAME AND TELEPHONE NUMBER OF INVESTIGATING OFFICER].

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:

- Child and Adolescent Mental Health Services (CAMHS) on 8161 7198
- Kids Helpline on 1800 55 1800.

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 his/her 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 him/her?</p> <p>For example:</p> <ul style="list-style-type: none"> <li>- yard duty arrangements</li> <li>- before/after school</li> <li>- timetable</li> <li>- work expectations (special provisions if year 11/12)</li> <li>- attendance arrangements</li> <li>- site-based counselling support.</li> </ul> <p>What is the child/young person advised to do if he/she feels unsafe at any time at the site?</p> <p>For example:</p> <ul style="list-style-type: none"> <li>- advise yard duty teacher</li> <li>- move to front office</li> <li>- report directly to director/principal</li> <li>- go to counsellor's office</li> <li>- access nominated friend</li> <li>- contact parent/caregiver.</li> </ul> <p>Which adult at the site will be available for the child/young person to talk with at any time 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"> <li>- other class teachers</li> <li>- relief staff</li> <li>- yard duty staff</li> <li>- front office staff.</li> </ul> <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"> <li>- a proposed teaching plan that must be modified to avoid distress to the child/young person</li> <li>- the introduction of a teaching program in order to reinforce particular behaviour.</li> </ul> <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"> <li>- How do they liaise with the site?</li> <li>- Have they contributed to the development of this plan/been given a copy?</li> <li>- Have they agreed to liaise with the site?</li> <li>- How is this liaison to occur and through which staff member?</li> </ul>	
<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"><li>- OSHC/vacation staff</li><li>- Family Day Care provider</li><li>- boarding/residential staff.</li></ul> <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"><li>- child/young person</li><li>- parent/caregiver</li><li>- site leader.</li></ul>	

## 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. A more detailed account can be found in Chapter 3 of the Royal Commission 2012–2013 Report of Independent Education Inquiry. The accused person is called 'the defendant'.*

### 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 defendant. Police need sufficient evidence before the defendant can be prosecuted.

#### 2. Defendant 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 defendant or summons the defendant to appear in the Magistrates Court on a date stated in the summons.

When the defendant has been arrested and charged, he or she will be either 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 tried in the District Court and in the Supreme Court.

### Summary and minor indictable offences

#### 4. Magistrates Court

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

If the defendant 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 defendant and 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 defendant is guilty or not guilty. If the magistrate finds the defendant 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. A defendant 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 preliminary examination which is conducted in the Magistrates Court. The purpose of a preliminary examination (or committal hearing) is to determine whether there is sufficient evidence to put the defendant on trial for a major indictable offence.

## 6. Declarations date

This is the date, usually within ten weeks from the first appearance of the defendant in the Magistrates Court, set for the prosecution to file in court and serve on the defendant the statements of all the witnesses on whom the prosecution relies to establish the guilt of the defendant. Those statements are called 'declarations'.

The court may grant the prosecution more time to obtain declarations. When all the declarations have been filed, the magistrate will set a date, four weeks after the declarations date, for the defendant to answer the charge/s. That date is referred to as the 'answer charge date'.

## 7. Answer the charge

On the answer charge date, the defendant will be asked to enter a plea. If the plea is guilty, the defendant will be sentenced by the magistrate\* or be committed for sentence to the District Court or the Supreme Court.

If the defendant pleads not guilty and the magistrate finds that the prosecution has established a case to answer, the defendant will be committed for trial in the District Court or the Supreme Court.

If the magistrate is not satisfied that the evidence is sufficient to put the defendant on trial, the magistrate will reject the information and discharge the defendant.

## 8. Arraignment

The first appearance of the defendant in the District Court or the Supreme Court is called the arraignment. That is when the defendant is charged formally. The charge stated on the information is read out and the defendant will be asked to plead guilty or not guilty. The arraignment will be fixed four weeks after the committal.

If the defendant pleads guilty, the matter will usually be adjourned to a later date for submissions to be made as to the appropriate sentence to be ordered against the defendant.

If the defendant pleads not guilty, the matter will be adjourned to a directions hearing which is held four to six weeks after the date of the arraignment.

## 9. Directions hearing

Directions hearings are held for the purpose of resolving all the procedural matters that must be attended to before the trial begins. Directions hearings also give the judge the opportunity to explore with the prosecution and the defendant whether the matter can be resolved without having to go to trial. If it cannot be resolved, a trial date will be set. The judge will also hear any preliminary applications; for example, an application by the defendant to be tried by a judge alone. Directions hearings involve only the judge, legal counsel and the defendant. It is not uncommon for a number of directions hearings to take place before the trial.

## 10. Trial

The prosecutor has to present sufficient admissible evidence to the jury (or judge in a 'judge alone' trial) to prove beyond reasonable doubt that the defendant committed the offences with which he or she has been charged. If not, the defendant will be found not guilty.

If the defendant is found guilty, the judge will hear sentencing submissions from both the prosecutor and the defence lawyer and will then sentence the defendant.

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.

*\*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 Director of Public Prosecutions (DPP) has no right to appeal against a jury verdict of acquittal. The DPP may, in certain circumstances, apply for permission to appeal against the decision of a judge acquitting a defendant. The DPP 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 CCA.

## APPENDIX 8: Relevant legislation

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

**Children's Protection Act 1993**

<http://www.legislation.sa.gov.au/LZ/C/A/CHILDRENS%20PROTECTION%20ACT%201993.aspx>

**Criminal Law Consolidation Act 1935**

<http://www.legislation.sa.gov.au/LZ/C/A/CRIMINAL%20LAW%20CONSOLIDATION%20ACT%201935.aspx>

**Education Act 1972**

<http://www.legislation.sa.gov.au/LZ/C/A/EDUCATION%20ACT%201972.aspx>

**Education Regulations 2012**

<http://www.legislation.sa.gov.au/LZ/C/R/EDUCATION%20REGULATIONS%202012.aspx>

**Evidence Act 1929**

<http://www.legislation.sa.gov.au/LZ/C/A/EVIDENCE%20ACT%201929.aspx>

**Summary Offences Act 1953**

<http://www.legislation.sa.gov.au/LZ/C/A/SUMMARY%20OFFENCES%20ACT%201953.aspx>

**Summary Procedure Act 1921**

<http://www.legislation.sa.gov.au/LZ/C/A/SUMMARY%20PROCEDURE%20ACT%201921.aspx>





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.