

Child Protection

Conducting and Internal Investigation into Allegations of Adult Abuse or Misconduct

1. Background

The College has a holistic framework for addressing the individual learning needs of all students, including those with special needs and other unique areas of cultural diversity. The College is cognizant of ensuring the program and ethos of our school complements the varying cultural domains of our parent and student population in the context of meeting the minimum standards of child safety and child protection.

2. Purpose

To protect children and young people from abuse and neglect by outlining the approach taken by Leibler Yavneh College when allegations of child abuse or misconduct have been made.

3. Policy

Consistent with the College's Child Protection and Mandatory Reporting Policies, any disclosure made regarding alleged child abuse needs to be brought to the immediate attention of the College Principal. The College Principal will determine whether the alleged abuse falls into the criteria for Mandatory Reporting: that is, the College believes that on reasonable grounds a child is at risk of physical and/or sexual abuse (in accordance with Child Protection legislation). Where the incident does warrant a Mandatory Report, the College Principal will report the disclosure and/or allegations to the relevant authorities (Department of Families, Fairness and Housing [DFFH], Department of Education & Training [DET] and/or Police).

The College Principal's decision to report the disclosure will be taken in consultation with either the College Psychologist or relevant member of the Senior Management Team. The College Principal will immediately inform the Chair of the Executive (in confidence).

Individual staff members that have formed a reasonable concern and wish to make a report directly to Department of Human Services may do so under the Mandatory Reporting laws. When this occurs, the staff member is asked to inform the College Principal immediately about the circumstances of the report.

4. Reporting a Disclosure or Observation

When there are disclosures of abuse or observations of behaviour that may raise a "reasonable concern" that have allegedly occurred external to the organisation, the College is **obligated** to report the matter to DFFH without conducting an internal investigation.

However, even in such cases, the College would be expected to gather any and all details that concern the circumstances of the actual disclosure itself or reasons for having a "reasonable concern" for the child, to ensure all the relevant material is brought to DFFH.

Please note that the College is not responsible for investigating allegations of child abuse, that the relevant authorities will undertake these investigation and that any investigation that the College may undertake in relation to an allegation of child abuse, is undertaken for the purposes of identifying and removing the risk of child abuse at the College.

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If the College is in any doubt about whether or not the disclosure falls under the criteria of Mandatory Reporting, advice can be sought from Child FIRST, who will advise on how best to proceed.

The College Principal may delegate another senior staff member the responsibility of making the actual report.

Any allegation of physical or sexual abuse regarding the College Principal should be directed to the College Chair.

5. Internal Investigations

If there is an allegation or reported observation of any wrongdoing, including physical harm that does not fall under the Mandatory Reporting Guidelines, (that is, there is **not** a belief on reasonable grounds that a child is in need of protection from physical and sexual abuse) against adults at the College, the College Principal or their delegate is obliged to conduct an internal investigation.

The College Principal will also determine whether or not it is necessary to seek legal advice before proceeding.

Any internal investigation will be undertaken by the College Principal or their delegate who must be a manager at least “once removed” from the alleged perpetrator.

To maintain impartiality it is important that the manager of the person against whom an allegation has been made is not an investigator in the matter.

In matters relating to the Creche or Early Learning Centre, irrespective of whether there is or there isn't substantiated abuse, any parental complaint about any kind of inappropriate mishandling of children needs to be report to the Department of Education and Training (DET) as a matter of course.

6. Steps for Internal Investigations

1. **If there is an allegation of wrongdoing, including physical harm, against an employee, volunteer or any other adult at the College**, that person must be immediately “stood down” from his / her duties, on full pay (where they are an employee), pending the outcome of an internal investigation. The employee will be advised by the College Principal the reasons for the stand down and the likely time frame of the investigation. This will be confirmed in writing by the College Principal as soon as practicable.
2. The person who is making the allegation will be interviewed without delay by the College Principal and one other senior staff member. Comprehensive notes will be taken during the interview. The College Principal may engage an external investigator as appropriate. At the end of the interview, the file note of the meeting will be read back to the interviewee in order for him / her to correct or amend any details pertaining to the allegations.
3. Any and all witnesses will be interviewed without delay by the College Principal and one other member of the Senior Management Team. Again, detailed records of all interviews will be made and retained.
4. Any and all other evidence will be collected (eg. CCTV footage, IT records, security records, photographs, etc) from the College facilities or from witnesses.
5. A person against whom an allegation has been made will be interviewed by the College Principal and one other member of the Senior Management Team.

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6. A follow-up meeting will be held with the person making the allegation/s in order to provide feedback regarding the interviews of the alleged perpetrator, any relevant witnesses or other evidence. At this meeting, it may be important to further clarify the allegations in order that any additional responses, clarifications, etc., can be made.
7. Once all interviews have been conducted, the College Principal, in conjunction with relevant senior managers and / or the College Chair, will analyse all the information collected and deliberate the matters in order to ascertain whether or not the allegations can be substantiated or not.
8. Thereafter, the College Principal, together with any relevant Senior Managers will determine what specific consequences or actions should be taken, including but not limited to:
 - a. Consulting with, reporting the matter to, or the investigation of the incident by an external agency
 - b. Seeking legal advice where necessary
 - c. Notify the College's insurer, should the investigation reveal inappropriate behaviour by a staff member or volunteer that could result in legal action
 - d. Relevant file notes, letter, cautions, warning that need to be made
 - e. Suspension or dismissal of the relevant employee
 - f. Relevant counselling for the employee against whom an allegation has been made, and/or the person making the allegation, and/or the alleged victim
 - g. Whether or not to withdraw the "suspension" of the relevant staff member and allow him/her to return to work
 - h. Any other relevant action

The employee against whom the allegation is made will be advised verbally and/or in writing about the outcome of the investigation and any determined outcomes (as above)

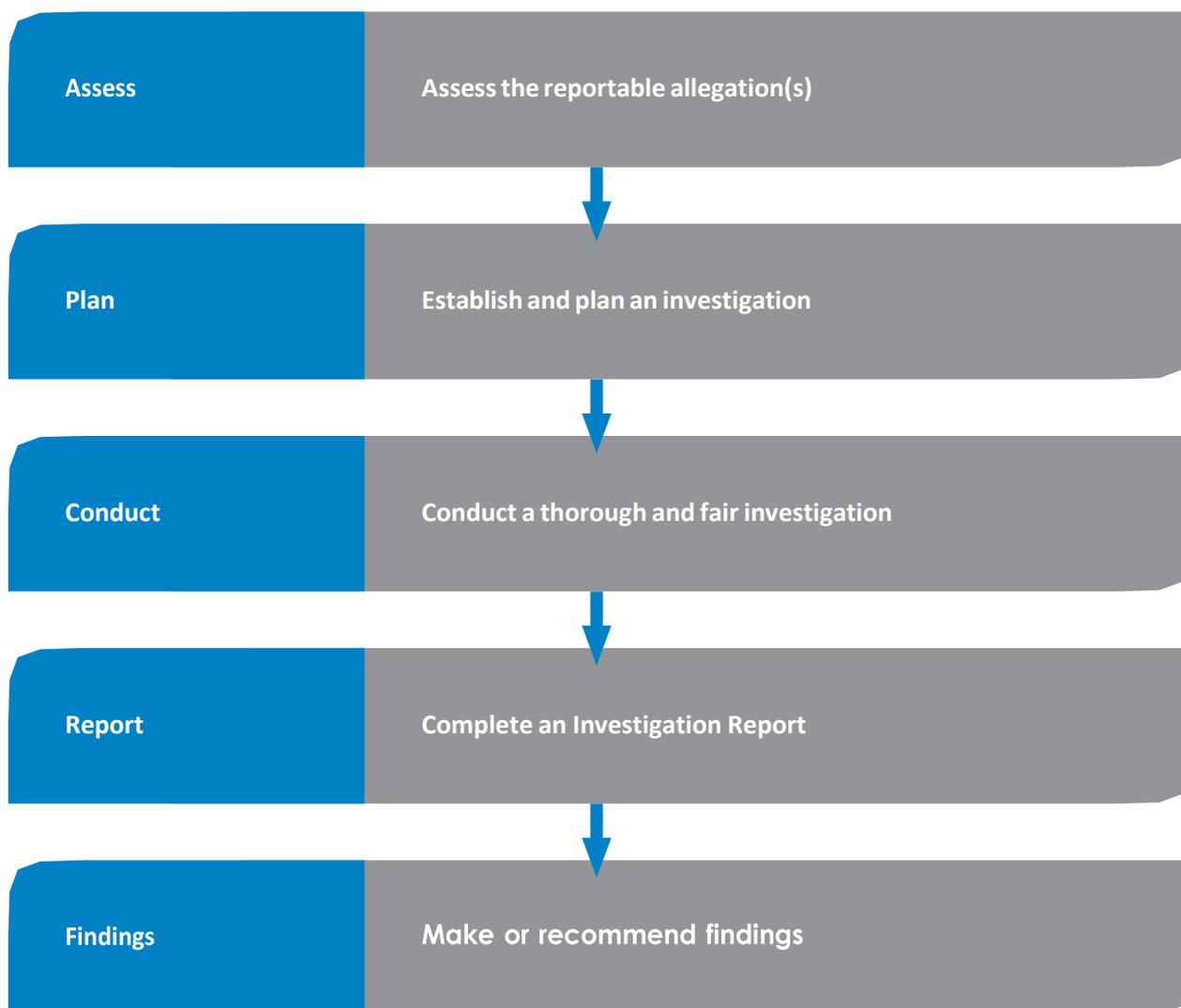
The person making the complaint will also be advised in writing about the substantiation or otherwise of the report.

9. At the conclusion of the investigation, all relevant documentation pertaining to the College's allegation and the investigation will be collated and filed in the employee's College records and all members of the investigating team will debrief on the matter in order to identify improvements in the College processes, policies or protocols and the procedure of the internal investigation.
10. In complying with the Child Safe Standards, the College is mindful of the diversity of students and school communities and applies the following inclusion principles as part of each standard:
 - Promoting the cultural safety of Aboriginal and Torres Strait Islander children
 - Promoting the cultural safety of children from culturally and/or linguistically diverse backgrounds (CaLD)
 - Promoting the safety of children with a disability

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7. Summary of Process of an Internal Investigation

The following diagram outlines the main steps for conducting an internal investigation



8. Relevant Legislation

- *Child Wellbeing and Safety Act 2005*
- *Children, Youth and Families Act 2005*
- *Education and Training Reform Act 2006*
- *Victorian Institute of Teach Act 2001*

9. Related Policies

- [Leibler Yavneh College Child Protection Policy](#)
- [Leibler Yavneh College Mandatory Reporting Policy](#)
- [Leibler Yavneh College Positive Relationships Policy](#)
- Child Safety Commitment

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Example: Completed Investigation Plan

Matter details	
Subject of allegation details	Joan Smith
RCS reference number	RCS/2017/6938
Organisation contact	Mr Alex Tsiolkas
Contact title/position	CEO
Organisation address	Excellent Child Care Victoria Pty Ltd, 1001 Collins Street, Melbourne
Organisation phone number(s)	(03) 9123 4567
Secure email	ceo@excellentchildcare.com.au
Investigator	Julie Brown, Flash Investigations Pty Ltd

Investigation overview

The Subject of Allegation (SOA), Joan Smith, is a qualified childcare worker and is employed by Excellent Child Care Victoria Pty Ltd, 1001 Collins Street, Melbourne.

On Monday 4 July 2017, Mr Alex Tsiolkas (CEO) received a report from the alleged victim's mother, Fiona Nguyen, of a reportable allegation involving her child, Sonny, at Excellent Child Care Victoria Pty Ltd, located at 1001 Collins Street, Melbourne (the details of the reportable allegation are set out at item 2 below). Alex took careful notes of his discussion with Fiona. Fiona provided Alex with a photograph of Sonny's bruised hand.

This matter was identified as an allegation of physical violence against a child, which is a reportable allegation under the *Child Wellbeing and Safety Act 2005* (**the Act**). Victoria Police (**the police**) and the Commission for Children and Young People (**Commission**) were, within 3 business days, notified of a reportable allegation under the *Child Wellbeing and Safety Act 2005*, pursuant to Section 16M (1)(a).

On Wednesday 5 July 2017, the police advised that they would not be undertaking an investigation and advised Alex that they had no objection to Excellent Child Care Victoria Pty Ltd commencing its investigation into the reportable allegation.

Allegations

Allegation 1	<p><i>Physical violence committed against a child and/or in the alternate Misconduct as defined by the Quality of Care Policy</i></p> <ul style="list-style-type: none"> On Monday 4 July 2017, Sonny may have been in Joan's care. Sonny allegedly arrived home later that day. It is alleged that Sonny told Fiona that Joan slapped Sonny on the hand. Fiona says that she observed bruising on Sonny's hand.
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Subject of the allegation	
Name	Joan Smith
Address	1 Anywhere Street, Anytown VIC 3999
Phone number	(03) 9123 4599
Email	JS@anyemail.com
Position held	Childcare Worker
Time in position	4 years

Risks	
Risks	Alleged victim is 5 years of age.
Issues/notes	The services of an interpreter were considered, but were not required on this occasion.
Conflicts of interest	Nil

Scope of investigation

The scope of the investigation is to determine if, on the balance of probabilities, the allegation of physical violence and/or the allegation of misconduct pursuant to the Quality of Care Policy against a child by Joan Smith, as specified in Section 2 of this Investigation Plan, is substantiated or not.

Decision-maker

Mr Alex Tsiolkas
 CEO, Excellent Child Care Victoria Pty Ltd, 1001 Collins Street, Melbourne
 (03) 9123 4567

Current information

Source	Information	Relevance (to the allegation)
Alex Tsiolkas	Received report of allegation from Fiona Nguyen	Witness and CEO of Excellent Child Care Victoria Pty Ltd
Fiona Nguyen	Informed by son (Sonny) re allegation. Made report to Alex Tsiolkas.	Witness and mother of victim (Sonny Nguyen)

Possible witnesses		
Name	Information	Relevance (to the allegation)
Sonny Nguyen	Alleged victim	<ul style="list-style-type: none"> Alleged victim Can provide details of the reportable allegation
Fiona Nguyen	Mother of alleged victim	<ul style="list-style-type: none"> Provided notification of the reportable allegation Has information regarding incident, injury and the impact on Sonny Mother of alleged victim Reported the reportable allegation to Alex Tsiolkas
Penny Nguyen	Support person	<ul style="list-style-type: none"> Provided support for alleged victim
Jane Collins	Senior childcare worker	<ul style="list-style-type: none"> Subject of allegation reports directly to her (line manager) Had received other complaints re the subject of allegation May provide information on subject of allegation's performance and attitude towards the children Review note in subject of allegation's file re previous complaints
Nicole Amorosi	Childcare worker	<ul style="list-style-type: none"> May have information relevant to the previous complaint May have details regarding the alleged incident Rostered to work with the subject of allegation on the day of the alleged incident Observed alleged incident Stated in initial inquiries that the subject of allegation was rough with children
Anthony Khoury	Childcare worker	<ul style="list-style-type: none"> May have information relevant to the complaint May have details regarding the alleged incident Rostered to work with the subject of allegation on the day of the alleged incident Observed alleged incident Stated in initial inquiries that the subject of allegation was rough with children
Joan Smith	Childcare worker	<ul style="list-style-type: none"> Subject of allegation

Possible evidence		
Item/document	Source	Relevance
Staff roster	Alex Tsiolkas, CEO	May have information regarding subject of allegation working with alleged victim and other witnesses
Policies and procedures re Code of Conduct	Alex Tsiolkas, CEO	Will provide evidence of policies and procedures regarding appropriate contact with children
SOA Personnel Record and Training Record	Alex Tsiolkas, CEO	Will provide evidence of subject of allegation's Personnel Record and Training Record
Photographs of the scene	Alex Tsiolkas, CEO, or staff member	Will show scene of alleged incident

Investigation action plan			
Action	Date/time action taken or required to be taken by	Person to action	Notes
Contact all available witnesses and organise statement times.	6 July 2017	Investigator	2 hours
Obtain policies and procedures re Code of Conduct	14 July 2017	Investigator	1 hour
Obtain SOA Personnel Record and Training Record	14 July 2017	Investigator	1 hour
Photograph scene	14 July 2017	Investigator	1 hour
Conduct witness interviews and draft statements	25–28 July 2017	Investigator	10–12 hours
Interview SOA	28 July 2017	Investigator	2 hours
Analyse evidence	29 July 2017	Investigator	4 hours
Summarise evidence	29 July 2017	Investigator	4 hours
Complete and submit Investigation Report	30 July 2017	Investigator	6–8 hours

Example: Letter of allegation

Organisations should consider whether any other laws or workplace agreements, such as awards or enterprise agreements, might be relevant to a letter of allegation.

This example letter of allegation deals only with the issue of a reportable allegation. Organisations may wish to give thought to whether their requirements mean that a letter of allegation should also make reference to potential breaches of the organisation's policies, together with any consequences that may flow as a result. If an organisation is unsure of its obligations, the Commission recommends that the organisation seeks legal advice.

Private & Confidential

Ms Joan Smith
1 Anywhere Street
Anytown VIC 3999

Wednesday 6 July 2017

Dear Ms Smith,

Allegation of Reportable Conduct – Alleged Physical Violence Against a Child

I have been notified of an incident that names you as the alleged subject of a reportable allegation.

It has been alleged that you may have committed physical violence against a child. This reportable allegation has been notified to Victoria Police and the Commission for Children and Young People.

The substance of the allegation is as follows:

- On Monday 4 July 2017, Sonny Nguyen (5 years old) may have been in your care.
- Sonny allegedly returned home later that day after being in your care.
- It is alleged that Sonny told Fiona Nguyen (Sonny's mother) that you may have slapped Sonny on the hand.
- Fiona says that she observed bruising on Sonny's hand.
- Fiona also says that she has a photograph of Sonny's bruised hand.

Physical Violence Against a Child

If the above allegation is substantiated, your conduct may meet the definition of reportable conduct under the *Child Wellbeing and Safety Act 2005*. The Commission for Children and Young People will be advised of the finding. The Commission for Children and Young People may also advise the Working with Children Check Unit if a substantiated finding of reportable conduct is made, which could trigger a reassessment of your Working with Children Check. The Company may also have to make further notifications in accordance with the *Child Wellbeing and Safety Act 2005* and take any appropriate action in response to the finding.

In accordance with our policies, you have the opportunity to provide a written response to the allegation by **13 July 2017**. Your response will be taken into consideration as part of our interview and investigation process. You will be invited in writing for an interview in due course, at which time you are entitled to have a support person accompany you.

If you believe that any person may have information relevant to the investigation, please let me know.

Confidentiality

To facilitate the investigation, we ask that you keep this matter confidential. This means you should not discuss or disclose any matter relating to this investigation with any person, other than me, your representative or your support person. You should also ask them to keep this matter confidential. If you become aware of any breach of confidentiality regarding the investigation, please contact me immediately.

Harassment

It is against the Company's policies for any person to victimise, harass or retaliate against you as a result of your involvement in this matter. You should immediately contact me if you think this has occurred. Likewise, it is against our policies for you to victimise, harass or retaliate against any person or witness involved in this matter. If you do so, you may be subject to disciplinary action, up to and including termination of your employment.

Next Steps

Julie Brown (Licence # 123 345 567 DF) of Flash Investigations Pty Ltd has been appointed as the Company's independent investigator. Julie will be in contact with you directly to arrange a meeting time. If you decide to bring a support person with you to the investigation meeting, I ask that you provide Julie with advance notice of who that person will be.

Once Julie has concluded her investigation, she will compile an Investigation Report. I will then decide what (if any) further steps may be undertaken in accordance with the Reportable Conduct Scheme.

I will be your Company contact person during the course of this investigation process. Please do not hesitate to contact me in the meantime with any questions, or if you require any additional support during this time.

Yours sincerely,



Alex Tsiolkas, CEO
Excellent Child Care Victoria Pty Ltd
1001 Collins Street
Melbourne VIC 3000