# **Mandatory Reporting January 2020 changes: Case Studies**

These case studies use fictional examples of child abuse and family violence. You may find the content in the document causes distress. Please remember help and support is available. If at any time you would like to talk to a professional with experience in trauma, please contact the Department’s free and confidential Employee Assistance Program on 1300 361 008.

**FROM JANUARY 2020**

If you are employed or engaged (other than on a voluntary basis), to provide direct support to school students, at or directly connected with a school, for mental, emotional or psychological wellbeing, you are considered a ‘school counsellor’ under mandatory reporting laws, and are a mandatory reporter as of 31 January 2020.

School counsellors may include the following:

• Student Support Service staff • Student Wellbeing Coordinators

• Primary Welfare Officers • Chaplains

• Mental Health Practitioners in secondary schools • Speech pathologists

• Youth workers • Social workers

The above list is NOT exhaustive. You must consider the definition of school counsellor and determine whether your work and duties could mean you are a school counsellor.

Mandatory reporters must make a report to DHHS Child Protection if they form a reasonable belief in the course of practising their profession or carrying out their duties that:

* a child has suffered or is likely to suffer significant harm, as a result of physical or sexual abuse, and
* the child’s parents have not protected or are unlikely to protect the child from harm of that type.

The report must be made as soon as practicable after forming the belief, and after each occasion on which they become aware of any further reasonable grounds for the belief.

Example – New information after reporting

Matthew is a Social Worker who speaks with student Stefanie late on the Friday afternoon before school holidays and before he starts long service leave. Stefanie tells Matthew that her mum’s birthday will fall on the weekend before school returns, and she is worried her mother will get drunk and hurt her like in previous years. Matthew makes a mandatory report on the Friday afternoon, and records notes on Stefanie’s file for his replacement, Ali (also a Social Worker), to check on Stefanie when school returns.

When school returns, Stefanie tells Ali that her mother did get drunk and threw a bottle at her. Ali can see on the case notes that Matthew made a report to Child Protection before the holidays.

**Question**

Ali can see Matthew made a mandatory report before the school holidays. Does Ali need to make his own report to Child Protection?

**Answer**

Yes, Ali needs to make a report after each occasion on which he becomes aware of any additional information that causes him to form a belief on reasonable grounds that a mandatory report must be made. In this case, Matthew reported his concerns about the student’s safety over the school holiday period based on her disclosure about what could happen that holiday, whereas Ali has now been told what actually happened. Ali must make his own report to Child Protection. Ali must refer to the [Four Critical Actions for schools](https://www.education.vic.gov.au/Documents/about/programs/health/protect/FourCriticalActions_ChildAbuse.pdf) on DET’s [PROTECT website](https://www.education.vic.gov.au/school/teachers/health/childprotection/Pages/default.aspx) for further guidance on steps that staff need to take in responding to allegations of child abuse and family violence, and must keep a detailed record of the report he makes.

Example – Disclosure outside work

Sharon works part-time as a speech pathologist in the Area office. Sharon is at her daughter’s athletics carnival on the weekend. One of her daughter’s friends, Ming who is 13 years old, tells Sharon that she is afraid to go home because her dad has been hurting her when coming into her room at night and pulls off her pyjamas.

**Question**

As the disclosure happened when Sharon was not at work, is Sharon still required under mandatory reporting laws to report this to Child Protection?

**Answer**

As the disclosure did not occur when Sharon was practising her profession or carrying out her duties, this situation does not require her to make a mandatory report to DHHS Child Protection. However, it is open to Sharon to make a non-mandatory report to DHHS Child Protection in her personal capacity, if she believes on reasonable grounds that Ming is in need of protection.

Sharon must also notify Victoria Police of this disclosure as soon as possible. A special legal obligation applies to all adults (not just mandatory reporters, and not just adults who are carrying out their professional duties) who form a reasonable belief that a sexual offence has been committed by an adult against a child under 16, to report that information to Victoria Police. Failure to disclose the information to police is a criminal offence. If Sharon does not report this disclosure to Victoria Police, she could be charged with the [**failure to disclose**](https://www.justice.vic.gov.au/safer-communities/protecting-children-and-families/failure-to-disclose-offence) offence.

Sharon must also notify the school principal of Ming’s disclosure as soon as possible, so that they can follow the [Four Critical Actions for schools in Responding to Incidents, Disclosures and Suspicions of Child Abuse](https://www.education.vic.gov.au/Documents/about/programs/health/protect/FourCriticalActions_ChildAbuse.pdf) on DET’s [PROTECT website](https://www.education.vic.gov.au/school/teachers/health/childprotection/Pages/default.aspx).

Example – Disclosure of historical abuse

Con is a School Youth Worker who attends a Student Support Group meeting with a 16 year old student, Youla. After the meeting, Youla tells Con that two years ago, her father sexually abused her when they lived in Cairns. Con is aware that Youla now lives with her mother in Mildura and does not have any contact with her father, who still lives in Cairns. Con speaks with the school principal who advises that school staff were not aware of this past abuse.

**Question**

Does Con need to make a mandatory report to Child Protection?

**Answer**

Here, the first element of mandatory reporting obligation has been met (a child has suffered or is likely to suffer significant harm, as a result of physical or sexual abuse). However, the second element (the child’s parents have not protected or are unlikely to protect the child from physical or sexual abuse) may not apply here, given that Youla and her mother have moved interstate away from Youla’s father. Con will only be required to report this disclosure to DHHS Child Protection if he has reason to believe that Youla’s mother has not protected or is unlikely to protect Youla from this kind of harm.

Given that they moved interstate and have no contact with Youla’s father, Con determines that he does not have a reasonable belief that Youla is in need of protection. He tests this thinking with the Principal, who agrees.

Even if Con is not required to report this disclosure to DHHS Child Protection as a mandatory reporter, Con must still report this disclosure to Victoria Police. Because Youla’s disclosure includes allegations of a sexual offence committed by an adult against a child under 16, Con may be subject to criminal charges under the [**failure to disclose**](https://www.justice.vic.gov.au/safer-communities/protecting-children-and-families/failure-to-disclose-offence) offence if he does not report this disclosure to Victoria Police. Con must follow the [Four Critical Actions for schools in Responding to Incidents, Disclosures and Suspicions of Child Abuse](https://www.education.vic.gov.au/Documents/about/programs/health/protect/FourCriticalActions_ChildAbuse.pdf) on DET’s [PROTECT website](https://www.education.vic.gov.au/school/teachers/health/childprotection/Pages/default.aspx).

Example – Secondary disclosure

Danni is a School Health and Wellbeing Coordinator. Shaun, a student, brings a highly concerning drawing to school that he did over the weekend. Shaun tells Danni that the drawing shows his dad using a belt to hit Shaun when he has been bad. Shaun says it is true, not imagined, that it happens all the time and he showed his mum who said he was not to show anyone as it was private family business.

**Question**

As the disclosing drawing was done at home, and not at school, and was seen by Shaun’s mum, does Danni need to make a mandatory report?

**Answer**

The fact the drawing was done at home and not at school is not relevant – a disclosure has still been made to Danni whilst she was performing her work duties, and Danni’s employment falls within the definition of ‘school counsellor’ for the purposes of mandatory reporting requirements.

Danni must make a mandatory report to DHHS Child Protection if she has formed a reasonable belief that Shaun has been, or is at risk, of being physically abused, and Shaun’s parents have not protected, or are unlikely to protect, Shaun from harm of that type. Danni must follow the [Four Critical Actions for schools in Responding to Incidents, Disclosures and Suspicions of Child Abuse](https://www.education.vic.gov.au/Documents/about/programs/health/protect/FourCriticalActions_ChildAbuse.pdf) on DET’s [PROTECT website](https://www.education.vic.gov.au/school/teachers/health/childprotection/Pages/default.aspx).

Where to find further information

For more information on your mandatory reporting obligations, as well as how to identify and respond to child abuse, visit the [PROTECT website](https://www.education.vic.gov.au/about/programs/health/protect/Pages/default.aspx)

You can also:

* Undertake the [online mandatory reporting module](http://elearn.com.au/det/protectingchildren/)
* Visit the [DHHS Mandatory Reporting website](https://providers.dhhs.vic.gov.au/mandatory-reporting)
* Read the [Child Protection - Reporting Obligations](https://www.education.vic.gov.au/school/principals/spag/safety/Pages/childprotectobligation.aspx) page on the School Policy and Advisory Guide
* Call 1800 RESPECT for guidance and support on family violence
* Speak to your principal/manager for further information.