#  Transferring

# ‘Foreseeable Risk’

**Information Sheet**

**Duty of care**

Duty of care requires school staff to take *reasonable* steps to minimise the risk of reasonably foreseeable injury to any student. For more information about a school’s duty of care, see: <http://www.education.vic.gov.au/school/principals/spag/safety/pages/dutyofcare.aspx>.

Identifying and, where appropriate, sharing and transferring information about foreseeable risk for students transferring to a new school is part of a school’s duty of care to students.

Where foreseeable risk information regarding a particular student’s circumstances is not shared when the student transfers to another Victorian government school, a real risk is that the student will not receive adequate support upon commencement at their new school as staff do not have sufficient information. This also exposes the Department to legal risk such as claims of negligence or unlawful discrimination.

**Transfer of information**

From July 2017, all Victorian government schools are expected to transfer student information through CASES21. Parent consent is not required to transfer student information or records to the student’s next Victorian government school because it is a ‘use’ of that information for the same primary purpose for which it was collected, consisted with Victorian privacy law.

For more information about student transfers, see the SPAG page: <http://www.education.vic.gov.au/school/principals/spag/participation/Pages/transfers.aspx#link28>.

**Foreseeable risk**

There is now a specific section in the Student Supports Tab in CASES21 relating to foreseeable risk. This section prompts schools to share necessary information with the student’s next school and assists schools to discharge their duty of care. It is not a new requirement (i.e. to share information) but rather a new mechanism to ensure that schools are considering for each transferring student, whether there is any foreseeable risk information that they need to communicate to the new school.

The range of potential foreseeable risks is very broad. Foreseeable risk in relation to a particular student and their specific circumstances will always have an element of subjectivity, and staff will need to make a judgment call as to what issues they might need to consider based on their knowledge of a student.

**Examples of student information that meets the criteria for ‘foreseeable risk’**

The following are just some examples of student information, which should ordinarily be transferred to a student’s new school in order to discharge duty of care:

The student has a history of being a victim or perpetrator of bullying

The student has a disability

The student has mental health issues or has displayed self-harm behaviours

The student has been a client of child protection services

The student has received support from services such as Child First, Department of Health and Human Services etc.

There are welfare concerns regarding the student due to a history of alleged family violence, homelessness or poverty

The student has been a victim of sexual assault or displays concerning sexualised behaviour that poses a safety risk to other students

The student has displayed other behaviours of concern

The student has recently experienced a death or serious illness in their family

The student has problems with alcohol or illicit drugs

The student has been or is involved in a police investigation (whether as a victim, perpetrator or witness)

The student has been or is involved in family law proceedings.

For more information about identifying students at risk, see: <http://www.education.vic.gov.au/school/principals/participation/Pages/disengagedrisk.aspx>

Information relating to foreseeable risks is often highly sensitive, personal information about a student or their family. Consideration should be given to ensuring the security of this information, including limiting access to the Student Supports Tab to specific school staff, who can then disseminate the information to other relevant staff who will need it to plan and to put appropriate supports in place for the individual student, as well as for other students or staff who might be impacted by that student’s behaviour.

If you have any questions, please email us at legal.services@edumail.vic.gov.au or call on (03) 9637 3146.