

GUIDELINES FOR SCHOOLS RESPONDING TO PROBLEMATIC OR HARMFUL SEXUALISED BEHAVIOURS FROM CHILDREN ¹

Table of Contents

SECTION 1 – BACKGROUND, KNOWLEDGE AND PLANNING

1. Introduction

- a. What is problematic or harmful sexualised behaviour?
- b. What is the scope and purpose of the Guidelines?
- c. What key principles apply when taking action under the Guidelines?
- d. Using appropriate language when referring to a child who has exhibited, or been affected by, problematic or harmful sexualised behaviours
- e. What considerations may apply when Aboriginal or Torres Strait Islander students are involved in a matter?
- f. What considerations may apply when students from other culturally linguistic or diverse backgrounds are involved in a matter?
- g. What considerations may apply when students with disability are involved in a matter?
- h. What considerations apply when students in out-of-home care are involved in a matter?

2. Roles and Responsibilities under the Guidelines

- a. Role of the first staff member who becomes aware of a student's allegedly problematic or harmful sexualised behaviours.
- b. Role of the principal.
- c. Role of the Director Public Schools NSW.
- d. Role of students.
- e. Role of parents.
- f. Role of the Minister for Family and Community Services and any agency that has day-to-day parental responsibility for the student if he or she is in out-of-home care.
- g. Role of the school counselling service.
- h. Role of school services staff
- i. Role of networked specialist facilitators.
- j. Role of the department's Child Wellbeing Unit.
- k. Role of the department's Health and Safety directorate.
- l. Role of the Joint Investigative Response Team process.
- m. Role of NSW Health.
- n. Role of experts and organisations already working with a student/ their family.

3. The Legal Context

- a. The duty of care, child protection and education law.
- b. Discrimination, privacy and work health and safety laws.
- c. The criminal law.
- d. Other laws.
- e. Reportable conduct
- f. Compliance with the department's Code of Conduct and other departmental policies and procedures.
- g. Further information about legal obligations.

^{1 1} The Guidelines are a working draft and are yet to be approved by the NSW Department of Education. **This version was uploaded on 26 October 2017.**

4. Identifying Problematic or Harmful Sexualised Behaviours

- a. Factors contributing to problematic or harmful sexualised behaviours.
- b. Assistance in identifying and responding to problematic or harmful sexualised behaviours.
- c. Building staff competence to recognise problematic or harmful sexualised behaviours.

5. Prevention

- a. Introduction.
- b. Seeking information about a student's problematic or harmful sexualised behaviours or their vulnerability to such behaviour.
- c. Fostering a safe, respectful and inclusive school environment.
- d. Assessing and addressing the risk of problematic or harmful sexualised behaviours occurring at school or on school related activities.
- e. Working with students.
- f. Working with parents.
- g. Sharing information with different schools and other organisations to the extent permissible by law.

SECTION 2 – MANAGING AN INCIDENT

6. The School's Immediate Response to problematic or harmful sexualised behaviours

- a. The first staff member who becomes aware of the behaviours.
- b. The principal.

7. Mandatory reporting and other notifications

- a. If an immediate response is required from emergency services.
- b. Notifying the principal.
- c. Reporting incidents of problematic or harmful sexualised behaviours to the department's Child Wellbeing Unit.
- d. What if the CWU cannot be contacted?
- e. Making direct contact with the police.
- f. Contacting the department's Health & Safety directorate including the Incident Support Unit.
- g. What happens if a report to the Helpline is screened out or the FACS Community Services Centre closes a matter?

8. Communicating with parents within the school and with other organisations

- a. Exceptional circumstances in which a parent may not be contacted about problematic or harmful sexualised behaviours involving their child.
- b. Communicating with the parents of abused or otherwise affected children.
- c. Communicating with the parents of children who exhibit problematic or harmful sexualised behaviours.
- d. Communicating with designated agencies and FACS when a child is in out-of-home care.
- e. Delays in receiving advice from Police or FACS or disagreements about communication strategies.
- f. Communicating with parents when FACS or police are not involved in an incident.
- g. Communicating with staff of the school.

- h. Communicating with organisations known to have a duty of care of an affected student or a student who has engaged in the behaviour.
- i. Evaluating the need to notify the broader school community.
- j. Dealing with the media.

9. Information exchange and working with other agencies

- a. Working with other agencies to support children.
- b. Information exchange generally.
- c. Exchanging information under Part 5A of the Education Act 1990.
- d. Exchanging information under Chapter 16A of the Children and Young Person's (Care and Protection) Act 1998.
- e. Other sources of information and assistance about information exchange.

10. Statutory Investigations and inquiries conducted by the school

- a. Statutory Investigations.
- b. Enquiries conducted by the school.

11. Assessing risks posed by a student's behaviours

- a. Risk management generally
- b. Managing potential environmental risks when responding to problematic or harmful sexualised behaviours
- c. Assessing and managing the risk to students potentially posed by problematic or harmful sexualised behaviours
- d. What factors should be considered when undertaking a risk assessment?
- e. Using appropriate language when referring to students and/or describing behaviours.
- f. Who should be consulted about a risk assessment?
- g. The risk assessment as part of the broader school based response.

12. School-based supports

13. Assessing the need for a post incident review

14. Record keeping

15. Managing complaints and disagreements

SECTION 3 – ADDITIONAL RESOURCES, DICTIONARY AND ANNEXURES

16. Additional resources

17. Dictionary

18. Annexures

1. Contact List.
2. Flowchart.
3. First staff member's checklist.
4. Principal's Checklist – the first 24/48 hours.
5. Director Public School NSW Checklist.
6. Principal's Checklist – Investigations by FACS/the Police.
7. Principal's Checklist – Enquiries conducted by the school.

8. Incident Report Form.
9. Checklist for contact with parent of the child who has engaged in the behaviours.
10. Checklist for contact with parents of affected children.
11. Sample staff briefing.
12. Covering letter distributing information from police to the school community.
13. Letter to parents whose children are not known to be affected by the behaviours.
14. Follow up letter to school community during an investigation by FACS or Police.
15. Sample suspension letter.
16. Script for front office staff answering phone calls from parents when an incident has been publicised within the school.
17. Tips for front office staff dealing with media inquiries.
18. Risk management fact sheet
19. Sample risk management plan

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1) INTRODUCTION

a. What is problematic or harmful sexualised behaviour?

1. The term *problematic or harmful sexualised behaviours* covers a broad spectrum of behaviours. Students may exhibit these behaviours by their actions or in language directed towards other children or adults. It may also be exhibited in their schoolwork (for example, in an English essay, artwork or during classroom discussions).
2. These behaviours may be self-directed. A student may exhibit problematic or harmful sexualised behaviours in their interactions with another student at school, during a school related activity or outside of a school setting. These behaviours may also be exhibited in interactions with siblings or other close family members away from school.²
3. Depending on the circumstances, and the age and ability of the child, problematic or harmful sexualised behaviours can involve pressure, coercion, aggression, bribery, secrecy or other grooming behaviours. They can include sexting, re-enactments of specific adult sexual activity, sexual play with younger children and non-consensual groping or touching of another child's genitals.
4. Given that children also engage in age appropriate sexualised behaviours it is important to distinguish these from problematic or harmful sexualised behaviours in order to provide an appropriate response.
5. Assistance in distinguishing between a child's age-appropriate and problematic or harmful sexualised behaviours is found in the [NSW Mandatory Reporter Guide. – Child/Young Person Problematic Sexual Behaviour towards Others](#).
6. The department's Child Wellbeing Unit can also provide assistance and advice in identifying these behaviours on telephone 9269 9400.

b. What is the scope and purpose of the Guidelines?

7. The Guidelines apply to all government schools including distance education centres and government pre-schools.
8. They should be used once a child's problematic or harmful sexualised behaviours have been reported to the school. They apply to behaviours at school or during school related activities such as excursions, sport, artistic performances or school or band camps.
9. They also apply when a child has engaged in problematic or harmful sexualised behaviours outside of the school environment (for example at before and after school care) where those behaviours may pose a foreseeable risk to the student while they are at school, other students or staff.

² It is estimated that sexual abuse by a sibling is about five times more common than abuse by a parent or carer *Helping to Make It Better – Important Information for Parents and Carers about the Sexual Assault of Children* © NSW Health Education Centre Against Violence, Chapter 3

c. What key principles apply when taking action under the Guidelines?

10. Government schools are committed to improving the educational outcomes of students and endeavour to provide students with a safe and nurturing environment. This includes catering for the physical, emotional and psychological wellbeing of students and supporting them in connecting, succeeding and thriving at school.
11. Problematic or harmful sexualised behaviours arise in many different contexts in society. Schools are amongst the safest places in the community, nevertheless some children exhibit problematic or harmful sexualised behaviours at school or during school related activities.
12. Reports of problematic or harmful sexualised behaviours must be treated seriously, and with respect, and dealt with promptly.
13. It is critically important when formulating a response to problematic or harmful sexualised behaviours to recognise that the children who exhibit these behaviours may have experienced sexual abuse, neglect, caregiver substance abuse, domestic violence, social isolation, cognitive delays and/or significant economic disadvantage. There is evidence to show that if a child is younger than 10 is engaging in sexually harmful behaviour they are more likely to have themselves been abused³.
14. Some problematic or harmful sexualised behaviours are self-directed and not all result in a child being victimised, however, some children are victimised by the sexualised behaviour of other children.
15. It is important to acknowledge that the fact another *child* has victimised a student does not lessen the potentially serious impact of the behaviour on the student who has been victimised.
16. Disengagement in education is a major predictor for poor educational and social outcomes. The educational interests of all students involved must be optimised to the extent it is reasonably practicable to do so when responding to problematic or harmful sexualised behaviours between children. All students must be supported.
17. An important part of the response to a child's problematic or harmful sexualised behaviours includes considering whether a mandatory report must be made to [FACS Child Protection Helpline](#) on 132 111 and making that report where one is required.
18. However, the department's child protection obligations do not end with a mandatory report.
19. Where required, the department works within a system of shared responsibility across government with each agency attending to incidents according to their

³ Gray, A. Pithers, W.D., Busconi, A. & Houchens, P. (1999). Development and etiological characteristics of children with sexual behaviour problems: Treatment implications. *Child Abuse & Neglect*, 23(6), pp. 601-621.

Freiderich, B. (2005). Correlates of sexual behaviour in young children. *Journal of Child Custody*, 2(3), 41-55.

designated role and working collaboratively in a way that seeks to prioritise the safety, welfare and wellbeing of students while respecting each other's functions.

20. Ultimately the best school-based response to problematic or harmful sexualised behaviour in children will:
- a) be holistic, proportionate, prompt and ongoing;
 - b) recognise that the fact another child has exhibited problematic or harmful sexualised behaviours towards a student does not lessen the potentially serious impact of those behaviour on the student who has been affected by the behaviour;
 - c) recognise that children who exhibit problematic or harmful sexualised behaviour can be amongst the most vulnerable children in our community and may have been exposed to repeated childhood trauma. They may have experienced sexual abuse, neglect, caregiver substance abuse, domestic violence, social isolation, cognitive delays and/or significant economic disadvantage. There is evidence to show that if a child is younger than 10 is engaging in sexually harmful behaviour they are more likely to have themselves been abused. ;
 - d) support all students in a respectful, culturally appropriate and sensitive way which builds on any existing strategies to support the student or family;
 - e) avoid stigmatising or isolating the child who has engaged in problematic or harmful sexualised behaviours to the extent it is practicable to do so without compromising the safety of the child, other students and staff;
 - f) involve partnerships with parents and students and may involve other agencies organisations and experts;
 - g) support all children exposed to the behaviour (either directly or indirectly) and recognise that children who witness behaviours may be affected by what they have seen and require support;
 - h) recognise that school staff may also be affected by a child's problematic or harmful sexualised behaviours and require guidance and support;
 - i) maintain open channels of communication with parents and others to the extent permitted by law, consistent with departmental protocols and in consultation with other agencies where required; and
 - j) to the extent it is practicable, involve people the child trusts and is connected to when planning for their support.
- d. **Using appropriate language when referring to a child who has exhibited, or been affected by, problematic or harmful sexualised behaviours**
21. Although a student may have been victimised by problematic or harmful sexualised behaviours, care should be exercised before calling the child a "victim" when

speaking to them about what has occurred. Advice about speaking with students who have been affected by problematic or harmful sexualised behaviours is available from the school counselling service and the department's Child Wellbeing Unit on 9269 9400.

22. Care also needs to be taken when describing a child who has exhibited problematic or harmful sexualised behaviour as an inappropriate response can harm the child concerned.
23. It is important to avoid responding to the child's behaviour with anger, fear or disgust. It is equally important, when describing the child's behaviour, to avoid the language commonly used when describing adults who engage in harmful sexual behaviours.⁴
24. Accordingly a child who has exhibited problematic or harmful sexualised behaviours must not be referred to as a predator, perpetrator or sex offender. If it is necessary to refer to the child in discussions or departmental documents it is preferable to refer to them by their first name (for *example a risk management plan has been implemented for Chris, not a risk management plan has been implemented for the perpetrator*).
25. It is also important to distinguish between the child and their behaviour when referring to what has occurred. (For example reference should be made to the risk or challenge posed by the child's *behaviours* rather than the risk posed by the *child*).
- e. **What considerations may apply when Aboriginal and Torres Strait Islander students are involved in a matter?**
26. School-based strategies to support Aboriginal and Torres Strait Islander students who exhibit, or are affected by, problematic or harmful sexualised behaviours must be linked to their Personalised Learning Pathway (where one is in place), involve the student and his or her family and, where appropriate, involve appropriate support from available Aboriginal staff.
27. Gender considerations (Men's/Women's Business) should be taken into account when supporting students. Consideration may also be given to seeking advice from the local Aboriginal Medical Service where appropriate.
28. The department's Child Wellbeing Unit has Aboriginal Assessment Officers available on 9269 9400 who can provide support and advice when schools are responding to problematic or harmful sexualised behaviour involving Aboriginal or Torres Strait Islander families.
29. Information about the support given to Aboriginal students who engage in harmful sexualised behaviours and their families by NSW Health is at **paragraph 92 of the Guidelines**.⁵

⁴ For further information see the evidence of [Dr Wendy O'Brien in the Royal Commission into Institutional Responses to Child Sexual Abuse's Case Study 45, 20 October 2016](#), page 21654, line 4 to page 21665, line 40.

⁵ Text in bold will be hyperlinked to the relevant section of the Guidelines

f. **What considerations may apply when students from other culturally linguistic or diverse backgrounds are involved in a matter?**

30. Schools should use the resources and services available to support the needs of specific groups of students including new arrivals, refugees and other students from culturally or linguistically diverse backgrounds and have planned how to support them. Focus areas include cultural diversity and community relations and refugee and support programs. Existing plans to support the student should be reviewed in consultation with the student (where practicable) and their parents.
31. Consideration should be given to arranging for an interpreter when speaking with families from linguistically diverse backgrounds. Information about interpreting and translation services is available in the department's [Interpreting and translation services guidelines](#).

g. **What considerations may apply when students with disability are involved in a matter?**

32. Problematic or harmful sexualised behaviours can also be associated with some disabilities. For example the behaviours may be associated with impaired understanding or communication associated with a cognitive disability or developmental disability. Students with disability are also at increased risk of being exposed to problematic or harmful sexualised behaviour in addition to being exposed to abuse and neglect.
33. Consultation with professionals can assist school staff in distinguishing between problematic or harmful sexualised behaviours and developmentally appropriate behaviours or impaired understanding or communication.
34. The school counselling service, the department's Child Wellbeing Unit and/or external agencies such as the local NSW Health Child Sexual Assault services can provide further assistance when dealing with students with disability who have engaged in, or been affected by, problematic or harmful sexualised behaviours. In some cases a combined approach is desirable. The department's local network specialist facilitator may be able to assist in coordinating an interagency response.
35. Schools should provide [personalised learning and support](#) in consultation with parents and, where practicable, the student, to enable each student with disability to access and participate in educational activities on the same basis as other children, including child protection education.
36. If a student with disability exhibits, or is affected by problematic or harmful sexualised behaviours, existing planning for the student must be reviewed in consultation with the student where practicable, and their parents unless exceptional circumstances apply. (Information about the exceptional circumstances in which a parent may not be involved in planning is at **paragraph 204 of the Guidelines**).
37. Reasonable adjustments must be made for a student with disability to enable their participation in educational programs offered by the school. An adjustment is reasonable in relation to a student with disability if it balances the interest of all parties affected including both the student with disability, staff and other students.

h. **What considerations apply when students is in out-of-home care are involved in a matter?**

38. There is a likelihood that children in out-of-home care will have been exposed to higher levels of trauma in childhood than most other children.
39. Unfortunately schools are not always informed that a student is in out-of-home care when they begin attending school.
40. If there is a reasonable basis to believe a student may be in out-of-home care the department's Child Wellbeing Unit can be contacted on telephone number 9269 9400. That unit is able to confirm if a student is in statutory out-of-home care and, if they are, provide details for the non-government organisation or FACS Community Services Centre providing casework support for the child.
41. Given the number of people/professionals involved in the lives of children in out-of-home care, the views of the child should be sought about who they would like to be contacted first and from whom they would like support, to the extent it is practicable to do so.
42. It is the responsibility of the Secretary and Minister of Family and Community Services to confirm that children in temporary or statutory care are safe, adequately supported and cared for.
43. A report to [FACS Child Protection Helpline](#) on 132 111 is thus also required around any problematic or harmful sexualised behaviour involving a student in out-of-home care even if the concerns do not reach the threshold of suspected risk of significant harm.
44. Once they are aware a student is in out-of-home care, school staff should work with the student's caseworker and carers to coordinate service provision for the student. This includes reviewing the student's [personalised learning and support](#) planning to address problematic or harmful sexualised behaviours and review appropriate supports. Where practicable the student should be consulted about which adult will support them in any meetings planning for the student's support.
45. The support required by children in out-of-home care may require additional time to listen to the child, liaison with carers/professionals involved with the child and higher levels of follow up support at schools in order for the child to feel safe at school.

2) **ROLES AND RESPONSIBILITIES UNDER THE GUIDELINES**

a. **Role of the first staff member who becomes aware of a student's allegedly problematic or harmful sexualised behaviours**

46. A checklist for the first staff member who becomes aware of a student's problematic or harmful sexualised behaviours is at **Annexure 18.3 of the Guidelines**.

47. The first staff member who becomes aware of a student's problematic or harmful sexualised behaviours must:
- a) act to keep all students safe including assessing the need for medical attention;
 - b) broadly establish what has occurred;
 - c) provide words of comfort and acknowledgment to students affected by the behaviours and allow them to speak about an incident if they wish;
 - d) promptly notify the principal or, if the principal is not available, the most senior staff member present;
 - e) provide the principal with any evidence they have collected (for example a mobile phone with an image on it); and
 - f) record what they have seen/been told using the form at **Appendix 18.8**.
48. Depending on their relationship with the student, this staff member may also be called upon to provide students with ongoing support.
49. Further information about the role of the first staff member to become aware of problematic or harmful sexualised behaviours is at **paragraph 145 to 164 of the Guidelines**.
- b. Role of the principal**
50. A checklist for principals taking action during the first 24/48 hours following an incident is at **Annexure 18.4 of the Guidelines**.
51. Upon being notified of a student's problematic or harmful sexualised behaviours the principal must:
- a) Seek medical assistance or urgent police assistance as required.
 - b) Speak to the students separately and obtain sufficient information to establish what has occurred. Do not ask them to write a statement or for detailed information about an incident.
 - c) Contact the Child Wellbeing Unit and comply with any other reporting requirements (for example informing EPAC of reportable conduct). Further information about mandatory (and other) reporting requirements is at **Chapter 7 of the Guidelines**.
 - d) Consider the wellbeing needs of students and staff.
 - e) Determine how best to contact parents and whether to brief staff members.
 - f) Consider whether to contact the Director Public Schools NSW.

g) Discharge any other legal obligations.

52. Further information about the role of the principal is at **paragraphs 165 to 180 of the Guidelines**.

c. Role of the Director Public Schools NSW

53. The Director Public Schools NSW provides guidance, support and direction to the principal who is managing a serious incident of problematic or harmful sexualised behaviours. This may include guidance as to whether disciplinary action should be taken in response to the behaviours.

54. They also coordinate departmental support for the school and may undertake certain reports (for example updating the Media Unit about what has occurred). A checklist for Directors Public Schools NSW is at **Annexure 18.5 of the Guidelines**.

d. Role of students

55. Students have a right to participate in decisions made about them unless, because of their age or ability, they are unable to do so. There must be a factual basis for doubting a student's capacity to participate in any decisions and acknowledgment this may change over time.

56. To the extent it is practicable, the student should be consulted about the adults who will support them including assisting in planning for their personalised learning and support needs.

57. Further information about:

- a) the use of language to describe the behaviour of a student who has engaged in problematic or harmful sexualised behaviours **at paragraphs 21 to 25 of the Guidelines**;
- b) preventative strategies when working with students **at paragraphs 132 to 139 of the Guidelines**;
- c) speaking with students who have engaged in or been abused or otherwise affected by problematic or harmful sexualised behaviours **at paragraphs 149 to 159** (the first staff member aware of the alleged behaviours) and the principal **at paragraphs 166 to 175 of the Guidelines**;
- d) the school based support provided to students is at **section 12 of the Guidelines**.

e. Role of parents

58. The department usually works in partnership with parents to provide a safe and nurturing learning environment for students. Parents will ordinarily play a significant role in the prevention of, and response to, problematic or harmful sexualised behaviours unless exceptional circumstances apply.

59. Further information about parents including:
- a) the exceptional circumstances when a parent will not be notified of an incident or involved in planning for their child's support at **paragraph 204 of the Guidelines**;
 - b) preventative strategies when working with parents at **paragraphs 140 to 142 of the Guidelines**;
 - c) communication with parents after an incident at **paragraphs 205 to 225**. Tips for communicating with the parents of children who engage in or are affected by problematic or harmful sexualised behaviours are at **Annexure 18.9 and 18.10 of the Guidelines**.
- f. **Role of the Minister for Family and Community Services and any agency that has day-to-day parental responsibility for the student if he or she is in out-of-home care**
60. The Minister for Family and Community Services will either assume or delegate parental responsibility for children in out-of-home care.
61. The agency that has day-to-day parental responsibility for the student (the agency) will support their access and engagement in education by:
- a) working with the school to plan for, implement and review the student's personalised learning and support needs;
 - b) supporting the carer to make sure the child attends school regularly while they remain of compulsory school age; and
 - c) attending any relevant meetings about the student such as parent/teacher meetings or any suspension resolution meeting to address the issues that led to a suspension or expulsion.
62. If there are safety, welfare or wellbeing concerns for a student, the school can and should proactively exchange information under Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* with the agency who has day-to-day parental responsibility for the student, or other agency as deemed appropriate. The department's Child Wellbeing Unit on (02) 9269 9400 can assist schools in the exchange of information for these purposes. Further information about information exchange is at **section 9 of the Guidelines**.
63. If there is a health and safety risk at school arising from a student's behaviour the agency can be requested to provide the school with information the school requests or the agency identifies that assists with:
- a) assessing whether the enrolment of the student at a school may pose a risk to the health and safety of any person, including the student; and
 - b) developing and maintaining strategies to eliminate or minimise an identified risk.

64. Further information about students who are in out-of-home care is **at paragraphs 38 to 45 of the Guidelines.**

g. Role of the school counselling service

65. The school counselling service supports students who engage in and are affected by problematic or harmful sexualised behaviours.

66. However, counselling service staff are not specialists in child sexual abuse and sexual abuse therapy is not provided by them. They will, however, be able to provide referrals to appropriate specialist services. The work of the school counselling service includes:

- a) counselling students;
- b) assisting parents to make informed decisions about their child's education;
- c) assessing students' learning and behaviour;
- d) assisting schools to identify and address disabilities that affect students' learning;
- e) participating in school based committees such as the learning and support team;
- f) referring students to specialist services;
- g) liaising with other agencies concerned with the wellbeing of students; and
- h) working collaboratively with learning and support teams, school services staff, parents and carers and other agencies to develop appropriate school-based support for students.

h. Role of school services staff

67. School services staff can provide advice and support to schools when managing problematic or harmful sexualised behaviours between children.

68. The initial point of contact for principals would be the local Learning and Wellbeing Officer, who can assist in a range of areas including the development of safety plans, risk assessments, behaviour management plans, professional learning and access to external organisations.

i. Role of networked specialist facilitators

69. Networked specialist facilitators support government schools to manage complex situations impacting on the wellbeing of students that require multiple support services by facilitating coordinated service delivery, information exchange and monitoring of student support needs.

70. Where a matter is complex the local networked specialist facilitator can work to bring together health and wellbeing services to help schools support students with problematic or harmful sexualised behaviours by building a sustainable network of specialist support services for schools.

71. They are an additional source of assistance for schools to access necessary expertise in their work with students and families/carers whose social and emotional needs and life circumstances require services beyond the expertise that exists in the school.

j. Role of the department's Child Wellbeing Unit (CWU)

72. The CWU must be contacted on (02) 9269 9400 in relation to all incidents of problematic or harmful sexualised behaviours.
73. Depending on what has occurred the CWU will either make a mandatory report to the Department of Family or Community Services (FACS) on behalf of the caller or transfer the caller to FACS.
74. The CWU will also notify the department's Incident Support Unit (ISU) of what has occurred, making it unnecessary for a caller to contact both the CWU and ISU about a matter.
75. All CWU Assessment Officers have child protection expertise and support schools to identify and appropriately respond to students experiencing child protection concerns, including those involving problematic or harmful sexualised behaviours.
76. Assessment Officers support staff to identify the level of suspected risk to a child, including whether matters require a mandatory report to the FACS Child Protection Helpline. They also provide advice about, and direct assistance with, information exchange between agencies, support services that are available to assist children and families (both inside the department and externally) and about existing services in place where possible (e.g. current FACS involvement).
77. In some cases, the Assessment Officers will initiate a direct referral for the child or their family to a suitable service. Assessment Officers are also able to obtain information about some external services that have previously worked with a child and their family. This information may inform risk management plans or future referrals that are made to address a particular need of a student.

k. Role of department's Health and Safety directorate

78. The Health and Safety directorate provides strategic advice and support to staff on a range of issues including safety and wellbeing requirements, risk management, incident notifications, sharing information with police, and post incident support services for staff.
79. Health and Safety directorate's Incident Support Unit, which consists of departmental staff and seconded police, works directly with schools to manage serious incidents and promotes an effective partnership between schools and police. It also arranges for post incident support.
80. When the ISU is notified of problematic or harmful sexualised behaviours by the CWU the incident will be recorded by the ISU. If the child who is engaged in the

behaviours is aged 10 or over the ISU will assess whether a potential criminal offence has occurred and, if it has, notify the police on behalf of the school.

81. The Health and Safety directorate also discharges the department's obligations to notify incidents to Safework NSW under the *Work Health and Safety Act 2011* and *Workplace Injury Management and Workers Compensation Act 1998*.
82. Principals and senior executive staff are able to contact the Incident Support Unit hotline and access expert advice 24 hours a day, 7 days a week on 1800 811 523.

I. Role of the Joint Investigation Response Team process

83. This process provides a timely, coordinated and comprehensive response to children and young people who have been subjected to sexual abuse, serious physical abuse or serious neglect, (where the abuse constitutes a criminal offence).
84. Each agency has their own individual roles and responsibilities, which are clearly defined.
85. Under the arrangements, NSW Police investigate the criminal offences and initiate criminal proceedings where appropriate. FACS facilitates the safety and ongoing care of children. NSW Health provide for medical examinations of children and ongoing counselling.
86. A Local Point Contact Protocol (LCP) has been developed between NSW Police, FACS and Health who will consider the need to implement the LCP where:
 - a) a report of child sexual abuse has been accepted by the Joint Referral Unit (JRU); and
 - b) initial investigation and assessment obtains sufficient evidence to indicate further children at risk or broader community concern; and
 - c) the alleged offender is over the age of 18 years and is working in a paid or a voluntary capacity for an institution providing services to children and young people; or;
 - d) senior police officers within the Child Abuse Squad (CAS) determine that implementation of the LCP is warranted.

m. Role of NSW Health

87. As well as forming part of the tri-agency Joint Investigation Response Teams, NSW Health provides responses for children and young people engaging in problematic or harmful sexualised behaviours and those who have been affected by these behaviours.
88. Each Local Health District/Speciality Health Network identify a Health worker (for example the Child Wellbeing Coordinator) to act as a coordination point for resolving problems related to the referrals and check the child/family receives an appropriate service.

89. The Local Health District/Speciality Health Network provides a minimum of five service points for these children and their families:
- a) **Child Sexual Assault Service** – where a child is a victim of a sexual assault they will be referred to this service. The focus of this counselling and support intervention is to respond to the experience of sexual assault and trauma and the problematic or harmful sexual behaviour;
 - b) **Child Protection Counselling Service** – where a child is also a victim of abuse or neglect, and where FACS has made the referral and the matter is substantiated, the child will be referred to the Child Protection Counselling Service. The focus of this intervention is to address the impact of the abuse or neglect and the problematic or harmful sexual behaviour;
 - c) **Child and Adolescent Mental Health Services (CAMHS)** – where a child with problematic or harmful sexual behaviours meets the eligibility requirements of CAMHS they will be referred to that service. The focus of this intervention is to address any mental and emotional health issues that may be identified and the problematic or harmful sexual behaviour;
 - d) **Child and Family Service** – where the child with problematic or harmful sexual behaviour has no identified trauma or mental health history, the child will be referred to the Child and Family Service. The focus of this intervention is to address the child’s problematic or harmful sexual behaviour;
 - e) **Whole Family Teams** – where the child with problematic or harmful sexual behaviour meets the eligibility requirements of the Whole Family Team the child will be referred to the Whole Family Team. The focus of this intervention is to address any mental and emotional health issues that may be identified and the problematic or harmful sexual behaviour.
90. In addition to these five service points, a Local Health District/Speciality Health Network may elect to provide a specialist service to this children.
91. Health’s **New Street Services** also provides therapeutic services for children aged 10 to 17 years who have engaged in harmful sexual behaviours towards others. Specifically New Street will:
- a) provide early intervention and prevention by working with children and their families and carers; and
 - b) work with children to assist them to understand, acknowledge, take responsibility for and cease the harmful sexual behaviour.
92. Aboriginal children and communities are a priority for New Street Services. All New Street Services employees are trained and committed to ensuring cultural safety. Identified Aboriginal Counsellor positions are in place in every New Street Service as part of this commitment and related strategies.
93. New Street Services are not available in all areas. Further information about the location and availability of New Street Services is found at <http://www.health.nsw.gov.au/kidsfamilies/protection/Pages/New-Street-Services.aspx>

n. **Role of experts and organisations already working with a student/their family**

94. A student or their family may already be working with another government agency, a non-government organisation or an independent expert such as a psychologist.
95. Schools should consider contacting experts and other organisations working with the family when planning for, implementing, and reviewing support for both the student who engaged in the behaviour and students affected by the behaviour.
96. Advice can be sought from the department's Child Wellbeing Unit on 9269 9400 for assistance in identifying services already working with a student or their family or coordination of service provision between the school and other agencies.

3) **THE LEGAL CONTEXT**

a. **The duty of care, child protection and education law**

97. The Department of Education has legal obligations to students under the common law duty of care, child protection and education law. For example, the department and its staff must:
- a) take reasonable steps to protect a student from foreseeable risk of harm (including addressing their immediate safety needs, assessing the need for urgent medical attention and contacting Police immediately if urgent police assistance is required);
 - b) report to the [FACS Child Protection Helpline](#) on 132 111⁶ if in the course of their employment staff have reasonable grounds to suspect a child is at risk of significant harm. The FACS Child Protection Helpline will determine:
 - whether the report meets the risk of significant harm threshold; and
 - where information is analysed and reviewed to guide a NSW Police, FACS or Health response (under specific criteria).
 - c) provide children with an education of the highest quality and enforce compulsory schooling requirements.

b. **Discrimination, privacy and work health and safety laws**

98. The department also has legal obligations to students and staff under discrimination, privacy and work, health and safety laws. For example, the department and its staff are, amongst other things, required to:
- a) consider making reasonable adjustments for students with disability;

⁶ A report to the department's Child Wellbeing Unit on 9269 9400 satisfies the legal obligation to report a risk of significant harm to the Department of Family and Community Services.

- b) comply with legal requirements about how it collects, uses, discloses and secures personal and health information; and
- c) do what is reasonably practicable to ensure safety.

c. The criminal law

- 99. The *NSW Crimes Act 1900* makes it unlawful for someone who knows or believes a serious criminal offence (an offence punishable by a maximum term of 5 years or more imprisonment) has been committed to fail to provide information about the offence to the police or other appropriate authority.
- 100. In the context of problematic or harmful sexualised behaviours, a report to the [FACS Child Protection Helpline](#) will usually constitute a report to an appropriate authority.
- 101. Advice about what constitutes a serious indictable offence is available from the department's Incident Support Unit on 1800 811 523 or the Legal Services directorate on 9561 8538.

d. Other laws

- 102. Other laws may also affect a school's response to problematic or harmful sexualised behaviours. For example, a family court order or care order may limit the information a parent receives about their child or their involvement in decisions made about their child's education and/or wellbeing. Further information about the circumstances that may limit a parent's role in this context is at **paragraph 204 of the Guidelines**.
- 103. Advice about the potential impact of court orders on the role a parent plays when making decisions about their child's education or wellbeing is also available from the department's Legal Services directorate on telephone 9561 8538.

e. Reportable conduct

- 104. A staff member, including a principal, who neglects to appropriately respond to problematic or harmful sexualised behaviours between children may be found to have engaged in reportable conduct. The Employee Performance and Conduct directorate should be contacted on 9266 8070 for further advice about reportable conduct that may have occurred.

f. Compliance with the department's Code of Conduct and other departmental policies and procedures

- 105. The [Code of Conduct](#) draws on the legal obligations placed on staff and provides guidance to staff about how to behave in certain situations. Staff should comply with the requirements of the Code of Conduct when responding to problematic or harmful sexualised behaviours.
- 106. All staff should also act consistently with the department's policies and procedures that apply when a student engages in problematic or harmful sexualised behaviours. This includes the [Protecting and Supporting Children and Young People policy and procedures](#).

107. School staff should also be aware of, and act consistently, with [the Child Wellbeing and Child Protection – NSW Interagency Guidelines](#).

g. Further information about legal obligations

108. If school staff, the principal or Director Public Schools NSW are unsure about the legal rights or obligations arising when problematic or harmful sexualised behaviours are reported advice can be obtained from the department's Legal Services directorate on telephone 9561 8538.
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4) IDENTIFYING PROBLEMATIC OR HARMFUL SEXUALISED BEHAVIOURS

a. Factors contributing to problematic or harmful sexualised behaviours

109. Children may engage in problematic or harmful sexualised behaviours for different reasons.
110. Previous and current or continuing traumatic experiences have often contributed to the context in which children have been sexually harmed. This includes repeated childhood trauma such as exposure to domestic violence, physical and sexual abuse, and neglect or caregiver substance misuse.
111. Intervention with this group should recognise this and assist these children to access supports and services which will address the effects of the traumatic experiences.
112. Problematic or harmful sexualised behaviours can also be associated with some disabilities including developmental disability. Students with disability are also at increased risk of experiencing sexual abuse and problematic or harmful sexual behaviour in addition to abuse and neglect. More information about students with disability who exhibit problematic or harmful sexualised behaviours is at **paragraphs 32 to 37 of the Guidelines**.

b. Assistance in identifying and responding to problematic or harmful sexualised behaviours

113. The learning and support needs of the student, including the developmental level of the child concerned must be considered when devising a response to their behaviours. Guidance about the impact of the child's developmental level on their behaviour is available from the school counselling service and the local school services team.
114. It is equally important to recognise the child engaging in these behaviours may themselves be at risk of harm. Guidance about these potential risks is available from the department's Child Wellbeing Unit on 9269 9400.
115. Schools also have dedicated staff whose role it is to support student wellbeing (which may, depending on the school, include school counselling staff, learning support

teams, assistant school principals, grade supervisors, year advisors, careers advisors and head teachers welfare).

116. Such staff usually meet on a regular basis to discuss incidents that have occurred involving students and related student support needs. They can assist identifying problematic or harmful sexualised behaviours and developing school-based strategies to minimise the risk of it recurring.

c. Building staff competence to recognise problematic or harmful sexualised behaviours

117. Staff competence to recognise problematic or harmful sexualised behaviours when they first arise is supported by:

- a) using specialist tools such as the [Mandatory Reporter Guide](#);
- b) [annual updates and mandatory training in child protection](#);
- c) access to advice and support for staff within the school (e.g. the school counselling service);
- d) guidance and support from corporate staff such as Director Public Schools NSW;
- e) support from specialist units within the department such as the Child Wellbeing Unit;
- f) support from other agencies and organisations such as FACS and NSW Health; and
- g) resources supporting staff such as the department's [Protecting and Supporting Children and Young People procedures](#).

5) PREVENTING PROBLEMATIC OR HARMFUL SEXUALISED BEHAVIOUR BETWEEN STUDENTS

a. Introduction

118. The department minimises the risk of a child's problematic or harmful sexualised behaviours occurring at school or during school related activities by:

- a) building staff competence to recognise a student may be seeking help after having been affected by another child's problematic or harmful sexualised behaviours. This includes recognising behaviours that may indicate a child has been victimised and recognising when a child may be partially disclosing. It also includes responding promptly and effectively when a student says they are feeling worried, unsafe or uncomfortable;

- b) building staff competence to recognise and promptly and effectively respond to problematic or harmful sexual behaviours when it is first exhibited by a student;
- c) teaching child protection education in each stage from kindergarten to Year 10 as is mandated by the *Education Act 1990*;
- d) fostering a positive, respectful and inclusive school environment where help-seeking behaviour is recognised and welcomed;
- e) seeking information about a student's problematic or harmful sexualised behaviours or their vulnerability to that behaviour at enrolment and also after problematic or harmful sexualised behaviour has been exhibited by a student;
- f) assessing and addressing the risk of problematic or harmful sexualised behaviours occurring at schools or on school related activities;
- g) working with students and parents (and, where relevant, other agencies or organisations), to build the competence of parents in recognising and responding to problematic or harmful sexualised behaviours;
- h) linking students and families to appropriate intervention support, where warranted and available; and
- i) sharing information and working with other organisations to the extent permissible by law.

b. Seeking information about a student's problematic or harmful sexualised behaviours or their vulnerability to such behaviour

- 119. Schools should actively seek information about a student's vulnerabilities or the risks their past behaviour may pose at their new school when the student presents for enrolment.
- 120. This will inform strategies to support the student and help manage any related safety or welfare issues that may arise.
- 121. Given the potential for a child with problematic or harmful sexualised behaviours to be stigmatised, information about the student's behaviour should only be shared with others for safety, wellbeing and educational purposes or as otherwise required or authorised by law (for example in response to a subpoena).
- 122. It is important schools continue to provide relevant information to, and seek relevant information from, agencies that are currently involved in supporting a student who has engaged in or been affected by problematic or harmful sexualised behaviours. Further information about information exchange is at **section 9 of the Guidelines**.

c. Fostering a positive, safe, respectful and inclusive school environment

123. NSW public education models the values that represent the beliefs and aspirations of the Australian community. Core values for public education include integrity, respect, responsibility, cooperation, participation, care and fairness⁷.
124. Each school environment should champion these values. School staff should help foster respectful relationships across the school by modelling social skills, recognising individuals and supporting students to work cooperatively with others.
125. Help-seeking behaviour from students should be valued and rewarded.
126. Recognising and promptly responding to the early signs of problematic or harmful sexualised behaviours is an essential part of maintaining a safe school environment.
127. Parents and students should be advised about how to report problematic or harmful sexualised behaviours. Such reports must be calmly received, treated seriously and respectfully and promptly reported to the principal if made to another staff member. Further information about the action to be taken when reports are received by a staff member is at **paragraphs 145 to 164 and Annexure 18.3 of the Guidelines**.

d. Assessing and addressing the risk of problematic or harmful sexualised behaviours occurring at school or on school related activities

128. Each school environment is different. It is important the individual school environment is assessed to identify areas where problematic or harmful sexualised behaviours may foreseeably occur. Strategies, such as establishing out-of-bounds areas and effective playground supervision must be implemented to minimise the risk of these behaviours occurring at school.
129. Risks posed by a student's known history of problematic or harmful sexualised behaviour in less structured environments such as boarding schools, band and other camps, sport and excursions must also be assessed prior to the student participating in these activities.
130. As part of this process it is important to identify and respond to:
- a) students with a history of problematic or harmful sexualised behaviours;
 - b) situations which could present an opportunity for problematic or harmful sexualised behaviours to be exhibited, such as when children go to the toilet, or are unsupervised in change rooms or storerooms;
 - c) locations in the school where bullying behaviour has previously occurred such as the toilet, or out of bounds areas, and consider whether problematic or harmful sexualised behaviours could be exhibited in the same locations;
 - d) potential risks arising in new and changed environments (such as band and other camps, boarding schools, sport, artistic performances and excursions);

⁷ See [Values in NSW public schools](#)

- e) students who may be more vulnerable to those behaviours and implement strategies to strengthen their resilience;
- f) the combination of students engaged in school based activities (for example has a student who has previously engaged in problematic or harmful sexualised behaviours been placed in the same group of students as a student who may be foreseeably vulnerable to those behaviours).

131. Further information about the risk assessment process is found in **section 11 of the Guidelines**.

e. Working with students

132. Schools should provide an environment that encourages students to connect with each other and raise concerns with trusted adults (for example a classroom teacher, a year advisor, a member of the school executive or the school counselling service).
133. It is important students who have previously exhibited problematic or harmful sexualised behaviours and those who are at increased vulnerability to such behaviour are identified as early as possible and provided with appropriate, personalised learning and support at school.
134. Help-seeking behaviour from students should be recognised and welcomed.
135. Further, for child protection to be effective, students must develop knowledge and skills, appropriate to their age and stage of learning, about what constitutes abuse including sexual abuse. It is critically important that a student's concerns are listened to respectfully and responded to sensitively and effectively by school staff.
136. Protective strategies for younger students are based on "No Go Tell". In addition, primary school students are given opportunities to identify early warning signs, assess situations, and to explore protective courses of action and their consequences. They discuss situations that are relevant to them, including when they engage in activities independently from parents. Protective strategies always include talking to trusted adults.
137. High school students learn to identify characteristics of risky situations including people and places that may pose risks. They learn skills in analysing and responding to unsafe situations and develop practical personal safety strategies including seeking help from peers and trusted adults.
138. [Child Protection Education: Curriculum materials to support teaching and learning in Personal Development, Health and Physical Education](#) (PDHPE) curriculum materials assist schools to minimise the risk of harmful or problematic sexualised behaviours between students. Implementing curriculum activities about recognising abuse and protective strategies can also be helpful in the follow up of an incident in a school.
139. Child protection education and sexuality education are each taught as part of the mandatory NESA Kindergarten to Year 10 PDHPE syllabus. Although the content of

each program differs, some concepts overlap. For example, both programs teach students about body parts and privacy. Child protection education aims to assist students to develop skills in:

- a. recognising and responding to unsafe situations;
- b. seeking assistance effectively; and
- c. establishing and maintaining non-coercive relationships and strengthening attitudes and values related to equality, respect and responsibility.

f. Working with parents

- 140. Parents may be the first to learn that their child has exhibited problematic or harmful sexualised behaviour or may have been affected by those behaviours. It is important schools encourage parents to advise the school if their child has engaged in or been exposed to problematic or harmful sexualised behaviours.
- 141. It should be made clear to parents this information will be used by the school to develop strategies to support their child and manage any related safety or welfare issues for that child and other children and staff.
- 142. Parents should be reassured information will only be otherwise shared with others when authorised or required by law (such as where a mandatory notification must be made or a new school needs to be informed of a child's current problematic or harmful sexualised behaviours). Further information about working with parents is at **paragraphs 58 to 59 of the Guidelines.**

g. Sharing information/working with different schools and other organisations to the extent permissible by law.

- 143. When a principal or other departmental staff member knows a student, who has been affected by, or engaged in, problematic or harmful sexualised behaviours is going to another NSW school, the new school should be advised of the student's vulnerabilities and/or any potential risk posed by their behaviours to facilitate the student's support at their new school.
 - 144. Consideration should also be given to sharing this information with other organisations involved with the student to the extent this is legally permissible. **Further information about the information sharing process is at section 9 of the Guidelines.**
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6) THE SCHOOL'S IMMEDIATE RESPONSE TO PROBLEMATIC OR HARMFUL SEXUALISED BEHAVIOURS

a. The first staff member who becomes aware of the behaviours

145. A checklist for the first staff member who becomes aware of the behaviours is at section **18.3 of the Guidelines**.
146. Staff may learn about problematic or harmful sexualised behaviour in a number of ways such as by directly observing a child's behaviours, being told about the behaviour by another child, when a child makes a disclosure to a staff member, when concerns are raised by a parent, or upon becoming aware of an incident that has occurred outside of school (for example if police notify the school about a student's behaviour).
147. The scene at which a serious incident has occurred should be cordoned off until police arrive. Advice is available from the Incident Support Unit on telephone 1800 811 523 about securing evidence until the police arrive if schools are uncertain about the process to be followed.
148. School staff may also become concerned about a student's potential to engage in problematic or harmful sexualised behaviours because of something a student says in class or by work (e.g. artwork or written material) the student produces.
149. It is important the first staff member who becomes aware of problematic or harmful sexualised behaviours remains calm and non-judgmental. If a student is disclosing the behaviour they should allow the child time to finish their story and obtain any necessary assistance for the child. Staff should neither minimise nor catastrophise what is being reported.
150. The staff member should provide words of comfort and acknowledgment to the students who have been exposed to the behaviours and those who have engaged in them.
151. Any person who has brought an incident to a staff member's attention should be thanked and reassured they have done the right thing in telling a staff member what has occurred. They should be allowed to talk about what has happened if they wish.
152. It is imperative the first staff member who becomes aware of a student's problematic or harmful sexualised behaviours acts promptly to keep all of the children safe. This includes assessing any need for urgent medical attention or urgent police assistance, phoning 000 if a child or young person is in immediate danger and promptly informing the principal of what has occurred.
153. School staff are not child protection workers or investigators. There is a risk that if school staff attempt to investigate allegations of a child protection and/or criminal nature there may be unintended consequences.
154. Therefore, the first staff member to become aware of the behaviour should not seek a detailed account of an incident or ask students to write a statement.

155. It may be necessary, depending on the circumstances, to broadly establish what has occurred by asking a few open-ended questions from the person making the allegation to establish what has occurred. (For example – *You seem upset – what has happened?*).
156. If the child wishes to talk about what has occurred they should be given the opportunity to do so but he or she should not be pressed for details by the staff member concerned.
157. Once the staff member is reasonably satisfied (even if not absolutely certain) that an allegation of problematic or harmful sexualised behaviour has been made, the staff member should not take further investigative steps. Instead they should promptly advise the principal of what has occurred and follow the steps outlined below. If the principal cannot be contacted the most senior staff member present should be notified.
158. To the extent it is practical to do so the child who has allegedly engaged in the behaviours and the child who has been directly affected by them should be separated with a teacher supervising each child. Child witnesses should be discouraged from speaking with each other about what they have seen and should not be spoken to together.
159. The child (or other person reporting the behaviours) should be told about what will happen next including that the staff member is required to tell the principal what the child has told them (for example by saying to a child “*I am worried about you and I need to tell the principal so that we can all work out how to keep you safe*”). The staff member should check if the child wants to speak with their parent straight away.
160. If the staff member has been provided with any evidence of what has occurred (for example a mobile phone with an image on it) he or she should hand the device over to the principal. Staff should also make a report of what they have seen using **Annexure 18.8**.
161. The principal (or most senior staff member if the principal cannot be notified) is responsible for discharging any mandatory reporting requirements including contacting the CWU or the [FACS Child Protection Helpline](#) on 132 111.
162. If the staff member who reported the behaviours is not present when the principal contacts the Helpline they should be advised by the principal the report has been made and provided with the FACS contact reference number. School staff that are unsure whether a report has been made to FACS should follow up the matter with the principal.
163. If the principal has not made a mandatory report and the staff member believes there is a risk of significant harm, the staff member must report to the Helpline and notify the Director Public Schools NSW of what has occurred.
164. Depending on the circumstances, school staff may play an ongoing role in supporting the child, including, for example, by “checking in” with the student in the following days as part of the school’s planned response for the student as part of the planning for the child’s support.

b. **The principal**

165. A checklist for action to be taken by the principal during the first 24/48 hours following an incident is at **Section 18.4 of the Guidelines**. If the principal believes an emergency response is required he or she should contact 000 and then make a report to the Incident Support Unit on 1800 811 523.
166. The principal must assess the situation and identify whether any further action is required including whether any mandatory reporting obligations have arisen, other students may need support or the police should be directly contacted by the school.
167. Principals are not child protection workers and should not make detailed inquiries into problematic or harmful sexualised behaviours until it is clear neither Police nor FACS will investigate the incident.
168. It is important, if possible, to find out who may have engaged in the problematic or harmful sexualised behaviours because this can impact on the interventions potentially needed to manage any potential risks arising from the alleged behaviour or incident.
169. Accordingly it may be necessary for the principal to ask the student a limited number of open ended questions (such as *Was anyone else there? What happened?*) if this information has not already been obtained.
170. Where practicable the student's parent should be present when this conversation takes place, however, on occasions it may be necessary to obtain this information without delay. Nor should a student who may have exhibited the behaviours be asked or take any restorative steps such as writing an apology at this point of time.
171. The student should be listened to and be given the opportunity to talk if he or she wishes to do so. Any questioning should cease if the student becomes distressed and the principal should acknowledge their distress and give them a break. The principal must exercise professional judgment when deciding whether or not to resume a discussion with a student after he or she has become upset.
172. The principal should explain they can't keep what the child has told them confidential or a secret and they need to contact someone who can help.
173. Depending on the age and capability of the child, the principal may provide details of the potential role of FACS or Police in responding to behaviours of the kind described to all the children involved. The principal should exercise professional judgment when determining what to tell a child. Factors influencing that decision include the age and capability of the child and the principal's knowledge of their family.
174. If more than one child is spoken to they should not be spoken to together and a record of what has been said should be made as close as is reasonably possible after speaking with the children.
175. It may be necessary for the principal to speak with the student who has exhibited problematic or harmful sexualised behaviours. Depending on what has occurred and the student's age and capability the principal may need to advise the student of the

principal's potential obligation to report serious criminal offences to an appropriate authority such as NSW Police or FACS.

176. The principal must discharge any reporting requirements that may arise. Further information about mandatory (and other) reporting requirements is found in **Section 7 of the Guidelines**.
177. The risk posed by the student's reported problematic or harmful sexualised behaviours to the student themselves, other students and staff must be assessed. Further information about the risk assessment process is found in **Section 11 of the Guidelines**.
178. The principal must consider:
- a) the wellbeing needs of all children including children who have witnessed problematic or harmful sexualised behaviours; and
 - b) staff who have been affected by the behaviours
and be satisfied reasonably practicable steps have been taken to meet those needs.
179. The principals must also be satisfied:
- a) identified risks posed by the student's behaviour to other students, staff and to the student himself or herself have been assessed and strategies implemented to manage those risks. Further information about risk assessment is at **Section 11 of the Guidelines**. Advice and support is available from the department's Health & Safety directorate during the risk assessment process;
 - b) identified school based support is provided to all students (Further information about school based supports is at **Section 12 of the Guidelines**);
 - c) the Director Public Schools NSW has been advised of serious incidents;
 - d) the need for a communication plan for staff and parents is considered and then developed and implemented as required. (Further information about communication with staff and parents is at **Section 8 of the Guidelines**); and
 - e) record keeping requirements have been met. A record of what the student has said should be made as soon as practicable after an interview. Further information about record keeping requirements is in **Section 14 of the Guidelines**.
180. Checklists for principals taking action under the Guidelines are available for:
- a) The first 24/48 hours – **Annexure 18.4**
 - b) Investigations by FACS or Police – **Annexure 18.6**
 - c) Enquiries conducted by the school – **Annexure 18.7**
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7) MANDATORY REPORTING AND OTHER NOTIFICATIONS

a. If an immediate response is required from emergency services

181. If a response is required from emergency services then a call should be made to '000'.

b. Notifying the principal

182. School staff must promptly report instances of problematic or harmful sexualised behaviours to the principal once they become aware of them. If the principal is not in the school or is not present during a school based activity offsite the most senior staff member present must be notified of the behaviour.

183. A failure to notify the principal may constitute reportable conduct requiring a notification to be made to EPAC. Further information about reportable conduct is found in **the Dictionary**.

c. Reporting incidents of problematic or harmful sexualised behaviours to the department's Child Wellbeing Unit

184. All incidents of problematic or harmful sexualised behaviours are to be reported to the department's Child Wellbeing Unit.

185. If the risk of significant harm threshold has been reached the Child Wellbeing Unit will either make a report to the Department of Family and Community Services on behalf of the caller or transfer the call to the Child Protection Helpline. The CWU will also notify the department's Incident Support Unit of the incident.

186. Mandatory reporters must also consider whether the child displaying problematic or harmful sexualised behaviours indicates he or she may have experienced sexual or other abuse and if so take appropriate action.

187. It may be that more than one child is at risk of significant harm. If the report to the Helpline is made by telephone, then the Helpline caseworker can be provided the relevant information for each affected child during the same phone conversation.

188. The [FACS Child Protection Helpline](#) determines whether the report will be referred to the JRU, where information is analysed and reviewed to guide a NSW Police, FACS or Health response (under specific criteria).

189. The department's [principal's information sheet Reporting to Community Services: what you need to know](#) addresses what information FACS will seek when a mandatory report is made to the Helpline. It is important to provide contextual information that could impact on the action that may need to be taken. For example, it is important to alert FACS to any relevant timeframes (for example that the school day is ending and therefore the student will leave the school at 3.00pm).

190. If a staff member has reported the behaviour to the principal he or she should either be present when the report is made to the FACS Child Protection Helpline or advised by the principal that the report has been made and providing the FACS contact reference number relating to the report.

d. What if the CWU cannot be contacted?

191. The principal (or if the principal cannot be contacted the most senior staff member available) can also complete the on-line [Mandatory Reporter Guide \(MRG\)](#) unless it is clear the risk of significant harm threshold has been reached (in which case a report must be made to the [FACS Child Protection Helpline](#)):
- a) the problematic sexualised behaviour decision tree (within the MRG) should be used when there are concerns a child may have initiated problematic sexualised behaviours towards others; and
 - b) the sexual abuse of a child or sexual abuse of a young person decision tree should be used when there is an identified victim of the alleged behaviour.
192. The “*sexual abuse of child (0-15 years)*” and “*sexual abuse of a young person (16-17 years)*” decision trees give indicators of behaviour in children that may indicate they have been exposed to sexual abuse. This should be used if there are reasonable grounds to suspect the child engaging in problematic sexualised behaviour has been, or is at risk of being, sexually abused.
193. Advice and assistance in completing the MRG or identifying whether or not there are reasonable grounds to suspect that a student is at risk of significant harm is available from the department’s Child Wellbeing Unit on 9269 9400.
194. Any mandatory reporter using the MRG should print off the decision report and retain it in a secure location. The [principal’s information sheet on child protection and child wellbeing record keeping](#) provides further information about record keeping requirements in this context.

e. Making direct contact with the police

195. If a staff person thinks a child or young person is in immediate danger, phone ‘000’ immediately.
196. Police must also be contacted if the student who is alleged to have engaged in the behaviour poses an immediate risk to the health and safety of any person that requires urgent police intervention.

f. Contacting the department’s Health and Safety directorate including the Incident Support Unit

197. It is not necessary for a principal to notify the Incident Support Unit of an incident of problematic or harmful sexualised behaviours once the Child Wellbeing Unit has been notified as the CWU will inform the ISU of what has occurred.
198. If the student who has engaged in the behaviour is aged 10 years or older the ISU will assess whether a criminal offence may have been committed. If it is considered a criminal offence has been committed the ISU will notify the Local Area Command on behalf of the school.

199. There may be a separate requirement to notify the ISU (if for example a student has been seriously injured making it necessary for a report to be made to SafeWork NSW).
200. If a principal is in doubt as to whether contact should be made with the ISU reference should be made to the department's Incident Reporting Procedures.
201. Further information about the role of the Incident Support Unit is provided in paragraphs **78 to 82**.

g. What happens if a report to the Helpline is screened out or the FACS Community Services Centre closes a matter?

202. The CWU must be contacted any time a report to the Helpline is screened out as not meeting the risk of significant harm threshold. The CWU can assist in determining an appropriate course of action in these circumstances and can also provide advice and support about how the department can escalate concerns about FACS's decision.
203. If a local FACS Community Services Centre determines not to respond to a report and serious concerns remain for the safety, welfare and wellbeing of a child or young person, consideration should be given to escalating the matter in consultation with the CWU. Further information about the process to follow is found in the department's *Protecting and Supporting Children and Young People* procedures.

8) COMMUNICATING WITH PARENTS, WITHIN THE SCHOOL AND WITH OTHER ORGANISATIONS

a. Exceptional circumstances in which a parent may not be contacted about problematic or harmful sexualised behaviour involving their child

204. In exceptional circumstances, it may not be appropriate to notify a parent of a matter or involve him or her in the school's planning to support their child, for example where:
- a) the Family Court has extinguished someone's parental responsibility;
 - b) an apprehended violence order prevents contact between the parent and their child;
 - c) there are pre-existing child protection concerns relating to the parent; or
 - d) an agency (such as FACS or NSW Police) advises that parents should not be involved; or
 - e) that there are reasonable grounds to believe a child has been exposed to trauma while in their parent's care. Contact can be made with the CWU on 9269 9400 if it is uncertain whether or not there are reasonable grounds to believe a child has been exposed to trauma.

205. Advice about any impact of family court or apprehended violence orders on a parent's involvement with their child is available from the department's Legal Services directorate on 9561 8538.
206. The department's Child Wellbeing Unit can be contacted on 9269 9400 to provide schools with information about any pre-existing child protection concerns that have been raised with that unit, FACS or the Child Wellbeing Units within Police and Health.
207. The department's Incident Support Unit can be contacted on 1800 811 523 to check the police system to see if there are other risks identified outside of school, for example if a parent has been charged with a criminal offence.
208. If neither parent can be advised of what has occurred because it will place the student at increased risk, the department will consult with FACS, Police and/or any other relevant agencies or organisations to identify alternative sources of support for the student.

b. Communicating with parents of abused or otherwise affected children

209. Parents of abused and otherwise affected children must be promptly notified of what has occurred unless exceptional circumstances apply (for example FACS or Police have advised a parent should not be notified at that point of time). **FACS should be advised at the time they are notified of an incident that contact will be made with the affected child's parents unless they otherwise advise.**
210. Finding out that their child has been exposed to harmful or problematic sexualised behaviours is likely to raise strong emotions for most parents.
211. It is important schools factor the parent's potential reaction, and any history of difficult contact between the parent and the school, into any communication plans.
212. Children may react differently to what they have seen. An absence of an emotional response at the time does not necessarily mean the child has not been affected.
213. Ordinarily initial contact will occur by telephone. Tips for contacting the parent of a child who has been abused or otherwise affected by the behaviour is **at Annexure 18.10 of the Guidelines**. The parent should be provided with a brief written summary of what their child has disclosed after they have been contacted by telephone as soon as is reasonably practicable.
214. While it is not necessary to obtain a statement from a student at this point time they may nevertheless have written one. If this has occurred, parents should be provided with a copy of their own child's statement. Advice should be sought from the Legal Services directorate on telephone 9561 8538 before information from other people's children is provided to a parent.
215. Thereafter parents should be updated when new information becomes available to the extent it is lawful and practicable to do so. (For example, there may be limits to what one parent can be told about another parent's child).

216. Where FACS or Police are likely to be involved or are actively involved in a matter it may be more appropriate for those agencies to update the parent. Agreement should be reached in such circumstances about which agency should be responsible for providing updates to parents and the content of those communications and time frame for when this will happen.
217. If there is a disagreement between the principal and FACS or the NSW Police Force about whether or not parents or carers should be notified, the principal should contact the department's Legal Services directorate for advice on (02) 9561 8538.

c. Communicating with the parents of children who exhibit problematic or harmful sexualised behaviours

218. Parents of children who exhibit problematic or harmful sexualised behaviours should be promptly notified of what has occurred unless exceptional circumstances apply.
219. Where FACS or Police are likely to be involved or are actively involved in the matter the advice of those agencies must be sought before communication takes place with the parents of a child who has engaged in the behaviour.
220. This supports consistency in information delivery and minimises the potential to impede a statutory investigation and, in exceptional circumstances, negatively impact on the student's wellbeing.
221. Finding out that their child has exhibited or been exposed to harmful or problematic sexualised behaviours is likely to raise strong emotions for most parents.
222. It is important schools factor the parent's potential reaction, and any history of difficult contact between the parent and the school, into any communication plans.
223. Ordinarily contact will take place by telephone. The parent should be provided with a written summary of what has been alleged to have occurred after they have been contacted by telephone.
224. If the incident is serious it may be necessary to suspend the student who has engaged in problematic or harmful sexualised behaviours. To the extent this is practicable principals should consult with their Director Public Schools NSW and Behaviour Services before imposing a suspension. A copy of a sample suspension letter is at **Annexure 18.15 of the Guidelines**.
225. Tips for communicating with the parents of children who exhibit problematic or harmful sexualised behaviours is at **Annexure 18.9 of the Guidelines**.

d. Communicating with designated agencies and FACS when a child is in out-of-home-care

226. If the student is known to be in out-of-home care an attempt should be made to advise the designated agency about what has occurred so it can be involved in planning to contact the carer. However, inability to make contact with the designated agency should not result in a delay in advising the carer of what has occurred.

227. Advice should be sought from FACS before any information is provided to the student's biological parents (for example, if the biological parents contact the school after an incident).

e. Delays in receiving advice from Police or FACS or disagreements about communication strategies

228. If there is a delay in or disagreement about the advice provided from any of the external agencies involved in the matter, contact should be made with the Director Public Schools NSW.
229. If necessary the Director Public Schools NSW can initiate contact with other specialist areas of the department such as Health and Safety, Legal Services or the Child Wellbeing Unit to seek assistance in obtaining effective and timely resolution.

f. Communicating with parents when FACS or police are not involved in an incident

230. Where FACS or Police are not involved in an incident, advice can be sought from the Director Public Schools NSW and the department's Child Wellbeing Unit, Health and Safety and Legal Services directorates when developing a communication strategy for contact with the parents of children who have engaged in the behaviour.

g. Communicating with staff of the school

231. School staff must promptly notify the principal of a student's problematic or harmful sexualised behaviour once they become aware of it. This obligation should be reinforced during the induction/orientation of new staff (including casuals) and mandatory child protection training.
232. Staff who have direct contact with a student who has engaged in or been affected by problematic or harmful sexualised behaviours (including casual staff) should be informed of strategies to support the student and themselves and advised who to contact in the school if they have concerns.
233. In some circumstances, it will be necessary to brief all staff about what has occurred, at least in terms that will allow staff members to fulfil their ongoing duty of care for affected students. Any briefing of staff should be undertaken in consultation with the Director Public Schools NSW. It is important to recognise that news of this kind can be very upsetting and staff may react to it in different ways.
234. Consideration should be given to whether it is necessary/practicable to arrange for a psychologist to attend the staff meeting through the Employee Assistance Program critical incident support model.
235. Generally staff will be briefed orally. A sample briefing for staff is at **Annexure 18.11 of the Guidelines**.

h. Communicating with organisations known to have a duty of care for an affected student or a student who has engaged in the behaviour

236. This could include another school, if the student has a shared enrolment or plans to enrol in a different school or an organisation the student is known to regularly attend such a before and after school care centre.
237. The need to communicate with other organisations will depend on the circumstances including, potentially, whether that organisation is a prescribed body. Advice should be sought from the Legal Services directorate on 9561 8538 if schools are uncertain whether information can be shared with another organisation.
238. Where FACS or Police are likely to be involved or are actively involved in the matter they should also be consulted about the content of any communication. In some cases, it may be preferable for any contact to be made by one of those agencies instead of the school but the principal should seek confirmation that contact has been made.
239. Where appropriate the need to inform those organisations should be discussed with the student's parents, and, potentially, the student concerned.
240. Further information about information exchange is at **section 9 of the Guidelines**.

i. Evaluating the need to notify the broader school community

241. The need to notify the broader community about a student's problematic or harmful sexualised behaviours will depend on what has occurred, including how much information has already been made public (for example by a media report) and the likelihood and seriousness of risk to other children.
242. If the broader community is aware of a student's problematic or harmful sexualised behaviours it will be important to reassure parents that strategies are in place to keep their children safe.
243. It is important advice to the broader school community is consistent and coordinated with other relevant agencies. Any communication strategy must be practicable and satisfy the needs of the school community and the circumstances of the case.
244. Decisions about what information should be made available to the broader school community should be made by the principal in consultation with the Director Public Schools NSW, other areas of the department (for example the Media Unit or Legal Services directorate) and other relevant agencies.
245. Where FACS or Police are likely to be involved or are actively involved in the matter they should also be consulted about the content and timing of any broader communication to the school community. On occasions FACS or Police may request the principal to distribute information to the school community.
246. Factors to be considered when deciding what the broader community should be told include the importance of protecting a victim's privacy, the need to avoid stigmatising

the student who has engaged in the behaviour and the need to provide parents with sufficient information to allay their concerns and support their own children.

247. On occasions parents or other members of the school community may contact the school by telephone if an incident of problematic or harmful behaviour between children becomes known. It is important a calm and consistent response is provided in these circumstances. A sample script for office staff answering the telephone is at **Annexure 18.16 of the Guidelines**.
248. Sometimes it may be necessary to communicate with the broader school community about an incident. A sample letter providing information about an incident to the broader community is at **Annexure 18.13 of the Guidelines**. A sample follow up letter is at **Annexure 18.14 of the Guidelines**

j. Dealing with the media

249. As information distributed (in whatever form) to the broader school community effectively enters the public domain and is potentially subject to media inquiries it is important the Media Unit is sent a copy of this information before it is distributed.
250. While departmental comment about matters under official investigation will be limited, the Media Unit needs to be aware of incidents as soon as possible to determine what information can be made public without adversely affecting the investigation process.
251. Where other agencies, for example NSW Police, are involved the media unit will coordinate consistent Media messages when an incident is reported publicly.
252. Some tips for office staff fielding media inquiries after an incident of problematic or harmful sexualised behaviour between students becomes publically known is at **Annexure 18.17 of the Guidelines**.

9) INFORMATION EXCHANGE AND WORKING WITH OTHER AGENCIES

a. Working with other agencies to support children

253. Government schools are part of a system of shared responsibility across government for child protection. Each agency undertakes their designated role and works collaboratively in a way that seeks to prioritise the safety, welfare and wellbeing of children and young people while respecting each agency's functions and expertise.
254. It is crucially important that schools work with other organisations to design, coordinate and implement effective responses to children at risk. This includes children who exhibit problematic or harmful sexualised behaviours and those who have been victimised or otherwise affected by the behaviours.
255. This can be achieved in a range of ways including through discussion of options, joint case conferences, implementation of consistent strategies and coordinated service delivery.

256. Ongoing and effective information exchange is a critical part of supporting children who engage in, have been abused or are otherwise affected by problematic or harmful sexualised behaviours.

b. Information exchange generally

257. Information about students can be exchanged with parental consent. Further, the *Education Act 1990*, the *Children and Young Persons (Care and Protection) Act 1998* and Part 13 of the *Crimes (Domestic and Personal Violence) Act 2007* provide a mechanism for NSW agencies to exchange information in certain circumstances.

c. Exchanging information under Part 5A of the Education Act 1990 (Part 5A)

258. Part 5A empowers government and non-government schools to request information from NSW Police and certain other organisations (such as NSW Health) that assists schools to assess whether the enrolment of a student of any age is likely to constitute a risk to the health or safety of any person.

259. Information about a student's history of problematic or harmful sexualised behaviours can be requested under Part 5A as part of that process. Further information about requesting information under Part 5A is found in the Part 5A guidelines.

d. Exchanging information under Chapter 16A of the Children and Young Persons (Care and Protection) Act 1998 (Chapter 16A)

260. Information can also be provided to, or requested by, prescribed bodies under Chapter 16A if there is a reasonable belief the information would assist:

a) an investigation or to provide any service, relating to the safety, welfare or wellbeing of the child or young person or class or children or young persons;
or

b) to manage any risk to the child or young person, or class or children or young persons that might arise in the recipient's capacity as an employer or designated agency.

261. Information about a child's history of problematic or harmful sexualised behaviours or factors which increase their vulnerability to that behaviour can be requested under Chapter 16A from a range of prescribed bodies including previous schools, agencies such as those providing out-of-home care services to students and the Police. It can also be requested from individual experts such as a general practitioner or private psychologist treating the child.

262. For the information to be provided it is necessary for it to assist the receiving agency to make any decision, assessment or plan or initiate or conduct any investigation or provide any service relating to the safety, welfare or wellbeing of a child or young person or class of child or young person.

263. One prescribed body can also proactively provide another prescribed body with information relating to the safety, welfare and well-being of a child or young person or class of children or young persons.

264. This can only occur if the first prescribed body reasonably believed the information would assist the recipient in deciding, assessment or plan or initiate or conduct any investigation or provide any service relating to the safety, welfare or well-being of the child or young person or class of children or young people.

e. Other sources of information and assistance about information exchange

265. The [Child Wellbeing and Child Protection – NSW Interagency Guidelines](#) provide information and guidance to organisations involved in the delivery of child wellbeing and child protection services on how information can be shared in relation to the safety, welfare and wellbeing of a child or young person in NSW.

266. [A Memorandum of Understanding for Information Exchange between Schools and Police](#) clarifies the application of these provisions to the exchange of information between police and schools.

267. The Department has also issued [Legal Issues Bulletin 50 – Exchanging Information with Other Organisations](#) concerning the safety, welfare or wellbeing of children and young people.

268. A fact sheet jointly developed by the three school sectors in NSW – [Information Sharing between Government and Non-Government Schools](#) – details when information can be exchanged between government and non-government schools in NSW.

10) **STATUTORY INVESTIGATIONS AND ENQUIRIES CONDUCTED BY THE SCHOOL**

a. **Statutory Investigations**

269. Statutory investigations into alleged problematic or harmful sexualised behaviours will usually be undertaken by the Child Abuse Squad (New South Wales Police Force).

270. The school must not conduct any investigations into what has allegedly occurred while a statutory process is underway but should work collaboratively to support any statutory inquiry or investigation that is underway.

271. This does not, however, prevent the school from assessing and managing any risks that may arise from the reported problematic or harmful sexualised behaviours.

272. Information should be obtained from investigating agencies about what has allegedly occurred. Both the department's Incident Support Unit and its Child Wellbeing Unit can assist in obtaining this information.

273. The principal should keep his or her Director Public Schools NSW regularly updated about what aspects of the statutory investigation that impact on the school.

274. If the police want to interview students or staff at school the process set out in [Legal Issues Bulletin 13 - Interviews of students and staff by police and/or FACS](#) should be followed by the principal.
275. All action taken by the school must be documented, with documentation stored securely. The Child Protection Services fact sheet on record keeping provides further information to schools about record keeping requirements.
276. A checklist for principal's actions when a statutory investigation is underway is at **Annexure 18.6 of the Guidelines**.
- b. **Enquiries conducted by the school**
277. Not all instances of problematic or harmful sexualised behaviour will result in an investigation by the Police or FACS. It may therefore be necessary for the principal to undertake some school based enquiries. It is important to recognise this could be a challenging exercise for a principal.
278. Advice about school based enquiries into problematic or harmful sexualised behaviours is available from the relevant Director Public Schools NSW, the department's Child Wellbeing Unit and its Legal Services and Health and Safety directorates.
279. It may be necessary to question students and staff about what has allegedly occurred. It is important that children and staff are interviewed separately about what has occurred and a record is made of the discussion that has taken place as soon as practicable after it has occurred.
280. A copy of any statement made by a student during the course of an investigation should be promptly provided to their parent unless exceptional circumstances apply.
281. The process set out in the department's [Student Discipline in Government Schools Policy](#) and the [Suspension and Expulsion of School Student's Procedures](#) should be followed in these circumstances.
282. A checklist for principal's actions when school based inquiries are being conducted is at **Annexure 18.7 of the Guidelines**.

11) **ASSESSING RISKS POSED BY A STUDENT'S PROBLEMATIC OR HARMFUL SEXUALISED BEHAVIOURS**

a. **Risk management generally**

283. Risk management is part of the department's work, health and safety management system for ensuring that clear processes are in place for the identification and assessment of risks, consultation with stakeholders and implementation of control measures so far as is reasonably practicable.

284. The department's Health and Safety directorate has a range of comprehensive risk management resources supporting schools do what is reasonably practicable to ensure the safety of students, staff and visitors at school and during school related activities.
285. These include resources on emergency planning and incident response; access to on-line and face to face training, risk management tools and resources supporting staff wellbeing.
286. Guidance is provided on a range of contexts in which schools manage risk including at school and during sporting and physical activities, excursions and travel.
287. Specific resources supporting schools manage student behaviour include:
- a) an overview and key steps of the process,
 - b) information sheets for parents – supporting behaviour needs,
 - c) flowchart for the student behaviour support plan,
 - d) employee consultation survey;
 - e) analysis and prompt sheet;
 - f) support plan proforma and sample support plans; and
 - g) guidance in completing a student behaviour management plan including a sample risk management plan.

b. Managing potential environmental risks when responding to problematic or harmful sexualised behaviours

288. Each school environment is different. It is important the individual school environment is assessed to identify areas where problematic or harmful sexualised behaviours may foreseeably occur.
289. Risks posed by a student's known history of problematic or harmful sexualised behaviour in less structured environments such as boarding schools, band and other camps, sport and excursions must also be assessed.
290. In that context it is important to consider and proactively plan to manage risks that may arise in:
- a) situations at school which could present an opportunity for problematic or harmful sexualised behaviours to be exhibited, such as when children go to the toilet, or are unsupervised in change rooms or storerooms;
 - b) locations in the school where bullying behaviour has previously occurred such as the toilet, or out of bounds areas, and consider whether problematic or harmful sexualised behaviours could be exhibited in the same locations; and

c) new and changed environments (such as band and other camps, boarding schools, sport, artistic performances and excursions).

291. Strategies, such as establishing out-of-bounds areas, effective playground supervision and active supervision during overnight excursions and camps should be implemented to minimise the risk of these behaviours occurring at school.
292. Depending on the circumstances the Assets directorate may also be able to assist minimise the opportunity for problematic or harmful sexualised behaviours to occur at school by removing urinals from boy's toilets in a primary school.

c. Assessing and managing the risks to students potentially posed by problematic or harmful sexualised behaviours

293. A risk assessment should be undertaken once a school becomes aware a student has engaged in or exposed to problematic or harmful sexualised behaviours. This assessment should consider risks that may arise at:
- a) at school or during school related activities such as excursions, sport, artistic performances or school or band camps; and/or
 - b) outside of the school environment where those behaviours may pose a foreseeable risk to the student while they are at school, other students or staff.
294. The potential risk arising from a combination of students engaged in school based or related activities (for example where a student who has exhibited problematic or harmful behaviours is placed in the same group of students as a student who may be foreseeably vulnerable to those behaviours).
295. Schools should seek information about a student's prior inappropriate behaviour and their potential vulnerability to the inappropriate behaviour of another student at enrolment.
296. Further information should also be sought after problematic or harmful sexualised behaviours have been exhibited by or reported about a student. This includes information from other schools and, where relevant, a before and after school care centre attended by the student who has engaged in those behaviours.
297. This information should be stored securely and considered during assessment of the risks arising from the student's behaviour. **Further information about information exchange can be found in section 9 of the Guidelines.**

d. What factors should be considered when undertaking a risk assessment?

298. When reviewing a student's history of problematic or harmful sexualised behaviours it is important to assess whether that past history of behaviour may be indicative of current risk.
299. The learning and support needs of the student, including the developmental level of the child concerned must be considered when devising a response to their behaviours. Guidance about the impact of the child's developmental level on their

behaviour is available from the school counselling service and the local school services team.

300. It is equally important to recognise the child engaging in these behaviours may themselves be at risk of harm. Guidance about these potential risks is available from the department's Child Wellbeing Unit on 9269 9400.
301. General advice and assistance in relation to risk assessment is available from the local work health and safety consultant and the Health & Safety directorate on 1800. 811 523.

e. Using appropriate language when referring to students and/or describing behaviours in a risk assessment document

302. Although a student may have been victimised by problematic or harmful sexualised behaviours, care should be exercised before calling the child a "victim" when speaking to them about what has occurred. Advice about speaking with students who have been affected by problematic or harmful sexualised behaviours is available from the school counselling service and the department's Child Wellbeing Unit on 9269 9400.
303. Care also needs to be taken when describing a child who has exhibited problematic or harmful sexualised behaviour as an inappropriate response can harm the child concerned. It is important to avoid responding to the child's behaviour with anger, fear or disgust. It is equally important, when describing the child's behaviour, to avoid the language commonly used when describing adults who engage in harmful sexual behaviours.⁸
304. Accordingly a child who has exhibited problematic or harmful sexualised behaviours must not be referred to as a perpetrator or sex offender. If it is necessary to refer to the child in discussions or departmental documents it is preferable to refer to them by their first name (for *example a risk management plan has been implemented for Chris, not a risk management plan has been implemented for the perpetrator*).
305. It is also important to distinguish between the child and their behaviour when referring to what has occurred. For example reference should be made to the risk or challenge posed by the child's *behaviours* rather than the risk posed by the *child*).

f. Who should be consulted about a risk assessment?

306. Unless exceptional circumstances apply the parent of the child who has engaged in, or been exposed to, the behaviours, and where practicable, the child themselves must be consulted before a risk assessment is finalised.
307. Staff whose safety is affected by the behaviours should also be consulted as part of this process.

⁸ For further information see the evidence of [Dr Wendy O'Brien in the Royal Commission into Institutional Responses to Child Sexual Abuse's Case Study 45, 20 October 2016](#), page 21654, line 4 to page 21665, line 40.

g. The risk assessment as part of the broader school-based response

308. A risk assessment is only part of the broader response that should be provided when a student engages in, or is affected by, problematic or harmful sexualised behaviours.
309. Ultimately the best school-based response to problematic or harmful sexualised behaviour in children will:
- a) be holistic, proportionate, prompt and ongoing;
 - b) recognise that the fact another child has exhibited problematic or harmful sexualised behaviours towards a student does not lessen the potentially serious impact of those behaviour on the student who has been affected by the behaviour;
 - c) also recognise that children who exhibit problematic or harmful sexualised behaviour can be amongst the most vulnerable children in our community. They may have experienced sexual abuse, neglect, caregiver substance abuse, domestic violence, social isolation, cognitive delays and/or significant economic disadvantage;
 - d) support all students in a respectful, culturally appropriate and sensitive way which builds on any existing strategies to support the student or family;
 - e) avoid stigmatising or isolating the child who has engaged in problematic or harmful sexualised behaviours to the extent it is practicable to do so without compromising the safety of the child, other students and staff;
 - f) involve partnerships with parents and students and may involve other agencies organisations and experts;
 - g) support all children exposed to the behaviour (either directly or indirectly) and recognise that children who witness behaviours may be affected by what they have seen and require support.
 - h) recognise that school staff may also be affected by a child's problematic or harmful sexualised behaviours and require guidance and support;
 - i) maintain open channels of communication with parents and others to the extent permitted by law, consistent with departmental protocols and in consultation with other agencies where required; and
 - j) to the extent it is practicable involve people the child trusts and is connected to when planning for their support.
- h. Other resources to support schools assess the potential risk posed by problematic or harmful sexualised behaviours.**
- **A fact sheet supporting staff undertake a risk assessment (Annexure 18)**
 - **A template risk assessment (Annexure 19).**

12) SCHOOL BASED SUPPORTS

310. Teachers aim to foster respectful relationships across the school through modelling of social skills, recognising individuals, supporting students to work cooperatively with others and reinforcing the value of effort, socially and academically.
311. Teachers are required to demonstrate respect for their students as individuals and encourage them to express themselves appropriately. This includes providing opportunities for students to talk about issues that are important to them and personalised teaching programs to allow students to build on their strengths. It is common for teachers and other school staff to develop strong relationships with families and the wider community.
312. Schools act in response to a student's problematic or harmful sexualised behaviours and work with other agencies to coordinate a response. They have dedicated staff whose role it is to support student wellbeing.
313. A student's individual learning and wellbeing needs are met in a variety of ways. Depending on the circumstances schools provide or facilitate additional support for students by any one or more of the following:
- a) coordinating the provision of external specialist support within the school setting;
 - b) adjusting and accommodations to support their continued engagement in education;
 - c) being vigilant to the possibility of bullying behaviour from other students;
 - d) providing personalised learning and support;
 - e) supporting their socialisation within the school setting; or
 - f) mentoring of the student by a staff member they trust who is, amongst other things, charged with "checking in" with the student on a regular basis.

13) ASSESSING THE NEED FOR A POST INCIDENT REVIEW

314. The Department of Education is committed to continuous improvement.
315. When a serious incident of problematic or harmful sexualised behaviour has occurred at a school consideration must be given to the need for a post incident review by the Director Public Schools NSW in consultation with the principal.
316. When determining whether a post incident review should be undertaken the Director Public Schools NSW can consult with their operational Executive Director and the Child Wellbeing Unit, the Health and Safety directorate, Learning and Wellbeing's School Counselling team and the Legal Services directorate.

14) **RECORD KEEPING**

317. All incidents of problematic or harmful sexualised behaviours and the school's response to those behaviours are to be recorded and kept as confidential records in accordance with departmental protocols.
318. The department's Child Wellbeing Unit has developed an information sheet for principals dealing with [child protection and wellbeing record keeping](#).

15) **MANAGING COMPLAINTS AND DISAGREEMENTS**

319. Complaint handling in the Department of Education is fair, efficient and accessible. The department has a respectful and productive workplace culture where consumers, members of the community and staff can raise their concerns directly.
320. An attempt should be made to resolve complaints informally where possible however some persons may wish to make a formal complaint about how a school has managed problematic or harmful sexualised behaviours between children.
321. If a complaint is made:
- g) by a parent or other community member the complaint should be dealt with under the department's [School Complaints Procedures](#); and
 - h) by a staff member the complaint should be dealt with under the department's [Staff Complaints Procedures](#).
322. Attempts should also be made to resolve disagreements between agencies about how a matter is being managed at the local level. If this is not possible concerns and disagreements can be escalated within each agency until the matter is resolved.

16) **ADDITIONAL RESOURCES**

TO BE INSERTED

DICTIONARY

Affected student includes a student who has been directly abused and one who has been affected by witnessing problematic or harmful behaviours.

CAS - Child Abuse Squad – NSW Police Force

Child means a person under the age of 18 and includes a young person within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*.

CRN - Contact Reference Number is the number provided by FACS to a person who has made a mandatory report.

CWU means the department's Child Wellbeing Unit.

Department means the NSW Department of Education.

Exceptional circumstances when referring to a parent has the same meaning as set out in **section 200 of the Guidelines**.

FACS is the NSW Department of Family and Community Services.

First staff member involved is the first school staff member to become aware of a student's problematic or harmful sexualised behaviours.

JRU - Joint Referral Unit.

NESA is the NSW Education Standards Authority.

Parent includes a carer, guardian or other person having the custody or care of a child. For children in out-of-home care, this includes the Minister for Family and Community Services.

Principal includes a relieving principal. The most senior staff member or the staff member designated as principal present at the school or on a school related activity is responsible for discharging the principal's responsibilities in the principal's absence and advising the principal of what has occurred when the principal returns to the school.

Reportable conduct may arise when a staff member becomes aware of any assault, ill treatment or neglect of a child, any behaviour that causes psychological harm to a child and any sexual offence, or sexual offence or sexual misconduct committed against, with or in the presence of a child (including a child pornography offence) whether or not with the consent of the child.

Statutory investigations are conducted by NSW Police if criminal behaviour has occurred.

School staff includes support staff, classroom teachers and members of the school executive excluding the principal.

Student includes a prospective student.

Student support plan is an individualised plan developed for a student who has engaged in/been affected by problematic or harmful sexualised behaviours. It addresses relevant learning, safety and wellbeing issues.