

# Sexual Misconduct Policy and Guidelines

## July 2022

### Summary

This policy applies to Community Language Schools SA and all member schools.

**Table 1: Document Details**

<b>Policy Number</b>	<b>ES15</b>
<b>Related Policies</b>	ES01: Child Safe Environments Policy and Procedures ES02: Risk Management Policy ES04: Grievance and Complaints Policy and Procedures ES05: School Personnel Code of Conduct Policy ES06: Student Code of Conduct Policy ES07: Enrolment Policy and Procedures ES11: Communication Policy and Guidelines ES13: Committee Policy and Guidelines ES14: Working with Children Check Policy and Procedures ES16: Adult Students attending Community Language Schools Policy ES35: Behaviour Support Policy and Procedures ES24: Visitor and Parental Volunteer Policy ES38: Bullying and Harassment Policy and Procedures ES39: Cyber-Safety Policy and Guidelines ES40: Special Needs Policy ES41: Gender Identity Policy and Guidelines
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**Table 2: Revision Record**

Date	Version	Revision Description
30 <sup>th</sup> June 2019	1.0	New policy developed
18 <sup>th</sup> January 2021	1.0	Added policies in Related Policies (Table 1)
December 2021	1.1	<ul style="list-style-type: none"> <li>Added policies in Related Policies (Table 1)</li> <li>Changed policy name from Sexual Harassment Policy to Sexual harassment Policy and Guidelines</li> </ul>
July 2022	2.0	<ul style="list-style-type: none"> <li>Policy name change 'from Sexual Harassment Policy and Procedures' to 'Sexual Misconduct Policy and Procedures'</li> <li>Added keywords in 'Table 1'</li> <li>Reformatting of policy to include 'Managing Allegations of Sexual Misconduct' and exclude 'Making a Complaint' and 'Possible Actions'</li> <li>Created <b>ES15A</b>: Checklist for Community Language Schools, <b>ES15B</b>: Checklist for Community Language School SA, <b>ES15C</b>: Record of Allegation of Sexual Misconduct, <b>ES15D</b>: Record of Meeting, <b>ES15E</b>: Sample letters to Parents, <b>ES15F</b>: Support and Safety Plan for Children and Young Person</li> </ul>

## Table of Contents

Sexual Misconduct Policy and Guidelines .....	1
Summary .....	1
Table 1: Document Details .....	1
Table 2: Revision Record .....	2
<b>Sexual Misconduct Policy and Guidelines .....</b>	<b>3</b>
Introduction.....	3
Definitions.....	3
Policy.....	3
Managing allegations of sexual misconduct.....	6
Immediate action.....	7
• By the Community Language School.....	7
• By Community Languages SA (CLSSA).....	9
Further Actions.....	10
The future employment of the accused person.....	11
Providing counselling and support.....	11
Undertaking a risk assessment .....	13
Responsibly giving out appropriate information .....	13
References and Other Documentation.....	22

## Sexual Misconduct Policy and Guidelines

### Introduction

Community Language Schools are committed to providing a safe workplace and school. Students are entitled to an education free of sexual harassment. The same applies to teachers who are entitled to a workplace free from harassment. Community Language Schools have a legal obligation to deal with sexual harassment and all other forms of bullying.

### Definitions

**Accused Person** means a current or past employee of a Community Language Schools or any other adult who has a connection to a Community Language Schools against whom allegations of sexual misconduct have been made.

**An adult who has a connection to** a Community Language Schools means and includes current and past employees of a Community Language Schools including paid or volunteer workers, tertiary students, and any other contractors or professional service provider; and any adult who has engaged with children and young people at a Community Language Schools

**CARL** refers to the Child Abuse Report Line 13 14 78 and can be used to report children and young people at risk.

**Child or young person** is a person up to the age of 18 years and includes young adults with developmental disabilities attending education settings.

**Governing authority** means a school or service's Governing Council or School Board.

**Governing body** refers to any person on a Community Language Schools Management Committee or any other committee that meets for the purpose of welfare of school personnel and students.

**Parent** means and includes natural parents, step-parents, foster parents, guardians, grandparents.

**School Personnel** refers to any person working at a Community Language Schools either paid or voluntary and includes teachers, teachers' assistances/ support staff, Principal, and any person involved in the workings of the school.

### Policy

Sexual misconduct may take many forms. It includes, but is not limited to, sexual assaults of all kinds and other forms of unlawful sexual behaviour including such offences as being in possession of child pornography and acts of gross indecency. A sexual assault ranges from indecent assault through a number of offences to rape.

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

*Note: This definition is provided for general information. It is not necessary for staff to determine whether an alleged behaviour is sexually motivated. It is simply necessary that staff report all inappropriate behaviour. Those guidelines identify any behaviour of a potentially sexual nature between an adult and a child or young person as a breach of professional conduct. Please refer **ES05: School Personnel Code of Conduct Policy**.*

Sexual harassment is any unwanted or uninvited sexual behaviour that is offensive, embarrassing, intimidating or humiliating. It has nothing to do with mutual attraction or friendship. Sexual harassment is serious and against the law. Sexual harassment can take many different forms and can be obvious or indirect, physical or verbal. It includes behaviour that creates a sexually hostile or intimidating environment. Examples of sexual harassment:

- unwelcome touching or kissing
- staring or leering
- suggestive comments or jokes that are of a sexual nature
- sexually explicit pictures, posters, screensavers, calendars
- unwanted invitations to go out on a date
- requests for sex
- intrusive questions about a person's private life or body
- insults, name-calling or taunts based on your sex or gender
- derogatory graffiti
- sexually explicit emails, text messages (sexting), etc.
- questions about sexual activity.

*The Equal Opportunity Act 1984*, Section 87 stipulates that any educational authority administering a secondary education must by law have a written Sexual Harassment Policy that incorporates procedures for resolving complaints arising from a student sexually harassing another person. In accordance with the *Equal Opportunity Act 1984*, Community Language Schools will make available the complaint procedures to all secondary school students upon enrolment.

The *Equal Opportunity Act 1984* of South Australia provides legislative details about sexual harassment. Please note that schedule (4) and (5) have been deleted from Section 87 and only relevant sections of this Act has been included in this policy. The *Equal Opportunity Act 1984* Section 87 states that:

- (1) It is unlawful for a person to subject to sexual harassment –
- (a) A person with who he or she works; or
  - (b) A person who is seeking to become a fellow worker,
  - (c) while in attendance at a place that is a workplace of both the persons or in circumstances

- where the person was, or ought reasonably to have been, aware that the other person was a fellow worker or seeking to become a fellow worker.
- (2) It is unlawful for a person who works for an educational authority to subject a student of the educational authority, or a person applying to become a student of the educational authority, to sexual harassment while in attendance at a place in connection with the student's education or the applicant's prospective education or in circumstances where the person was, or ought reasonably to have been, aware that the person was a student, or a person applying to become a student, of the educational authority.
- (3) It is unlawful for a student of or over 16 years of age, while in attendance at a place in connection with his or her education, to subject a person who works at the educational institution at which the student is enrolled or a fellow student to sexual harassment.
- (6) It is unlawful for a person to subject another to sexual harassment in the course of –
- (a) offering or supplying goods to that other person; or
  - (b) offering or performing services to which this Act applies for that other person; or
  - (c) offering or providing accommodation to that other person.
- (6aa) It is unlawful for a person to who goods, services to which this Act applies or accommodation are being offered, supplied, performed or provided by another person to subject that other person to sexual harassment.
- (6g) It is unlawful for a member of the governing body of an association to subject a member of the association, or a person applying to become a member of the association, to sexual harassment.
- (7) if an employee reports to his or her employer specific circumstances in which the employee was subjected, in the course of his or her employment, to sexual harassment by a person other than a fellow worker, and it is reasonable in all circumstances to expect that further sexual harassment of the employee by the same person is likely to occur, it is unlawful for the employer to fail to take reasonable steps to prevent the further sexual harassment.
- (8) It is unlawful for an educational authority administering a secondary education institution to fail to have a written policy against sexual harassment by students that incorporates procedures for resolving complaints and is made readily available to students.
- (9) For the purpose of this section –
- (a) a person sexually harasses another (the person harassed) if
    - (i) the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or
    - (ii) engages in other unwelcome conduct of a sexual nature in relation to the person harassed, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated or intimidated; and

- (b) conduct of a sexual nature includes making a statement of a sexual nature to a person, or in the presence of a person, whether the statement is made orally or in writing; and
- (c) a person works with another if both carry out duties or perform functions, in whatever capacity and whether for payment or not, in or in relation to the same business or organisation; and
- (d) a person works for an authority if he or she carries out duties or performs functions, in whatever capacity and whether for payment or not, in or in relation to that authority; and
- (e) workplace means a place (including a ship, aircraft or vehicle) at which a person works or attends in connection with the person's work.

Community Language Schools acknowledges that sexual misconduct of any kind is against the law. Regardless of the age of a student, it is unlawful for a teacher to sexually harass a student. Regardless of the age of a student, it is unlawful for an adult student to sexually harass another student. Certain types of bullying, about sex or sex-based characteristics, may also be sexual harassment. Anyone aged over 16 years is considered an 'adult student', which means they are personally liable for sexually harassing another student or teacher.

### **Managing allegations of sexual misconduct**

Allegations of sexual misconduct might be made against a school personnel or a student at a Community Language School. Different circumstances may require a different approach. For a sexual harassment, upon witnessing/hearing it from a student the school personnel may want to discuss it with the principal. The principal will liaise with all individuals involved and will attempt to resolve the complaint and will follow the procedures outlined in the **ES04: Grievance and Complaints Policy**. A meeting will be scheduled to determine an appropriate course of action. If any sexual harassment incident involves a student or students, the parents or guardians of the student(s) will be consulted and required to attend all meetings.

For a more serious sexual misconduct, there is a variation of the sequence of actions but the fundamental steps that should always be observed are to notify immediately:

- SA Police
- Child Abuse Report Line (CARL)
- As an internal procedure, the language school principal (or if the principal is the accused person then the school administrator/chairman/president of the incorporated body)
- parents of the victim, unless a parent is the accused person, and with due regard for the victim's wishes
- the Executive Officer of Community Language Schools SA

## Immediate action

### By the Community Language Schools

The following is a list of the steps that should be taken by the Community Language School if a sexual misconduct has occurred. Some steps can be taken simultaneously, and most will be undertaken through consultation with, or by direction from, police and advice from the Executive Officer of CLSSA.

Please refer **ES15A**: Checklist for Managing Allegations of Sexual Misconduct and **ES15B**: Checklist for Community Language Schools SA

#### Step 1: Receive report of allegation

If an allegation of sexual misconduct is made to a school personnel or a volunteer at the school, the person receiving the report of the allegations must first record the allegations on the form in **ES15C**: Record of Allegation of Sexual Misconduct. The school personnel or the volunteer to whom the allegation is reported to should at the same time attend immediately to any medical treatment that the victim might require and attend to the victim's emotional needs in all ways appropriate until he or she is in the care of parents.

#### Step 2: Report to SA Police and notify the Child Abuse Report Line

The school personnel or the volunteer to whom the allegation is reported to should immediately notify CARL on 131 478 and place a call to SAPOL on 131 444. Then the report should be documented using the mandatory report form **ES01B**: Mandatory Notification Record Template

#### Step 3: Inform the school principal

The school personnel or the volunteer to whom the allegation is reported must inform the principal immediately. If the allegation involves the school principal, the report should be made to the school administrator/chairperson/president of the incorporated body and provide the filled up **ES15C**: Record of Allegation of Sexual Misconduct and **ES01B**: Mandatory Notification Record Template.

#### Step 4: Preservation of evidence (if applicable)

The school principal should immediately take basic steps to secure the place where the alleged offending occurred, if that is on the school, until police arrive. An example is blocking access to the school's network if an allegation regarding child pornography is made or locking the room in which an incident is alleged to have occurred. Electronic material of any kind must not be deleted but must be quarantined as far as practicable for handover to SA Police. The police will properly secure the crime scene on arrival. The school principal should seek advice from police on this issue when making the initial report.

#### Step 5: Inform the Executive Officer of CLSSA

The school principal should inform the Executive Officer of CLSSA of the allegation and begin discussions immediately regarding the steps below. Together, the principal with the person reporting and CLSSA should seek and note SA Police's immediate advice on:

- restricting the school personnel's access to children and young people
- preservation of evidence
- contact with parents of the victim
- police contact number to provide to parents of victim.

This will help inform the strategy discussions that CLSSA, the school and police will undertake. School principal should expect that police will not normally interview children or young people at a school except as a matter of urgency or immediate necessity. In the ordinary course, children and young people should be interviewed at a place nominated by police that is off-school.

When it is necessary to prevent the accused person from having any further contact with children or young people at the school, the school principal should take steps to prevent the accused person from attending the school, on directions from SA Police and CLSSA.

In some circumstances, CLSSA or SA Police may ask the school principal not to indicate to the accused person that an allegation has been made until SA Police are able to complete their own preparations. The school principal will discuss with CLSSA the most appropriate plan to either re-direct the individual from their teaching or care duties or to allocate another adult to the teaching or care situation in order to provide supervision until the end of the day. Each situation will provide different options and challenges for school principals and their sector office to consider in managing this situation.

#### Step 6: Inform parents of victim

Unless a parent is the accused person, the school principal should immediately seek the approval of SA Police to inform the parents of the victim of the allegations if the parents are not already aware. This should be done in a sensitive manner, taking into consideration the victim's wishes. Information about counselling services and support for the victim and family should be provided at this time.

When the victim is a child under the Guardianship of the Chief Executive Department for Child Protection, provisions will be made to immediately notify the relevant authority at the Department for Child Protection so the special circumstances of the child or young person can be properly considered and managed

Step 7: Inform the accused person of them/their immediate work requirements

In consultation with CLSSA and SA Police, the school principal should determine which options of the exclusion from the school are appropriate and available for the accused person. It is the intent that the accused person does not attend the school while an investigation proceeds.

Step 8: Reporting the misconduct

Upon informing the Executive Officer of CLSSA of all the action taken, advise will be given accordingly on the reporting method that need to be adhered by the Community Language School.

Step 9: Document all information/discussions/observations

**ES15C:** Record of Allegation of Sexual Misconduct should be used to document all information, discussions and observations relating to the incident. They should be signed, dated and placed in a confidential, secure school principal's file and provided to CLSSA as required

**By Community Languages SA (CLSSA)**

The following is a list of the steps that should be taken by the CLSSA once the school has reported an alleged sexual misconduct.

Step 1: Liaise with SA Police

SA Police will be required to supply information relevant to the investigation to assist CLSSA to manage its obligations to the language school that is involved

Step 2: Create a central file

CLSSA will ensure that a central file is established. The case manager shall be the Executive Officer or nominated member of the incorporated body.

Step 3: Assist the school in establishing work requirements

CLSSA will assist the principal to manage work requirements for the accused person. It will ensure that the accused person is directed not to attend the school but it will assist the accused person to have personal materials delivered to him or her that have been approved by SA Police as appropriate.

Step 4: Check that all immediate responsibilities have been met

CLSSA will need to check that the immediate responsibilities of the school have been met; for example:

- contact with parents

- contact with a social worker if the alleged victim is under the Guardianship of the Chief Executive Department for Child Protection
- provision of counselling
- report to the CARL
- documented notes and secure file established.

#### Step 5: Alert others as required

CLSSA will alert others as appropriate:

- Minister for Education
- Department for Education
- Chairperson of Community Languages SA Board
- Chairperson of the Incorporated Body (where the accused person is from)

#### Step 6: Alert media unit

Cognisant of any potential media involvement CLSSA will take appropriate steps to advise staff or board members who may be approached by the media. The general directive is that only the Chairperson of Community Languages SA Board and/or the Executive Officer will be available to speak to the media.

#### Step 7: Collate notes

CLSSA will ensure that the principal and other staff have made notes of any relevant events and conversations, using the record templates provided as **ES15C: Record of Allegation of Sexual Misconduct** and **ES15D: Record of Meeting** and ensure copies are placed on CLSSA's central file.

### **Further Actions**

As soon as action has been taken, the Community Language School management should consider the following:

- the future employment of the accused person
- providing counselling and support
- undertaking a risk assessment
- responsibly giving out appropriate information.

The tasks under this 'further action' section should be undertaken as promptly as possible without compromising the consultation, risk assessment and information gathering that is required for those tasks to be undertaken appropriately. It is understood that maintaining an unqualified focus on the protection of children and young people will mean varying lengths of

time are taken to complete the required actions. However, the guiding principle for sites and sector offices is that all the steps outlined in this section must be maintained as priority actions and shown to be so by the records kept.

### **The future employment of the accused person**

Where the accused person is a staff member, the principal should consult the relevant sector office to ascertain whether the accused person can be suspended from duty pending the outcome of the investigations.

- If the accused person is suspended, the principal or the incorporated body should send that person a formal letter of suspension.
- If the accused person is a volunteer, the services of that person should be terminated immediately.
- If the accused person is a contractor, legal advice should be obtained whether the contract can be terminated.

In the event of the charges being withdrawn or in the event of an acquittal, CLSSA should inform the principal about what is to occur in relation to the future employment of the accused person.

### **Providing counselling and support**

Appropriate support should be provided as required to the different groups as stated in this section. Generally speaking, that support will be in the form of counselling.

#### The victim and them/their parents

The principal should meet with the parents of the victim to discuss continuing support for him or her. Details of counselling services with contact numbers should be provided to the victim and them/their parents as part of this first meeting. After the meeting, the principal should complete a written record and have it signed by the parents. (See **ES15D**: Record of Meeting)

Over the following days, a support and safety plan should be finalised covering all aspects of the victim's and the family's ongoing needs and agreed actions (see **ES15F**: Support and Safety Plan for Children and Young Person). Copies of the plan, and all updated versions, should be provided to the victim and the family. A copy of the plan/s should also be provided to CLSSA as required. The verbal offer of counselling to the victim and the family should be followed by a letter re-stating the offer and the specific service options. If these services have been taken up by the victim and the family and recorded as part of the support and safety plan, the letter should simply confirm those agreed arrangements and attach the support and safety plan. The principal should consult with CLSSA on drafting this letter.

The language school and CLSSA must continue to monitor the wellbeing of the victim and them/their family through regular reviews of the support and safety plan. Particular attention must be given to significant dates where court proceedings are likely to prompt further stress and emotional burden

#### Other children or young people and parents of the school or care community

The nature of the support or counselling that may be appropriate for other children or young people and parents in the school or care community will vary depending on the circumstances of each incident. If the risk assessment indicates the appropriateness of informing a wider group of parents, then the same services as outlined above should be offered. This may happen via a letter, face-to-face meeting or small-group meeting, as appropriate. These actions will be undertaken in consultation with SA Police, CLSSA and an appropriate provider of such counselling, for example Child and Adolescent Mental Health Services. Copies of letters and records of meetings must be stored with the principal and provided to CLSSA as required

#### Staff members

Staff members may be profoundly impacted by sexual misconduct allegations. Consideration must continue to be given to the wellbeing of staff, particularly those who were in some way associated with the accused person (e.g., co-class teachers, friends, relatives), and to the principal on whom the additional burden of ultimate responsibility for the safety of the school rests.

Particular care should be taken in explaining the restrictions that may be placed on the accused person to staff who are friends of the accused. Individual staff members may need specific help in knowing how to respond to requests for emotional or other support from the accused person without complicating their own obligations at the school or unwittingly complicating matters for the accused. It is reasonable and important that staff members are able to offer emotional support to others and that accused persons have access to the support of friends. However, staff will need clear guidance on how to respond to particular requests such as acting as a witness. Principals should seek sector office support in clarifying the advice they give in these circumstances.

As with any other kind of serious critical incident, the school or sector office may need to deploy additional personnel to the school to ensure that it can operate without placing staff wellbeing or the care of children and young people at risk. Staff members may not immediately appreciate the impact on their wellbeing so reminders about the availability of the relevant sector counselling service should be given to staff on a number of occasions in the weeks or months

that follow. Important events such as the outcome of court proceedings can trigger new points of stress and need which CLSSA must anticipate and monitor

#### Relatives of the accused person who are employees or enrolled students at the school or in the sector

A sensitive plan of support may need to be developed with and for relatives of the accused person who make their needs known to the principal or sector office. Each circumstance will differ but the principal and sector office will need to consider the best ways to support relatives who identify their needs, including the provision of counselling and the option of alternative placements if requested.

In some instances, relevant information may need to be shared between CLSSA and principals so that appropriate monitoring of an employee's or enrolled student's safety and wellbeing is maintained. The impact on relatives of media coverage or letters to the community should be anticipated and protected against wherever possible. The details of support plans for relatives should be provided to CLSSA as required and filed by the principal

#### **Undertaking a risk assessment**

A risk assessment will be made by the relevant sector office in consultation with the principal and will draw on information provided by SA Police. The risk assessment will consider whether there is a reasonable suspicion that there might be other victims and the most appropriate way of addressing that risk through informing identified people. The language school can consult CLSSA for assistance. The risk assessment should consider relevant factors, including:

- the nature of the offending
- the circumstances in which the offending occurred
- the place or places where the offending occurred
- the age and gender of the victim
- the age and gender of the accused person, whether the accused person had regular and frequent contact with other individual children or young people, or a group or groups of children or young people, and the nature and circumstances of that contact
- the opportunities that were available to the accused person on which to offend against other children or young people

#### Responsibly giving out appropriate information

Although a suppression order and section 71A of the *Evidence Act* forbid publication of the name of the accused person generally to the public, it is proper for those with a legitimate interest in the matter to be informed of the alleged offending. Those who have a legitimate interest in the offending are the staff at the site, the members of the governing authority of the

school and parents of children or young people who are likely to have been in contact with the accused person.

As considerable care must be taken when informing staff, the governing authority and parents of the incident, principals and sector offices should follow the advice below. It is necessary to consider the question of providing information at three stages. They are:

- when no more is known than what is contained in the allegations
- after the accused person has been charged
- after the committal or other appropriate relevant date.

*Note: As with all other parent communications, principals should ensure that, wherever required, letters are translated and interpreters are available at meetings. Written communications should be marked 'Confidential' and signed either by the principal or a senior official of the relevant sector office. The decision about who signs letters will be taken consultatively and will respond to the unique circumstances of each case*

### Stage 1: When allegations are just only known

#### Informing staff

It might be necessary for the principal to make arrangements to replace the accused person who has been placed, for example, on special leave, and to make other consequential administrative arrangements. The principal is at liberty to inform the staff involved in the administrative arrangements of the allegations but should not inform other staff at that stage. Those staff members who are informed of the allegations should be asked to keep the information confidential and if contacted by the accused person they should not discuss the allegation. Other staff members should be told that the member of staff is on special leave, or another kind of leave using a neutral term applicable to processes utilised in the relevant sector.

Once the decision of the relevant sector has been taken to suspend the accused person, the principal should call a staff meeting and inform all staff that the accused person has been suspended.

It might be necessary to state that the accused person has been suspended because them/their conduct is being investigated but nothing should be said that might indicate that allegations of sexual misconduct had been made against the accused person.

Staff should be informed that the accused person is not allowed on the school and if the accused person is seen at the school to report it to the principal. Staff should be instructed to keep the information confidential and to refer any parents with questions to the principal (see section on managing rumour, misinformation and curiosity below).

Staff members should be instructed that, if they have any information that will assist the police investigation, they should contact police and provide that information. If that information is relevant to the safe operation of the site, it should also be provided to the principal. If the identity of the victim is known and consent is obtained from the victim or the victim's parents, specific staff members such as the victim's class teacher or school counsellor may be told who the victim is on a confidential basis in order to provide appropriate support for the victim

#### Informing the incorporated body

The members of the incorporated body should be informed by the principal. They should be given the same information as staff, namely, that the accused person has been suspended until further notice and that the accused person has been directed not to attend the site. They should be asked to keep the information confidential and to refer any questions from parents to the principal.

#### Informing parents

While allegations are being investigated, it is not appropriate to inform parents of those allegations. The allegations might prove to be false, may not be substantiated, or there may be insufficient evidence to warrant criminal proceedings. A letter that named the accused person and reports what are no more than allegations has a real potential to be defamatory. As a general rule, the school should not, therefore, inform parents of allegations.

Generally speaking, if there is an occasion when it is necessary to send a letter to parents referring to allegations, for example as a means of managing serious and harmful misinformation, that letter should not name the person against whom the allegations have been made. Legal advice through CLSSA should be obtained before sending such a letter. It will be necessary, also, to consult SA Police.

#### Managing rumour, misinformation and curiosity

In some cases, schools can anticipate that discussion will occur within their parent community once a member of staff has been suspended. It is appropriate that staff be provided with instructions for dealing with potential queries or comments. That instruction should be to refer all inquiries to the principal.

If an inquirer asks the principal why the suspended person is no longer at the site, the principal should give the inquirer an answer that is as neutral as possible and one that does not disclose the nature of the alleged offending. One example of an appropriate answer is 'The person has been suspended. I am sorry I cannot give you any further information at this stage. As soon as I am in a position to do so, I will let you have more information'. If the inquirer persists, the principal should do no more than state that the person has been suspended because them/their

conduct is being investigated by police and more information will be given when the outcome of the police investigation is known.

Staff members should also be instructed to alert the principal immediately if they become aware of accusations or threats by community members that pose risks to the safety or wellbeing of individuals or the broader school community. The principal should consult with CLSSA and SA Police about the best course of action. In some circumstances, this may prompt the need for a letter to the whole community. However, as stated above, this should occur only through consultation with CLSSA and SA Police and legal advice must be sought. The prompt actions of the principal and CLSSA in facilitating all of the actions required in this guideline will help prevent rumour and misinformation in the community.

## Stage 2: After accused person has been charged

### Informing staff

Following the arrest of a member of staff, the principal should convene a meeting of staff for the purpose of:

- informing them that a member of staff has been arrested and to name that person and the offence
- informing them of changes to staff required by the absence of the accused person
- informing them that the accused person is not permitted on the school
- asking staff to inform the principal if the accused person is seen at or near schoolgrounds so that the principal may take appropriate action
- informing them that, if they have any information that will assist the police investigation, to report that information to police and to the principal if relevant to the safe operation of the site.
- informing them that if they are contacted by the accused person they should not discuss the allegation.

Staff should also be instructed to keep the matter confidential in order to protect the confidentiality and identity of the victim and also instructed that it is an offence to publish any material identifying the accused person at this stage of the criminal proceedings.

If new staff join the site, the principal should give the same information to those new members of staff. Information should be given to a relieving teacher only if that teacher will be teaching the victim.

If the identity of the victim is known and consent is obtained from the victim or the victim's parents, specific staff members, such as the victim's class teacher or school counsellor, may be

told on a confidential basis who the victim is in order to provide appropriate support for him or her.

#### Informing the incorporated body

The most suitable means by which to inform the incorporated body is at an extraordinary general meeting called for that purpose. The principal is at liberty to inform members of the governing authority of the same facts as revealed to staff members. The committee members of the incorporated body should be given the same instructions regarding the requirement to maintain confidentiality and to inform SA Police and the principal of any information relevant to the safety of the site.

The principal should also advise the governing authority of parent communications (see below). Wherever practicable, this advice should be given ahead of the communications occurring.

#### Informing parents

The manner in which information is given to parents and the kind of information given to parents will depend on the result of the risk assessment.

Particular care must be taken when informing parents of the fact that a staff member has been arrested and charged with an offence. Parents will be advised either by letter, email or at a meeting, as described below.

**Letters** - As a general rule, the accused person should not be named in the letter to parents. The letter must be sent as soon as reasonably practicable. There is no one letter that will be suitable for all occasions. With the assistance of CLSSA, the principal will have to prepare a letter suitable to the occasion in question. Before finalising the contents of the letter with the principal, CLSSA must consult with police as to the timing and content of the letter. The letter to be sent to parents should have regard for the following five factors:

- the presumption of innocence
- the fact that section 71A of the *Evidence Act* restricts publication of the name of the alleged offender until committal or 'relevant date' pursuant to section 71A of the *Evidence Act*. If, contrary to the recommendation in this guideline document, it is decided to name the accused person and, if the letter is to be sent to a large number of parents, advice should be taken as to whether the letter is permitted by section 71A
- the fact that a person who receives the letter might post it on Facebook or another internet school

- the fact that the name of the person alleged to have committed the offence can lawfully be published once that person has been committed for trial or sentence or after the 'relevant date'
- whether a suppression order has been made by a court.

The purpose of a letter is twofold: to inform parents of the fact that a person connected to the school has been charged with a sexual offence and to state whether there is any concern for the safety and welfare of children and young people other than the victim.

The letter should be sent by post or email as per the school's established process. It should not be sent home with the child or young person. It should not be posted on the site's noticeboard or published in a newsletter. It is strongly recommended against placing these communications on any social media or internet platform

*No other victims* - If the result of the risk assessment is that there is no suspicion that there might be other victims, a letter should be sent to all parents at the school stating that fact. The letter should state that a person connected to the school has been arrested and charged with an offence, naming the offence but not naming that person. An example of this type of letter and a list of the topics the letter should contain are set out in Example 1 of **ES15E: Sample letters to Parents**

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

The first of these two letters should be sent to the parents of those children or young people in the group in which it is suspected that there might be other victims. It will inform those parents of the fact that a person connected to the school has been arrested and charged with committing an offence, naming the offence but not naming that person. It would inform those parents if a meeting is being called to give information to parents, or if parents are being invited to meet personally with the principal. At the same time, the letter should not suggest that the children or young people of those parents who received the letter are, in fact, victims. An example of this type of letter and a list of the topics the letter should contain are set out in the first letter of Example 2 of **ES15E: Sample letters to Parents**

The second letter to be sent should be addressed to all other parents at the site. It will contain essentially the same information as the first letter except that it will state that, while there is no evidence that any child or young person at the school apart from the victim is involved, a group

meeting or individual meetings are occurring with parents whose children or young people have been in contact with the accused person. The letter may state that the school is holding such a group meeting and the recipient may attend the meeting if he or she wishes to do so. An example of this type of letter and a list of the topics the letter should contain are set out in the second letter of Example 2 of **ES15E**: Sample letters to Parents

*When a particular group cannot be identified* - In those cases where there is a reasonable suspicion of other victims but it is not possible to narrow down the group of children or young people because the accused person has had contact with most of the children or young people at the site, a communication process with all parents must be planned. It will be necessary for only one letter to be sent to all parents. An example of this type of letter is Example 3 of **ES15E**: Sample letters to Parents

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

The information and instruction provided should deal with such matters as informing parents of the kind of behaviour that is indicative of a child having been the victim of abuse, the appropriate way to provide opportunities for the child or young person to talk about what has been a traumatic experience, and how to support the child or young person and manage the situation. The information and instruction should be directed to the type of offending that had been alleged. It should include a strong message that the parents should be available to their child but not to interrogate him or her.

The discussions should be planned with and attended by a qualified and experienced expert such as a psychologist with experience in assisting children who have been victims of child abuse and who would be able to answer any questions parents might have. The discussions should include giving parents appropriate advice on how to deal with any disclosures made by their child. Parents should be provided with the contact details for the relevant support services.

The principal may name the accused person and answer any questions parents might have. The principal should ask parents to treat the information as confidential. They can be told that publication of the name of the accused person would be in breach of section 71A of the *Evidence Act*. It is recommended to encourage parents to treat that information as confidential by stating that it is in the interests of the victim and the parents of the victim to keep the matter confidential.

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

Following the discussions, parents should be provided with an information sheet containing information about good parenting practice when dealing with a victim or possible victim of sexual abuse. That document should also include guidance as to how best to respond to a disclosure by a child or young person who has been abused. The information sheet should also be made available to those parents who cannot or do not wish to attend the site.

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

After the accused person has been committed to stand trial or been sentenced, or after any other relevant date, there are no restrictions on informing either staff, members of the governing authority or parents of the fact that the accused person has been charged with a sexual offence. Any information given to people in those groups can name the accused person and state the offence with which the accused person has been charged. At this stage, there is no need for confidentiality about any of those facts.

However, if a suppression order has been made, legal advice should be obtained on the question as to whether it is possible to give information to staff, members of the governing authority or parents. It should also be noted that publication of any information that tends to identify a victim may still be prohibited under section 71(A) of the *Evidence Act*.

### Informing parents of previous students

In consultation with CLSSA and where appropriate based on the risk assessment undertaken earlier, a principal should ascertain the names of children or young people who in previous years would have been in contact with the accused person. Having done so, the principal should send a letter to the parents of those children or young people whose addresses are known or to the young people themselves if they are now adults.

This information should be given to those parents after committal or other relevant date, unless their child is identified during the risk assessment as being at risk of having been abused. They should then be informed in accordance with the procedure in the last part of [Stage 2](#) above.

### Informing other community language schools

Where the accused person has been employed at other community language schools, CLSSA will notify those other sites so that they can consider whether it is necessary to inform parents in the same way as described in [Stage 2](#) above.

### Informing other authorities

The school will require CLSSA to be responsible in alerting others as appropriate:

- Minister for Education
- Department for Education
- Chairperson of Community Languages SA Board
- Chairperson of the Incorporated Body (where the accused person is from)

### **Monitoring court proceedings**

CLSSA should monitor the court proceedings and inform the principal of the stage the prosecution has reached.

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

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

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

### Responding to the media

Only the Chairperson of Community Languages SA Board and/or the Executive Officer will be available to speak to the media.

### Reporting the outcome

It is desirable to inform the staff, members of the governing authority and parents of the outcome of the criminal proceedings.

If the accused person is acquitted or if the charges against him or her are withdrawn or if the proceedings lapse for any reason, it is essential to inform staff, members of the governing authority and parents of the fact. The letter should be drafted by CLSSA and signed by a very senior leader. In an independent school, this will be the responsibility of the school principal.

Should the accused person be acquitted or if the charges against him or her are withdrawn or if the proceedings lapse for any other reason, CLSSA or the independent school principal will have to make a number of decisions in relation to the future employment of the accused person. They include:

- whether the accused person will be subject to any disciplinary proceedings under any other sector specific policies or contractual arrangements
- whether the accused person will return to the school where he or she had been employed/engaged
- whether the accused person should be employed/engaged at another school.

## References and Other Documentation

- Australian Human Rights Commission: [Sexual Harassment in the Workplace - The Legal Definition of Sexual Harassment | Australian Human Rights Commission](#)
- Managing allegations of sexual misconduct in SA education and care settings: <https://www.education.sa.gov.au/doc/managing-allegations-sexual-misconduct-sa-education-and-care-settings>
- *Children and Young People (Safety) Act 2017 (SA)*: [Children and Young People \(Safety\) Act 2017 \(legislation.sa.gov.au\)](#)
- Australian Human Rights Commission (2010) Tackling Sexual Harassment: Developing a sexual harassment policy for your school: [RS\\_developing\\_sh\\_policy\\_school.pdf \(humanrights.gov.au\)](#)
- *Equal opportunity act 1984* (Version: 2.9.2019): [Equal Opportunity Act 1984 \(legislation.sa.gov.au\)](#)
- Topic 6 – What’s Ok And What’s Not Ok? (Sexual harassment) : [The Practical Guide to Love, Sex and Relationships \(lovesexrelationships.edu.au\)](#)
- *Criminal Law Consolidation Act 1935*: [Criminal Law Consolidation Act 1935 \(legislation.sa.gov.au\)](#)
- *Evidence Act 1929*: [Evidence Act 1929 \(legislation.sa.gov.au\)](#)
- *Summary Offences Act 1953*: [Summary Offences Act 1953 | South Australian Legislation](#)
- *Summary Procedure Act 1921*: [Summary Procedure Act 1921 \(legislation.sa.gov.au\)](#)