

MEMORANDUM OF UNDERSTANDING FOR INFORMATION EXCHANGE BETWEEN SCHOOLS AND NSW POLICE

Introduction

Schools are amongst the safest places for young people in our community. Social and crime problems can however impact on schools in negative and serious ways in certain locations. NSW Police, DET and non-government schools are committed to working closely together with parents and the community to prevent and reduce crime and to ensure that schools remain safe places for students, staff and the community.

As a general rule, schools are orderly places where relationships between staff, students and the community demonstrate mutual respect and shared responsibility for student welfare and educational achievement.

This MOU is intended to assist in this process. It was devised in the context of the existing legal obligations of schools, both government and non-government and the NSW Police, under a range of legislation and other instruments and is subject at all times to relevant legislation now or at any time in the future in force, including but not limited to:

- Police Act 1990 (NSW);
- Crimes Act 1901 (NSW);
- Education Act 1990 (NSW);
- Privacy and Personal Information Protection Act 1998 (NSW);
- Freedom of Information Act 1989 (NSW);
- Privacy Act 1988 (Cth)
- NSW Department of Education and Training Privacy Code of Practice;
- NSW Police Privacy Code of Practice.
- Children (Criminal Proceedings) Act 1989 (NSW)

Violent, threatening or destructive behaviour and abuse against students, staff and community members, or their property, will not be tolerated in our schools. All members of the school community have a right to expect that the school is a safe place in which to work and learn.

Name

This MOU shall be known as '*The Schools & NSW Police Information Exchange MOU*'.

Information Exchange

One way of increasing safety in schools is to ensure that relevant information sharing occurs between schools and NSW Police. The key objectives of information sharing are the prevention of crime, the reduction of risk and increasing co-operation between the agencies.

Early and accurate advice provided to NSW Police Local Area Commands may assist in enabling NSW Police to appropriately implement crime prevention strategies and to

respond to incidents promptly. This will increase the security of schools and the safety of students, staff and the broader community.

School Principals, (Principals) and NSW Local Area Commanders have primary responsibilities for ensuring that information is shared which assists;

- School staff to make schools safer; and
- NSW to prevent, reduce or solve crime.

By the nature of their position, school staff may become aware of situations that require NSW intervention. Through its work in law enforcement, NSW may become aware of information that needs to be shared with Principals in order to ensure that the school environment can be made safer for all students and staff.

Information should be exchanged between NSW and schools subject to the provisions of legislation which may be in force from time to time.

Information provided by NSW to Principals should be used at the school to increase the school's capacity to:

- identify and assess the risks;
- determine appropriate actions;
- implement the actions; and
- monitor the results of such actions.

Information provided by the NSW should not be used automatically as a reason to exclude a student or groups of students from participation in education and training.

Principals of government schools should provide relevant information to the School Response Unit, located in Safety and Security Directorate on telephone number 9561 8163.

Principals of non-government schools should provide relevant information directly to the nominated officer in the NSW Local Area Command.

Types of information exchanged

By the Principal

A principal may need to disclose information when:

- disclosure of the information is necessary for NSW to investigate an offence; or
- the Principal has grounds to believe that an offence may have been committed which impacts upon the safety and security of the school; or
- disclosure is necessary to promote and maintain a safe and disciplined learning environment.

When determining whether or not information should be disclosed to NSW, Principals should give special consideration to the impact that truancy, violence

on school grounds, gang related activities or serious drug or alcohol use have on safety and security at the school.

When NSWSP seek the disclosure of information in the course of investigating an offence, the principal should be as co-operative as possible, while still complying with his or her responsibilities under relevant legislation and codes.

In establishing whether to report an alleged criminal incident, and prior to providing any specific details about an individual student, the principal should provide general details only and seek confirmation about whether an offence may have been committed.

The types of information that may be disclosed, after the principal is satisfied that he or she has grounds for disclosure, will vary in accordance with individual circumstances and may include:

- the name of the student;
- the address of the student;
- a photograph of the student;
- details of an incident(s);
- the identity of teachers with information relevant to the student or incident;
- the names of family, friends or associates of the student;
- details of living arrangements eg any Family Court orders;
- details of school attendance; and
- information on relevant disciplinary interventions, excluding information relating to confidential counselling sessions.

By NSWSP

Information would be provided by NSWSP for law enforcement and public safety purposes in the context of the need to maintain a safe and secure school environment. The type of information provided may vary in accordance with individual circumstances and include:

- the name of the student;
- details of alleged incident/offence;
- details of progress of matter (eg if charges are to be laid, youth justice conference being conducted, bail conditions, court appearances, decisions of courts) where such matters might reasonably impact upon the operation of the school; and
- details of any associate of the student (if relevant).

This information should be provided by NSWSP solely to increase the school's capacity to maintain safety and security and according to the collection principles in the relevant privacy legislation or codes.

Disclosure of information received by Principals from NSWSP

Principals who are in receipt of information from NSWSP must treat the information confidentially. Information should not be disclosed if NSWSP advise that such disclosure would be likely to prejudice any NSWSP investigation.

Disclosure to other staff members of such confidential information will only be on a need to know basis and will take place where the Principal reasonably believes the disclosure will improve safety and supervision on the school site and during school activities that may be conducted off site. Where possible, Principals needing to pass on information for appropriate action should pass on only as much information as is necessary to maintain the safety and security of the school. Such disclosure must also be in line with the use and disclosure principles in the relevant privacy legislation and codes.

Disclosure of information by NSW

NSWP will notify the Principal in advance if the NSW intend to inform a student's family that a member of school staff has provided information about the student. Individual teachers will not be identified as the source of the information.

Storage of Information

Information obtained from NSW about a student is not to be kept on the student's records but on a separate file that is to be maintained on a confidential basis by the principal. Other staff members will not have access to the information unless necessary for the safety and security of the school.

Where a principal retains information relating to the involvement of a student in an alleged criminal incident, the student will not be advised of the existence of the information during the investigation or related court proceedings, until consent to that disclosure has been obtained from NSW. Reference should be made to the relevant privacy legislation and, in the case of government schools, exemptions under Schedule One, Clause 4 of the Freedom of Information Act 1989 (NSW).

Local Procedures

Each year, Local Area Commanders of NSW are expected to convene two meetings of Principals of schools in their Local Area Command. Local procedures should be developed and agreed between the parties at these meetings.

Consistent with relevant privacy legislation and codes, the procedures should include information for Principals such as:

- what to do when an incident occurs;
- who to contact in given situations;
- advice about situations when the NSW might respond immediately and when follow-up would occur less urgently;
- how to handle and secure items confiscated from students such as weapons or suspected illegal drugs;
- how to provide advice about criminal incidents that Principals believe may occur in the local community such as a fight between students at a local transport interchange; and
- the kinds of information to be exchanged with NSW which have particular relevance to the local area.

The procedures should also include information for NSWP such as:

- the names of key contact people at the school and district office and their contact numbers;
- the type of information that Principals might expect to be given about a student who is the subject of NSWP intervention, investigation or court proceedings;
- how Principals will provide advice in response to specific requests for information held by the school on students of interest to an investigation, eg truancy.

Conclusion

The transparent exchange of information between NSWP and Principals will enhance the operational effectiveness of schools when dealing with day to day activities which impact on the wider school community. Timely NSWP response to the information provided will minimise the fallout which follows incidents that cause concern to schools and the broader community.

Honest and frank exchange of information between Principals and NSWP provides a cornerstone for successful management of serious incidents that occur, in or near schools, from time to time.

A clear understanding between the agencies, about which information will be shared and in which circumstances information exchange should occur, will result in a professional and focussed response on the part of both agencies.