

# **Managing & Responding to Allegations of Student Sexual Offending Policy & Procedure**

*(September 2017 V1)*

# MANAGING & RESPONDING TO ALLEGATIONS OF STUDENT SEXUAL OFFENDING POLICY & PROCEDURE

**POLICY OWNER: Headmaster**

<b>PURPOSE:</b>	The following document outlines the policy and procedures to be followed in regards to managing and responding to allegations relating to student sexual offending and problem sexual behaviour.
<b>SCOPE:</b>	All students of the St Peter's College are covered by this policy and procedure.
<b>ALIGNMENT TO SCHOOL STRATEGIC PLAN:</b>	Our Preferred Future – A Strategic Plan for St Peter's College 2015 – 2018 underpins this policy and procedure.
<b>ALIGNMENT TO SCHOOL'S VISION &amp; VALUES</b>	Our vision is to be a world-class school where boys flourish. Our core values underpin this policy and procedure: <ul style="list-style-type: none"> <li>• Building lifelong commitment to serve others.</li> <li>• Building leadership capability.</li> <li>• Celebrating the uniqueness of every boy.</li> <li>• Celebrating accomplishment.</li> <li>• Developing emotional maturity.</li> <li>• Developing lifelong learning, engagement, meaning, and purpose.</li> <li>• Embracing creative potential.</li> <li>• Fostering honesty, integrity, and wellbeing.</li> <li>• Honouring diversity.</li> <li>• Valuing teamwork, collaboration, and communication.</li> <li>• Unlocking individual virtues and strengths.</li> </ul>
<b>REFERENCES:</b>	<ul style="list-style-type: none"> <li>• <i>Responding to problem sexual behaviour in children and young people. Guidelines for staff in education and care settings.</i> Government of South Australia, Department for Education Child Development, (2013)</li> <li>• <i>Information sharing: Guidelines for promoting the safety and wellbeing of children, young people and their families,</i> South Australian Government (2008)</li> <li>• St Peter's College Child Protection Policy (updated July 2016 V5)</li> <li>• St Peter's College Records &amp; Record Keeping Practices in relation to Child Protection Matters Policy &amp; Procedure</li> <li>• St Peter's College Critical Incident Management Policy &amp; Procedure</li> <li>• St Peter's College Sexual Harassment Policy &amp; Procedure</li> </ul>
<b>UNDERPINNING CONVENTION, LAW &amp; POLICY</b>	This policy and procedure is based on the requirements and advice in the following South Australian, Australian and international legal and best practice references.
<b>United Nations Convention on the Rights of the Child</b>	The Convention enshrines the entitlement of all children, regardless of race, colour, sex, religion or nationality, to be protected from sexual abuse, to receive special help if they are abused, to have their opinions heard about matters that affect them, to receive and share information, and to be treated with dignity if disciplined.

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## Law

- The *Children's Protection Act 1993* mandates staff in education and care environments to report child abuse and neglect.
- The *Criminal Law Consolidation Act 1935* defines illegal sexual behaviour.
- The *Young Offenders Act 1993* prohibits the publication of identifying information about young people involved in the juvenile justice process and prescribes that a child under the age of 10 years is presumed not to be capable of forming an intent to commit a criminal offence.
- The *Equal Opportunity Act 1984* defines sexual harassment laws and complaint processes open to people 16 years and older through the Equal Opportunity Commission.
- Duty of care is a common law concept that, in the context of education and care environments, refers to the responsibility of education staff to take reasonable care to protect children/young people from all reasonably foreseeable risk of harm.

## Natural justice

Procedural fairness principles include those that promote the rights of students to be heard, to know what is alleged, to question evidence, to impartial adjudication and to the right of appeal. The *Declaration of Principles Governing the Treatment of Victims of Crime* (Commissioner for Victim's Rights 2001) outlines the rights of victims and the principles of justice regarding the treatment of victims, including being informed of support services.

## National Safe Schools Framework (NSSF)

The NSSF provides guiding principles which include the responsibility of schools to take action to protect children from all forms of abuse and neglect and the right of all school community members to feel safe at school.

## Information Sharing Guidelines (ISG)

The Government of South Australia's *Information sharing: Guidelines for promoting the safety and wellbeing of children, young people and their families* (2008), known as the ISG, is South Australia's operational framework for the sharing of information across government and relevant non-government organisations to promote the safety and wellbeing of children, young people and their families.

## Protective Practices for Staff in their Interactions with Students

These guidelines for staff in South Australian schools, preschools and Out of School Hours Care facilities describe the professional boundaries for staff and student relationships, including the management of inappropriate sexual behaviour of students toward staff.

## DEFINITIONS:

**Problem sexual behaviour** – refers to behaviour that requires counselling and monitoring in some circumstances through to behaviour involving criminal charges and prosecution in others.

Generally, what makes sexual behaviour problematic is when it is sexual activity by or between students of any age that involves:

- Coercion, bribery, aggression, clandestine behaviour and/or violence.
- Behaviour that is abnormal for age and/or developmental capability, compulsive, excessive and/or degrading.
- A substantial difference in age and/or developmental ability between participants.

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## APPLICATION OF THE YOUNG OFFENDERS ACT 1993

**Sexual offending** – undertaking an act which includes rape, sexual assault, indecent acts and other unwanted sexualised touching.

**Student** – This term refers to children and young people aged from birth to, generally 18 years of age, but includes young adults with developmental disabilities attending education settings.

### Protecting the identities of children and young people

The *Young Offenders Act* prohibits the publication of anything that might identify both the offender and the victim where each is under the age of 18 including their name, address and the name of the school they attend. One of the measures taken in this policy and procedure document to ensure compliance with the above legislation is to require that information tending to identify students is not disclosed in letters to parents or in meetings with parent groups – even when it is clear the School is aware of which students are involved – unless legal advice has been obtained to the contrary.

Despite the above it should be noted that the *Young Offenders Act* is not aimed at prohibiting *private and confidential communication* for the purpose of properly managing a situation in an education or care setting. Discussions essential to establishing proper protections and interventions may need to occur with:

- Police/Families SA
- Parents of students directly involved
- Staff members whose knowledge of the situation is required to ensure proper protection of students
- Other professionals involved in providing support or care for the student(s) where some knowledge of the incident is essential to them in fulfilling their support role.

While not all of the provisions of the *Young Offenders Act* apply to children under the age of 10 or to students who were 18 at the time of the incident this policy and procedure make no age-based exceptions to the responsibilities outlined. The lawful and respectful practice recommended is to protect the identities of students involved and to refer to incidents in the most general ways possible. That said, in cases where it seems necessary to disclose potentially identifying information, legal advice should be sought.

### **Children under the age of 10**

The *Young Offenders Act* prescribes that a child under the age of 10 is presumed not to be capable of forming intent to commit a criminal offence. While this provision influences the actions of police in laying charges it does not impact the actions required of staff as outlined in this policy and procedure document. The significance of this provision is its reminder of the inappropriateness of labelling young children as 'criminals' or 'offenders.'

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## DUTY OF CARE OBLIGATIONS FOR STAFF:

Staff must take all measures that are reasonable in the circumstances to protect a student under their care from risks of injury that the staff member should reasonably have foreseen. The School has in place systems to adequately supervise students in order to meet their duty of care obligations.

In the context of student to student sexual offending it is important to remember that staff have a duty of care toward all students involved, including the alleged victim, the student alleged to have engaged in the offence and any other students who may have been affected.

## POLICY:

An allegation of student sexual offending is a very serious matter and must be handled with a high degree of sensitivity. The initial response to an allegation that a student has committed a sexual offence and a student has allegedly been abused should be immediate if the incident/s are serious or criminal in nature. Those that have occurred sometime in the past, should be actioned as soon as possible, preferably within 24 hours.

### Principles

The School is committed to an effective resolution of such allegations in a timely and systematic manner. This policy sets out the process by which allegations of student sexual offending can be addressed in a confidential, expeditious and sensitive way.

Resolution arises out of a clear understanding of the School's policies and practices, good communication, and an agreed method of allegation management and resolution. This also includes determining the appropriate seriousness of the allegation and applying the appropriate resolution process.

In order to help staff decide what response they should make to problem sexual behaviour or sexual offending, this policy refers to behaviour falling within the general categories of 'serious' or 'concerning.'

Recognising whether a particular behaviour is serious or concerning and what response is appropriate involves taking into account a number of factors: including the:

- Age and developmental capability of the student
- Context in which the behaviour has taken place
- Behaviour history of the student
- Impact of the behaviour on others (degree of impact does not necessarily equate to degree of seriousness – some students may present as unaffected by a behaviour that adults recognise to be very serious).

Resolution involves good record-keeping during the process of hearing a serious allegation and respect at all times for appropriate confidentiality.

It is in the common interest to manage resolution of any allegation by means which neither disrupt nor damage the School's optimum operation.

### St Peter's College Commitment

St Peter's College is committed to:

- Providing a working and learning environment that is safe, fair and just
- Promoting positive personal relationships
- Minimising the incidence of circumstances that might give rise to a student sexual offending allegation
- Supporting the right of every person to have their allegation lodged, listened to, addressed fairly and dealt with as soon as possible

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- Managing allegations in a respectful and supportive way
- Meeting its moral and legal obligations (eg: Mandatory Reporting)
- Maintaining high levels of communication and record keeping
- Providing adequate training and support for people with responsibility to investigate student sexual offending allegations

## PROCEDURE:

The following response checklist outlines the steps to be followed when managing and responding to allegations of student sexual offending.

### 1. Immediate response – first staff member involved

<b>Check immediate safety needs</b>	If it is an onsite incident, consider immediate safety needs; call 000 for ambulance and 13 14 44 for police attendance (if immediately seen as serious), provide first aid or seek assistance from the School Health Officer, alert other staff/Emergency Response Team for assistance. Protect area from people traffic.
<b>Reassure and show care</b>	Respond calmly, try to control expressions of panic or shock. Provide appropriate reassurance, allow the student to decide what he wants to say, make no judgements or promises about what you hear, just reinforce that you are there to help. Do not interview anyone.
<b>Respond to information</b>	Using other staff, establish the whereabouts of the student involved. If necessary, separate students so they have staff supervision in a safe location away from each other and other students. Staff helping with supervision should not ask any questions about the incident. Quarantine any material (including electronic) connected to the incident, for handover to police.
<b>Handover</b>	Inform and hand over to Headmaster or his delegate
<b>Note was has occurred</b>	Write down straight away what you have heard, observed and done. Sign and date your notes and provide a copy to the Headmaster or his delegate for his secure and confidential storage. Use the template provided at Appendix 1.

### 2. Immediate response – Headmaster (or his delegate) and other agencies

<b>Headmaster (or his delegate) makes an assessment</b>	Using open questions, gather as much additional information as needed to make an initial assessment of the seriousness of the incident if this is not immediately clear. Do not bring students together in this process. Using contextual information, professional judgement and/or advice from an external provider such as AISSA, decide the most appropriate response and follow the checklist below.			
<b>Response to the student</b>	<b>Engaged in the behaviour</b>		<b>Affected by the behaviour</b>	
	<i>Serious</i>	<i>Concerning</i>	<i>Serious</i>	<i>Concerning</i>
	Call for police attendance on 13 14 44. Police will refer the matter, based on the age of the student and nature of the allegation, to the appropriate police section and provide advice about immediate management issues.	Depending on the student's age and any previous incidents, consider the appropriateness of immediate responses such as: - Establishing prohibited areas or activities - Monitoring arrangements	Ensure call has been made to the Child Abuse Report Line on 13 14 78 and that any advice receive regarding contact with parents is understood and agreed.	Assess and respond to the student's needs. Respect his preference wherever possible about where he wishes to be – home (with parent contact and permission) or at School.

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		- On or off site supervision / take home.		
	Call Child Abuse Report Line on 13 14 78 if another student is affected and/or if staff suspects that the behaviour is as a result of abuse or neglect. Ask for any relevant background information and likelihood of Families SA involvement.	Reinforce why the behaviour is unacceptable and the School's expectations of future behaviour.	Maintain adult supervision of student but allow a non-involved friend to support him if this is requested or seen to be helpful.	Advise the student about how to respond to questions from other students and which staff member will be supporting him.
	Keep the student supervised and supported until other agencies provide advice or the Headmaster (or his delegate) gives a direction.	Inform School Psychologist if they are already providing counselling for the behaviour.	Positively reinforce the action of reporting the behaviour to adults (or through peers).	Positively reinforce the action of reporting the behaviour to adults (or through peers).
	If electronic technologies are involved, quarantine (unopened) until further advice from police.		Do not allow the student to leave the School until parents have arrived or their permission is given.	
	Use suspension, exclusion, take home options as appropriate.		Advise the student about how to respond to questions from other students and which staff member will be supporting him.	
<b>Contact parents of student</b>	<b>Engaged in the behaviour</b>		<b>Affected by the behaviour</b>	
Record details of contact with Parents using the template at Appendix 3	<i>Serious</i>	<i>Concerning</i>	<i>Serious</i>	<i>Concerning</i>
	Follow direction from police or Families SA as to who contacts the family, where and at what time. (Ensure suspension/take home is also	Inform parents and arrange a meeting at the School to discuss immediate responses and longer term behaviour support plan. (If	Confirm with police or Families SA that this proposed contact is advisable.	Inform parents in consultation with student.

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	discussed.)	suspension is used this will be part of the re-entry process.)		
	Establish behaviour support plan if student will be remaining on site.		Ensure parents are aware of the agencies that may be interviewing their son or involved in providing support.	Counselling services should be discussed as part of support & safety planning.
			Counselling services should be discussed as part of the behaviour support planning.	Arrange a meeting to discuss the support and safety plan.
			Arrange a meeting with parents to discuss the support and safety plan.	
<b>Inform other parents</b>	Inform identified groups of parents if there is suspicion or knowledge that: <ul style="list-style-type: none"> <li>- Another student may have been affected by the behaviour, currently or in the past</li> <li>- Another student witnessed the incident</li> <li>- Accounts of the incident will be circulating amongst the School community.</li> </ul>			
<b>Inform others</b>	<ul style="list-style-type: none"> <li>- Provide relevant information to other staff / authorities who share a duty of care for any student involved (e.g. Out of School Hours Care Director, Head of Boarding.)</li> <li>- Consider the relevance of informing other professionals with the student or their family members.</li> </ul>			
<b>Record</b>	Record the School's actions, information sharing and the involvement of other agencies. Use the template provided at Appendix 2.			

### 3. Long term response

<b>Monitor, liaise, plan and record</b>	<ul style="list-style-type: none"> <li>- Monitor safety and wellbeing of students</li> <li>- Continue liaison with other agencies and professionals providing services.</li> <li>- Maintain and invite regular communication with identified parents.</li> <li>- Consider who else will need to understand the behaviour / safety plans for all students involved.</li> <li>- Initiate planning discussions with parents and relevant agencies if behaviour doesn't improve.</li> <li>- Continue to record the School's actions.</li> </ul>
<b>Review</b>	<ul style="list-style-type: none"> <li>- Review and improve the School's processes for responding to and preventing incidents, including through educational programs.</li> <li>- Record and monitor improvements.</li> </ul>

Refer to the document *Responding to problem sexual behaviour in children and young people – Guidelines for staff in education and care settings*, Department of Education

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### RESPONDING TO PROBLEM SEXUAL BEHAVIOUR WHEN IT IS DIRECTED AT STAFF

and Child Development (2013) for further information relating to each of the steps identified above.

If a student's problem sexual behaviour is directed towards a staff member, the staff member must take immediate respectful steps to establish physical distance from the student and to indicate that the behaviour is inappropriate and that it must stop. The immediacy is particularly important where other students are witnessing the behaviour.

The incident should be reported and documented immediately to the Headmaster (or his delegate) and the same process followed as identified above in the response checklist.

Reference should also be made to the School's Sexual Harassment Policy & Procedure which also provides guidance on the process to be followed for responding to an allegation of sexual harassment of a staff member by a student.

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## COMMUNICATION:

This policy and procedure is available on the School's Information System – Keystone, under the Policies tab.

## POLICY HISTORY:

HISTORY	
Date Approved	Amendments made (summary of major changes)
	1 <sup>st</sup> draft September 2017
	Policy & Procedure approved by SLT 24 October 2017

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## Appendix 1 – Immediate Response Template



<b>Responding to an incident, disclosure or suspicion of student sexual offending.</b>
<i>Note: If you are making a report to CARL or SA Police you must seek advice before contacting parents/carers so as not to compromise any investigation or place a child at further risk.</i>

<b>STAFF MEMBER LEADING THE RESPONSE</b>	
Name:	
Title:	
<b>RESPONDING TO AN EMERGENCY</b>	
Do any students require first aid? If yes, provide details.	
Who administered this? (Name and title)	
Do any students require immediate medical assistance?	
Current location and safety status: e.g. are all impacted students safe and not in any immediate danger? If a child is in immediate danger the incident should be reported immediately to the SA Police on 000.	

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<b>INFORMATION OF THE ALLEGED VICTIM</b>	
<b>STUDENT'S PERSONAL DETAILS</b>	
Name:	
Year Level:	Date of Birth:
Residential Address:	
Parent/Carer Name/s:	
Parent/Carer Contact:	
Language(s) spoken by student:	
Disabilities, mental or physical health issues:	
<b>STUDENT'S BACKGROUND (ALLEGED VICTIM)</b>	
Cultural status and religious background: (if the child is of Aboriginal or Torres Strait Islander background, contact the School's Indigenous Coordinator for support. If the student is an International Student follow any required procedure as directed by CRICOS guidelines).	
Previous history or indicators of being victim to sexual offence or any other underlying concerns:	

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<b>FAMILY'S BACKGROUND (ALLEGED VICTIM)</b>
Family composition (if known): (list parenting or care arrangements and sibling names and ages)
Any other people living with the child (if known):
Disability, mental or physical health issues in family (if known):
Likely reaction to report being made (if known):

**If there is more than one child who is the victim of student sexual offending, complete a separate student details form for each student.**

<b>INFORMATION OF THE STUDENT ALLEGEDLY ENGAGED IN STUDENT SEXUAL OFFENDING</b>	
<b>STUDENT'S PERSONAL DETAILS</b>	
Name:	
Year Level:	Date of Birth:
Residential Address:	
Parent/Carer Name/s:	
Parent/Carer Contact:	

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Language(s) spoken by student:
Disabilities, mental or physical health issues:
<b>STUDENT'S BACKGROUND (ALLEGED TO HAVE ENGAGED IN THE OFFENCE)</b>
Cultural status and religious background: (if the child is of Aboriginal or Torres Strait Islander background, contact the School's Indigenous Coordinator for support. If the student is an International Student follow any required procedure as directed by CRICOS guidelines).
Previous history or indicators of sexual offending or any other underlying concerns:
<b>FAMILY'S BACKGROUND (STUDENT ALLEGED TO HAVE ENGAGED IN THE OFFENCE)</b>
Family composition (if known): (list parenting or care arrangements and sibling names and ages)
Any other people living with the child (if known):
Disability, mental or physical health issues in family (if known):

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Likely reaction to report being made (if known):

**If there is more than one student alleged to have engaged in student sexual offending, complete a separate student details form for each student.**

## DETAILS OF THE INCIDENT, DISCLOSURE OR SUSPICION

### GROUNDS FOR YOUR BELIEF THAT A STUDENT IS A VICTIM OF STUDENT SEXUAL OFFENDING:

List indicators or instances which led you to believe that a student is subject to student sexual offending: (Detail any disclosures or incidents or suspicions (including names, times and dates documenting a student's exact words as far as possible) include specific detail here on what led you to form a reasonable belief that a child has been, or is at risk of being abused.

List any physical indicators of abuse:

List any behavioural Indicators of abuse:

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List any patterns of behaviour or prior concerns leading up to an incident, disclosure or suspicion:

**GROUNDS FOR YOUR BELIEF THAT A STUDENT HAS COMMITTED STUDENT SEXUAL OFFENDING:**

List indicators or instances which led you to believe that a student has engaged in sexual offending: (Detail any disclosures or incidents or suspicions (including names, times and dates, documenting the student's exact words as far as possible.)

List any physical indicators of abuse:

List any behavioural indicators of abuse:

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List any patterns of behaviour or prior concerns leading up to an incident, disclosure or suspicion:

Any other grounds for belief that:

- The student may be subject to another form of abuse themselves
- The student's parent/s are unable to protect the student
- The student is aged over 10 years and under 15 years and is exhibiting sexually abusive behaviours, and may be in need of therapeutic treatment to address these behaviours.

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## Appendix 2 – Reporting Template



REPORTING TO AUTHORITIES	
<p>Tick the Authorities you have reported to:</p> <p><input type="checkbox"/> SA Police</p> <p><input type="checkbox"/> CARL / Families SA</p> <p><input type="checkbox"/> Decision not to report</p> <p>If you've decided not to report, list your reasons here. Also include any follow-up actions undertaken by you below:</p>	
<b>PROVIDE DETAILS OF REPORT:</b>	
Date:	Time:
Authority:	
Name of person spoken to:	
Outcomes of the Report:	

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REPORTING INTERNALLY	
Provide details of your discussion with the Headmaster (or his delegate):	
Date:	Time:
Names:	
Discussion outcomes:	

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## Appendix 3 – Contact with Parents/Carers



St Peter's College  
ADELAIDE, AUSTRALIA

ACTION TAKEN (ALLEGED VICTIM)
<p><b>PROVIDE DETAILS OF YOUR DISCUSSION WITH PARENTS/CARERS (IF APPROPRIATE);</b> <i>School staff must consult with SA Police to determine if it is appropriate to contact parents/carers. If it is appropriate, parents/carers must be contacted as soon as possible (preferably on the same day of the incident/disclosure or suspicion.)</i></p>
<p>Have you sought advice from Families SA or SA Police?</p> <p><input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>Is it appropriate to contact parent/carer?</p> <p><input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>List reasons if it is not appropriate to contact parent/carer:</p>
<p><b>If contacting parent/carer, provide the following details:</b></p>
<p>Name of staff member making the call:</p>
<p>Name of Parent/Carer receiving the call:</p>
<p>Discussion outcomes:</p>

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ACTION TAKEN (STUDENT ALLEGED TO HAVE ENGAGED IN THE OFFENCE)
<p><b>PROVIDE DETAILS OF YOUR DISCUSSION WITH PARENTS/CARERS (IF APPROPRIATE);</b> <i>School staff must consult with SA Police to determine if it is appropriate to contact parents/carers. If it is appropriate, parents/carers must be contacted as soon as possible (preferably on the same day of the incident/disclosure or suspicion.)</i></p>
<p>Have you sought advice from Families SA or SA Police?</p> <p><input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>Is it appropriate to contact parent/carer?</p> <p><input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>List reasons if it is not appropriate to contact parent/carer:</p>
<p><b>If contacting parent/carer, provide the following details:</b></p>
<p>Name of staff member making the call:</p>
<p>Name of Parent/Carer receiving the call:</p>
<p>Discussion outcomes:</p>