

## PARENTAL RESPONSIBILITIES (DECISIONS ABOUT CHILDREN) POLICY

### Rationale

- In determining who is responsible for making a specific decision in relation to a student, the principal or relevant staff member should consider the following:
  - Whether the student is an “adult” or “mature minor.” If so, the student can make his or her own decisions.
  - If the student is not an adult or mature minor, consider the following:
    - Parental responsibility
    - Whether there are any of the following Court orders in place:
      - Parenting Order
      - Family Violence Protection Order
      - Protection Order and/or
      - Parenting Plan
      - Carer.
  - Consider the decision that needs to be made:
    - Does it relate to a long term issue about the care, welfare and development of the student? If so, then the following persons can make the decision on behalf of the student:
      - The persons with “parental responsibility” for “major long term issues”
      - The person who has “guardianship” of the child or young person
      - The person who has been given responsibility for this decision pursuant to a Court Order or Parenting Plan.
    - Does it relate to other issues about the care, welfare and development of the student? If so, then the following persons can make the decision on behalf of the student:
      - The person with “parental responsibility” who is spending time with the child or young person at the particular time
      - The person who has “custody” of the child or young person
      - The person who is the “carer” of the child or young person
- Parents, guardians and/or carers are responsible for providing principals and staff with up-to-date information and documentation relating to relevant court orders or informal arrangements that are in place.
- A person is considered an adult once they are 18 years of age. An adult student can:
  - Sign their own enrolment forms
  - Consent to a referral to student support services
  - Consent to medical treatment
  - Consent to participation in an excursion or school approved activity
  - Enter into an agreement to purchase school materials such as text books and stationery.
- The law recognises that as children become older and more mature, they are more capable of making their own decisions about a wide range of issues. The law recognises that a child may reach this stage even before they are 18 years of age. These children are referred to as “mature minors.”

### Purpose

- To provide a guide as to who is responsible for children and the common decisions which need to be made in relation to their education and wellbeing.
- To ensure Tarneit Rise Primary School complies with DET policy and the provisions of the
  - Children, Youth and Families Act 2005 (Vic)
  - Family Law Act 1975 (Cth)
  - Family Violence Protection Act 2008 (Vic)

### **Definitions**

In determining who can make decisions in relation to children and young persons who are not adults or mature minors, it is important to consider all of the following:

#### **1. Parental responsibility**

Parental responsibility is defined as all of the duties, powers, responsibilities and authority which, by law, parents have in relation to children.

Each parent of a child under 18 years of age has parental responsibility for the child unless this responsibility is varied by a relevant Court Order or Parenting Plan.

#### **2. Relevant Court Orders**

##### **Parenting Orders**

Parenting Orders are Court orders made pursuant to the Family Law Act 1975 (Cth) and may deal with any of the following issues:

- Person with whom the child is to live
- The time a child is to spend with another person
- Communication a child is to have with another person
- The allocation of parental responsibility
- Any aspect of the care, welfare, or development of the child.

In allocating parental responsibility, the Parenting Order may differentiate between “major long term issues” and other issues.

Major long term issues are issues about the care, welfare and development of the child of a long term nature and include the following:

- The child’s education (both current and future)
- The child’s religious and cultural upbringing
- The child’s health
- The child’s name
- Changes to the child’s living arrangements that make it significantly more difficult for the child to spend time with the parent

Where more than one person is responsible for making decisions about “major long term issues,” it is expected that they will consult with one another, and make a genuine effort to come to a joint decision about the issue.

Where the decision to be made is not a major long term issue, the decision may be made by the person with whom the child or young person is spending time with. This person can make the decision without consulting with any other person who may have parental responsibility for the child.

##### **Family Violence Intervention Orders**

Family violence intervention orders are Court orders made pursuant to the Family Violence Protection Act 2008 (Vic). They protect family members from behaviour committed by other family members.

Family violence intervention orders may provide for some or all of the following protections:

- Prohibit family violence
- Exclude a person from a particular residence
- Prohibit a person from approaching, telephoning or contacting another person

- Prohibit a person from being anywhere within a specified distance of where another person lives, works, attends school or child care

If a child is to be protected by the Order and there is a parenting order in place, it may revive, vary, discharge or suspend the parenting order

If a child is to be protected by the Order and there is no parenting order in place, it may:

- Make arrangements for a child to live with, spend time with, or communicate with the person the subject of the order; or
- Prohibit the person the subject of the order from living with, spending time with, or communicating with the child protected by the Order.

### Protection Orders

Protection Orders are Court orders made pursuant to the Children, Youth and Families Act 2005 (Vic). These Orders may grant custody and/or guardianship of a child to a person other than the parent of the child.

When a protection order grants guardianship, it is allocating the right and responsibility for the long term welfare of a child.

When a protection order grants custody, it is allocating the right and responsibility to have the daily care and control of a child; and the right to make decisions regarding the daily care and control of the child.

### 3. Relevant informal arrangements

#### Parenting Plan

A Parenting Plan is a written agreement that meets all of the following characteristics:

- It is made between the parents of the child
- It is signed by the parents of the child
- It is dated
- It deals with some or all of the following matters:
  - Person with whom the child is to live
  - The time the child is spend with a person
  - The allocation of parental responsibility
  - Any aspect of the care, welfare or development of the child.

A Parenting Plan is binding and can affect the allocation of parental responsibility even though it not an Order made by a Court.

In addition, a Parenting Plan can be made after a Parenting Order. In such circumstances, the Parenting Plan can vary the Parenting Order made by a Court.

#### Informal Carer

An informal carer is an adult with whom the child is living. The arrangement is informal and is not usually defined by any Court Orders or written agreements.

A carer does not have parental responsibility, guardianship or custody of the child.

It is recommended that informal carers complete an Informal Carer Statutory Declaration form. This is a written statement in which the carer signs and declares that certain information is true and correct.

This information should include the following:

- he or she has day to day care of the child;
- the parents are aware and/or consent to the arrangement; and
- explain the reasons for the arrangement.

For more information about informal carers and copy of this form, see: Admission

#### Implementation

- In determining who can make decisions in relation to children and young persons who are not adults or mature minors, the school will consider of the following:

- parental responsibility - each parent/carer of a child under 18 years of age has parental responsibility for the child unless this responsibility is varied by a relevant Court Order or Parenting Plan
- any relevant Court Orders – Parenting Orders, Family Violence Intervention Orders, Protection Orders
- relevant informal arrangements such as a Parenting Plan or Informal Carer
- The school also will consider the decision to be made to be made:  
Does it relate to a long term issue about the care, welfare and development of the student? If so, the following persons can make the decision on behalf of the student:
  - The persons with “parental responsibility” for “major long term issues”.
  - The person who has “guardianship” of the child or young person.
  - The person who has been given responsibility for this decision pursuant to a Court Order or Parenting Plan.
 Does it relate to other issues about the care, welfare and development of the student? If so, then the following persons can make the decision on behalf of the student:
  - The person with “parental responsibility” who is spending time with the child or young person at the particular time.
  - The person who has “custody” of the child or young person.
  - The person who is the “carer” of the child or young person.
- It is the responsibility of the principal or staff member to request copies of relevant court orders or informal arrangements that are in place. Parents, guardians and/or carers are responsible for providing principals and staff with up-to-date information and documentation relating to relevant court orders or informal arrangements that are in place.
- Whenever faced with a dispute between persons who are responsible for decision making in relation to a child, the principal and staff must avoid becoming involved, avoid attempting to determine the dispute, act neutrally and not adopt sides, act in the best interests of the child of young person involved and act in the best interests of the school community.
- If in doubt, the school may contact Legal Services Unit on (03) 9637-3146 (urgent matters only) or email [legal.services@edumail.vic.gov.au](mailto:legal.services@edumail.vic.gov.au)
- For responsibility for specific decisions about a child or young person please refer to the following chart.
- Please refer also to the school’s Enrolment Policy and the Admission Policy, the Child Protection (Mandatory Reporting) Policy and the Health Care Needs Policy.

**Evaluation**

- This policy will be reviewed as part of the school’s three-year review cycle or if guidelines change (latest DET updates early & mid-July 2017).

<u>Ratification Date</u>	<u>Review Date</u>	<u>Policy Number</u>	<u>Version Number</u>	<u>Date Produced</u>
October 2017	2020	59	1	September 2017

Decision to Be Made	Who is Responsible
Enrolment/transfer Year level movement	Persons with parental responsibility for “major long term issues” Persons with guardianship Persons allocated this responsibility pursuant to a Court Order or Parenting Plan
Nomination of emergency contacts	Persons with parental responsibility Persons with custody Persons who are carers
Non – attendance at school when it is open for instruction	<u>If it relates to a specific day(s)</u> Persons with parental responsibility Persons with custody Persons who are carers  <u>If it relates to chronic non-attendance</u> Persons with parental responsibility for “major long term issues” Persons with guardianship Persons allocated this responsibility pursuant to a Court Order or Parenting Plan
Leaving school early / commencing late	Persons with parental responsibility and with whom the child is spending time with Persons with custody Persons who are carers
Development of Student Health Support Plan	Persons with parental responsibility for “major long term issues” Persons with guardianship Persons allocated this responsibility pursuant to a Court Order or Parenting Plan
Development of Individual Learning Plan Development of Behaviour Management Plan	Persons with parental responsibility for “major long term issues” Persons with guardianship Persons allocated this responsibility pursuant to a Court Order or Parenting Plan
Consent to participate in day excursion	Person with parental responsibility and with whom the child is spending time with Persons with custody Persons who are carers
Consent to participate in overnight excursion, camps, overseas excursions	Persons with parental responsibility for “major long term issues” It is important to note that where there is a parenting order or a pending application for a parenting order, it is an offence for a person to take or send a child outside Australia unless it is with the written consent of each person with parental responsibility. Persons with guardianship Persons allocated this responsibility pursuant to a Court Order or Parenting Plan
Consent to referral to student support service officers	Persons with parental responsibility for “major long term issues” Persons with guardianship Persons allocated this responsibility pursuant to a Court Order or Parenting Plan