

*A quarterly insight to the POCSO Law!*

By V.P Shintre & Associates

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**POCSO LIVE** brings you updates and information relating to matters of protection of children from sexual abuse irrespective of gender. This is an effort to create awareness amongst all stakeholders having access to children about their duties and obligations towards protecting children from sexual abuse and keeping them safe.

## ***Ensuring Child Safety – The Role of Schools under POCSO Act and NCPCR Guidelines***

Schools serve as a second home for children, where they spend a significant portion of their formative years. As institutions responsible for their education and well-being, schools must be vigilant in child protection to ensure a safe and nurturing environment.

The Protection of Children from Sexual Offences (POCSO) Act, 2012, is a comprehensive law enacted to safeguard children from sexual abuse and exploitation. National Commission for Protection of Child Rights (NCPCR) has been mandated to monitor implementation of POCSO Act, 2012. The POCSO law taking child-centric approach holds all stakeholders, like Parents, Schools, Communities, Police, Courts, Medical professionals, NGOs, Child Welfare Committees, District Child Protection Units, the Media among others, responsible for creating an ecosystem that safeguards children and enables them to live their childhood fearlessly.

In this article we make an attempt to elaborate on Role of Schools in ensuring safety and what are different guidelines given by NCPCR in order to maintain safe atmosphere for children.

### **Child Protection Policy in Schools**

A school's Child Protection Policy is a statement that defines the school's commitment to safeguard children from harm and abuse. It specifies the staff and others' responsibilities and roles in the protection of children. The child protection policy has to be a strong reflection of the schools commitment to protect its children. It has to be implemented through every aspect of the school administration and management. Schools must specify how the policy will be put into action.

The policy must apply to all personnel and persons related to the school and who come in direct or indirect contact with children.

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### **Disclaimer**

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## GOOD TO KNOW!

### Suggested Checklist for Schools by NCPDR Handbook on POCSO Act, 2012

NCPDR has developed User Handbook on POCSO Act, 2012 and in this handbook, a checklist has been provided for schools to analyse if their POCSO (Child Protection Policy) is up to date

Checklist is as follows –

Does your organization have?

- Child Protection Policy
- Children Welfare Committee
- Child Protection Officer
- Background Verification/Police clearance of entire staff
- Workshops with staff on Child Protection Policy
- Systems to report complaints as per mandatory reporting under section 19 of POCSO Act, 2012
- Systems to evaluate and update the Child Protection Policy at regular intervals
- Workshops/Trainings for staff to be thorough with Child protection policy, POCSO law, detecting signs of abuse and mandatory reporting
- CCTV Cameras at all places and system to monitor the CCTV footage on regular intervals
- Suggestion Box

**Direct Contact with Children:** Those personnel who are with and in the physical presence of a child or children as part of their professional or school related work, be it regular, occasional, temporary or long term.

**Indirect Contact with Children:** Those personnel whose work does not require them to be in the physical presence of a child but encompasses access to personal details and information, data on children including photographs, case files etc.

### The Child Protection Policy in School must broadly cover –

**1. Background and Police Verification:** Schools must conduct background check and police verification for all staff members including the contract employees. It is also mandatory to complete the police verification of all staff as per GR published by Maharashtra State Government dated 27<sup>th</sup> September, 2024 (GR no. Safety – 2024/243/SD – 4)

**2. Guidelines on appropriate interactions with children –** Child protection policy should give clear guidelines on ways to interact with children like No staff shall take the child to the bathroom alone without being accompanied by a helper; No teacher will lock the classroom; No staff shall take the child to his or her home, maintain appropriate physical distance, communicate with children in respectful manner, Avoid private/secretive communications

**3. Lay down policies and safe boundaries** around photographing children, using photographs of children, Internet and technology usage within the school premises, policies around digital safety.

**4. Install CCTVs in classroom** and in school premises and ensure that the feed is monitored.

**5. Recruitment of a counsellor:** Recruiting a qualified school counsellor is a crucial step in ensuring child safety and emotional well-being in schools. The counsellor plays a key role in identifying, preventing, and addressing issues related to child abuse, bullying, mental health challenges, and emotional distress.

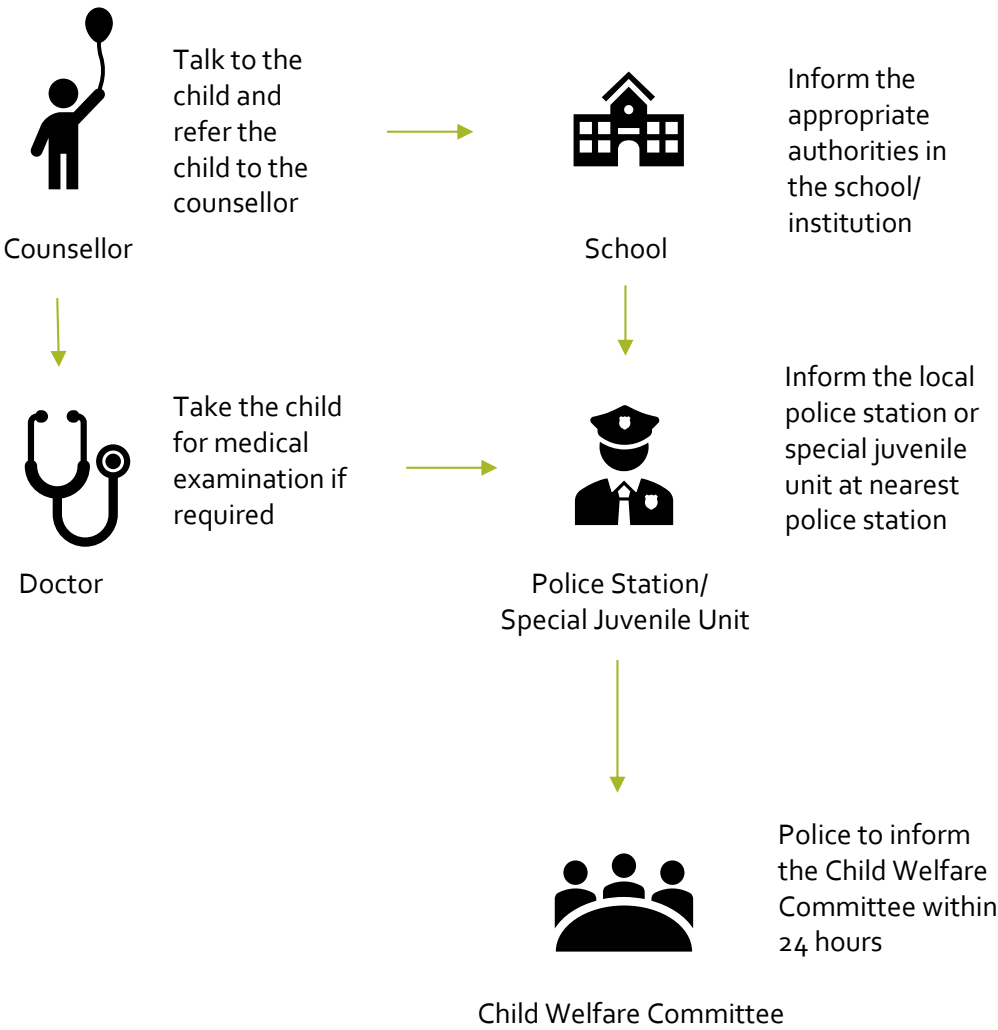
**6. Regular Training and Workshop for entire staff:** Train all staff members and support staff on child protection norms and child sexual abuse prevention. Orient all staff members on detecting warning signs of sexual abuse among children.

**7. Arrange sessions on personal safety with children:** Sessions addressing personal safety, online safety and protection from abuse can be arranged for children

**8. Clear guidelines on Complaint Mechanisms:** A School through its policy should communicate to its staff on how to respond to child safety violations and handle crisis in school, whom should they report from the institution and then how to report to the nearest police station within 24 hours. The plan needs to pre-emptively assess and accommodate for any kind of crisis that can befall a child in their care – either within the school or outside the school. Schools must have a strong system in place for taking swift action and reporting cases of sexual abuse. Immediate action must be taken to sever all contact between abuser and child and an inquiry must follow.

**9. Guidelines for mandatory reporting:** Under the law, all cases of sexual offences against children need to be reported to the nearest local police station or special juvenile police unit, [Section 19 (1)]

When a child shares/complains about an incident of CSA (Child Sexual Abuse) to anyone in the school; following procedure should be adopted



The schools must also constitute a **Child Protection Committee** and a **Child Protection Officer** who is a designated staff responsible for coordinating with the Committee and ensuring protection.

The School may display on the notice board along with names of the teachers to support children in cases of abuse, the child helpline number 1098 at all prominent places. It is also helpful to place **Suggestion boxes and Complaint boxes** at various places in the school and a system to check the suggestions/complaints as reported through them.

By staying alert, training staff, and implementing strict safety policies, schools can play a pivotal role in protecting children from exploitation and ensuring their holistic development. Schools hold a fundamental responsibility in implementing the POCSO Act effectively. By following NCPCR guidelines, schools can create a safer learning environment where students feel protected and empowered.

## **NEWS CORNER –**

### **Madras High Court Declines to Interfere With Order To Register FIR Against News Channel For Allegedly Revealing Identity of POCSO Victim**

The Madras High Court has recently refused to interfere with an order of the Special Judge for POCSO cases, Chennai, directing registration of an FIR against a Tamil news channel for allegedly revealing the identity of a victim in a POCSO case. As per Section 23 of the Act, media is restricted from disclosing the identity of the child, including name, address, photograph, family details, etc and any contravention of the rules is punishable with imprisonment which shall not be less than 6 months but may extend to 1 year or with fine or both.

It was argued that the Special Judge's order was erroneous. It was submitted that the Special Judge's order directing the jurisdictional police to register FIR was against the statute when the Special Court had jurisdiction to take cognizance of the complaint under Section 33(1) of the POCSO Act. It was submitted that the Special Court had travelled beyond the scope of the prayer and had given directions mechanically without any application of mind.

The court agreed and noted that there was no bar for the Special Judge to forward the complaint to the police officials to register the case and conduct an investigation. The court noted that the prosecution was expected to prove the case beyond reasonable doubt, and it was difficult to substantiate the case by the victim alone.

The court stated, *“As per criminal jurisprudence, the prosecution has to prove the case beyond reasonable doubt and it is very difficult for the victim to substantiate the allegation. The Special Court is also empowered to take cognizance of the offence, upon a police report. On the abovesaid facts, this Court finds that there is no bar to direct the Investigating Officer to register the case and to investigate the matter,”* the court said.”

## **NEWS CORNER –**

### **Kerala High Court Directs Doctors To Preserve Foetuses After Performing Abortion on Minors to Protect Interest of Minor Victims**

The Kerala High Court has given a direction to the Director of the State Health Department to inform all doctors of the State to preserve the fetus of minor victims and to get written permission from the Investigating Officer/ District Police Superintendent in order to destroy it.

Justice A. Badharudeen observed that this was required to protect the interest of the minor victims and to ensure that the accused does not flee trial for want of vital piece of evidence.

The Court stated, *“in order to protect the interest of the minor victims and to avoid flee of the accused from trial, for want of vital piece of evidence, there shall be a direction to the Director, Health Department, State of Kerala, to communicate this order in the form of circular to all doctors in the State, directing them to preserve the foetus of minor victims mandatorily, without being destructed and in order to destruct the foetus, the doctors should get written permission from the investigating Officer or from the District Police Superintendent concerned.”*

## ABOUT THE AUTHORS

### Adv Vaishali Bhagwat



Advocate Vaishali Bhagwat, is amongst the first technology lawyers in the country with prior qualification and working experience in the field of Computer Science, Cyber Defense and Information Assurance.

Her work also focuses on women and children's rights and has worked extensively on cases relating to violence against women and children including sexual violence.

Vaishali has done extensive work in creating awareness amongst stakeholders in keeping children safe online and her work was recognized by the DSCI NASSCOM Award and also by Rotary International in Seoul

Vaishali is on the advisory board of several educational and academic institutions for POCSO related services of drafting and implementation of the Child Protection Policy and training of the members of the child protection committee.

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Advocate Kunal Gokhale is a legal professional with nearly fourteen years of post-qualification experience. He is a graduate from the National Law University, Jodhpur and holds a BSc LLB (Hons.) (Business Laws) degree. Advocate Kunal Gokhale has significant professional experience in handling civil litigation matters with focus on commercial matters. He also provides advisory services in relation to drafting of various types of agreements and has been associated with firms such as Vaish Associates, Advocates (Delhi), Ernst & Young, India (Mumbai) and Luthra & Luthra Law Offices (Mumbai) in the past.

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