



Child Protection Policy

Statement of Context

Schools have an important role to play in supporting children and their families and in protecting students who may be at risk of harm due to abuse or neglect. School staff in close daily contact with students are well placed to observe when a child or young person appears to be at risk of harm. School staff members have a duty of care to support and protect the children and young people with whom they are professionally involved.

Under the Children, Youth and Families Act 2005 (CFYA), primary and secondary school teachers, early childhood teachers, principals (as well as students in training to become teachers) and school nurses are prescribed as **mandatory reporters**. When these staff members form a reasonable belief that a child or young person has been harmed or is at risk of harm, they are obligated (legally mandated) to take action to protect the safety and wellbeing of that child or young person. Staff must always act in the best interests of those children and young people to protect and preserve their safety, health and wellbeing. It is an offence if a mandatory reporter, who has formed a reasonable belief that a child or young person has been harmed or is at risk of harm, fails to report their belief.

Under the Crimes Act 1958 (Crimes Act) it is a criminal offence if any person who has formed a reasonable belief that a child or young person is the victim of a sexual criminal offence fails to report their belief as soon as practicable to a police officer, unless there is a reasonable excuse for failing to make the report as soon as practicable.

Under the Crimes Act 2014 (Vic):

A person of or over the age of 18 years must not communicate (including electronically) by words or conduct, with child under the age of 16 years or a person under whose care, supervision or authority the child is, with the intention of facilitating the child's engagement in or involvement in a sexual offence with that person or another person who is of or over the age of 18 years (**Grooming Offence**).

A person who, by reason of the position they occupy within the school has the power or responsibility to reduce or remove a substantial risk that a child will become the victim of a sexual offence committed by a person associated with the school and knows that there is a substantial risk that that person will commit a sexual offence against the child, negligently fails to reduce or remove the risk will be guilty of a criminal offence (**Failure to Protect Offence**).

Reference Points / Background Papers

National Framework for Protecting Australia's Children (2009)

Guiding Principles for a Safe and Supportive School Environment
(National Safe Schools Framework)

Department of Justice: *Betrayal of Trust Factsheet: The new 'Grooming' Offence*

Protecting the Safety and Wellbeing of Children and Young People - A Joint Protocol of the Department of Human Services Child Protection, Department of Education and Early Childhood Development, Licensed Children's Services and Victorian Schools.

The protocol is underpinned by the following legislation:

- Children, Youth and Families Act 2005 (CYFA)
- Crimes Act 1958
- Crimes Amendment (Grooming) Act 2014
- Education and Training Reform Act 2006 (ETRA)
- Education and Training Reform regulations 2007 (ETRR)
- Children's Services Act 1996 (Act)
- Children's Services Regulations 2009 (Regulations)
- Charter of Human Rights and Responsibilities Act 2006 (Act)

Aim

As far as is practicable, to monitor the general safety and wellbeing of each and every student and to meet responsibilities under duty of care consistent with current legislation.

Policy Details

Mandatory Reporting

Mandated staff members **must**, and non-mandated staff members **are expected to**, make a report* to the Department of Human Services (Child Protection Services) as soon as practicable after forming a belief on reasonable grounds, in the course of undertaking their professional duties, that a young child or young person:

- is in need of protection from significant harm as a result of physical injury or sexual abuse; or
- is in need of protection from significant damage to their emotional or intellectual development as a result of emotional or psychological harm;

and the child's parents (or guardians) are unable or unwilling to protect the child.

Failure to Disclose Sexual Offence

In addition and separate to the mandatory reporting obligations, any person of or over the age of 18, whether or not an employee of Yarra Valley Grammar, must disclose to a police officer as soon as practicable after forming a belief on reasonable grounds that a young child or young person (under the age of 16 years, as per s. 327(2) of the Crimes Act) that a sexual offence has been committed in Victoria against that child or young person, unless the first-mentioned person has a reasonable excuse for not doing so. A reasonable excuse for not making such a report to a police officer as soon as practicable includes the belief on reasonable grounds that the information has already been disclosed to the police by another person in compliance with the mandatory reporting obligations of this policy. For example, where Child Protection Services have been notified.

A person who discloses information about child sexual abuse to the police will be entitled to confidentiality in accordance with s.330 of the Crimes Act.

Reporting Requirements

Staff members must make additional reports after each occasion in which there is knowledge of further concerns.

If there is uncertainty about the need for a mandatory report to Child Protection Services or the Police this should be raised with the Head of Student Wellbeing / School Psychologist Primary School and consideration will be given to ringing the Department of Human Services for advice.

A referral* to Child FIRST should be considered if, after taking into account the available information, the staff member forms a view that the concerns have a low-to-moderate impact on the wellbeing of the child and the child is not at immediate risk of harm.

School staff must respect **confidentiality** when dealing with a case of suspected child abuse and neglect, and may discuss case details and the identity of the child or young person and their family **only** with those involved in managing the situation, including a police officer in the case of a suspected sexual offence committed against a young child or young person.

Staff will be instructed :

- To document the child's name, age, address, date(s), time(s), nature of incident, patterns of behaviour, current and/or prior concerns and grounds for belief, regarding the student in their care (staff will be provided with a list of possible indicators of harm, and definitions to assist in deciding if abuse is occurring and if the impact warrants a report to Child Protection, Child FIRST or another course of action).
- That it is permissible to ask a child sufficient questions to establish a reasonable belief and that open questions (rather than leading questions) should be asked.
- To **consult directly** with the School Psychologist and /or relevant Head of School/Deputy Principal (Senior School)
- To document and consult directly with the persons listed above for each and every incident for a child they have concerns about.
- That under no circumstances should staff 'investigate' an allegation of child abuse, that is the role of Child Protection and/or Victoria Police.
- Generally it would be the Head of Student Wellbeing and/or School Psychologist that would make a report* to Child Protection or a referral* to Child First or a report to the police after consultation with the staff member(s). If they are not available, it will be the relevant Deputy Principal/Head of School. They will inform the relevant staff member(s) if they have or have not made a report or a referral.
- If the Head of Student Wellbeing does not wish to make a mandatory report, this does not discharge the teacher's obligation to do so if the teacher continues to hold a reasonable belief that abuse or sexual offence may have occurred. In these circumstances the teacher is still legally obliged to make a report to Child Protection, a referral to Child First and in the case of a sexual offence, Victoria Police.

The Head of Student Wellbeing and/or School Psychologist will be instructed to:

- Coordinate information from the reporter and reference any additional student files and information from Section Coordinators, Year Level Coordinators, Heads of Schools, Health Centre, etc.
- Advise the reporter that their identity will remain confidential unless the reporter decides to inform the child and/or family of the report, or consents to their identity being disclosed.
- If deemed to be appropriate, contact the relevant family.
- If deemed to be appropriate, report the matter to Child Protection Services, or refer to Child First and (where applicable) notify Victoria Police, **and** inform the Principal, relevant Deputy Principal and other staff as required.
- Act as the School's liaison person with Child Protection Services, Victoria Police or any other relevant authorities.

Failure to Protect Offence

A person who, by reason of the position they occupy within the school has the power or responsibility to reduce or remove a substantial risk that a child will become the victim of a sexual offence committed by a person associated with the school and knows that there is a substantial risk that that person will commit a sexual offence against the child, negligently fails to reduce or remove the risk will be guilty of the Failure to Protect Offence under section 49C of the Crimes Act 1958 (Vic). A person negligently fails to reduce or remove a risk if that failure involves a falling short of the standard of care that a reasonable person would exercise in the circumstances.

The Principal may remove an employee, volunteer, contractor or agent of the school, where the Principal considers (and/or take other steps to reduce or remove risk), where there is a substantial risk an employee, volunteer, contractor or agent of the school will commit a sexual offence against a young person or child negligently fails to reduce or remove that risk (s. 49C(2) of the Crimes Act 1958 (Vic)).

Child Grooming Offence

The Grooming Offence (s.49B of the Crimes Act 1958 (Vic),) applies to all members of the School Community (including governing body members, employees, independent contractors, volunteers, etc.) and carries a penalty of up to 10 years imprisonment.

The Grooming Offence states that a person of or over the age of 18 years must not communicate (including electronically) by words or conduct, with a child under the age of 16 years or a person under whose care, supervision or authority the child is, with the intention of facilitating the child's engagement in or involvement in a sexual offence with that person or another person who is of or over the age of 18 years.

Senior students who may be 18 years of age or older, who may be coaching junior sports teams or be involved in a peer support program or holiday program etc. should be informed of this offence. Note that the grooming offence does not apply to communication between students both under the age of 18 years or to communication by a person of 18 years of age or over with a 16 or 17 year old child.

Protocols

While acknowledging that according to the legislation any teacher or support staff member has the right and obligation to report suspected child abuse:

- In most circumstances the appropriate reporters to Child Protection Services, Child FIRST or Victoria Police will be the Head of Student Wellbeing and/or a School Psychologist and/or the relevant Deputy Principal.
- That the Head of Student Wellbeing and/or a School Psychologist and/or the relevant Deputy Principal will be the appropriate liaison with the relevant authorities.
- That **all** documentation of incidents from staff members, information about reports, referrals, and responses be shared with the Head of Student Wellbeing who will keep a centralized file.
- If following a report, a family approaches the School, they should be politely directed to speak with the Head of Student Wellbeing and/or the relevant Deputy Principal.
- Unless the authority has been formally delegated, the Principal is the only authorized representative of the School able to make media comment.

Communication of policy including key responsibilities

The Principal will ensure that:

- Copies of this policy are made available to staff members, for example via email, on the School extranet, in physical form in the staff room and/or on staff member bulletin boards.
- Ongoing staff are reminded of the requirements and protocols of this policy on an annual basis, which may be in the form of periodic training and refresher sessions.
- Details of the requirements and protocol are part of orientation procedures for new staff to ensure that all staff members are aware of the policy, and acknowledge their commitment to comply with the policy.

Implications for Practice

At Board level

As this policy reflects a legislated requirement, the School Board will endorse the policy on an annual basis.

At Principal / CEO level

The Principal will require regular reports from the Head of Student Wellbeing on the implementation of the policy.

At other levels

Staff members will abide by this Policy, and will monitor and as required assist in the implementation of the policy.

The Head of Student Wellbeing will monitor and report on a regular basis to the Principal on the implementation of this policy.

(* copies of the report and referral should go to the Head of Student Wellbeing and the relevant Head of School).