



Bacchus Marsh  
Grammar

# CHILD PROTECTION PROGRAM

HANDBOOK  
Version 3.11



The information contained in this document has been sourced from the Child Protection Program in Complispace.



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## Introduction - Statement by the Principal



Every child's safety and wellbeing, while engaged in learning with us at Bacchus Marsh Grammar, is of the utmost importance to us.

All children have the right to learn, grow and develop in an environment that is free of harm. We all have a responsibility to ensure that this environment for our children, whether within the School or outside of it, is safe and secure.

At Bacchus March Grammar, we pride ourselves on our Student Wellbeing and Pastoral Care Programs. We have also trained and are constantly updating our training for staff and the people who have contact with our students.

In 2013, the Victorian State Government issued the 'Betrayal of Trust' Inquiry Report (**Report**). This Report examined the experience of the criminal abuse of children and young people in Victoria. The Report properly described that *"The criminal abuse of children represents a departure of the gravest kind from the standards of decency fundamental to any civilised society"*.

Since this Report, there have been sweeping changes implemented across the State of Victoria to safeguard the safety and wellbeing of children.

Bacchus Marsh Grammar takes its obligations to protect the children in its care with the utmost seriousness. We have heavily invested in education, programs, procedures, and training to ensure the safety and wellbeing of our students, including the creation of this Child Protection Program. Should Bacchus Marsh Grammar need to act or respond, our community can be assured that we will do so with the utmost integrity and immediacy.

I thank the entire Bacchus Marsh Grammar community for its support of its child safe and wellbeing programs and actions. Together, we will work to continue to maintain a safe and healthy environment for all our children and young people.

Yours sincerely,

**Andrew Neal**  
**Principal**



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## Bacchus Marsh Grammar's Child Protection Program

This Child Safe Program booklet contains relevant information for teachers, students, parents, volunteers, contractors etc. of Bacchus Marsh Grammar (the School) in respect of the School's Child Safe Framework in one easy-to-use location.

**The School is committed to providing a child safe and child friendly environment, where children and young people are safe and feel safe and are able to actively participate in decisions that affect their lives.**

This Child Protection Program is made up of work systems, practices, policies and procedures designed to maintain a child safe environment and to embed an organisational culture of child safety within the School community. The Program deals specifically with child protection issues and is designed to ensure compliance with the Victorian Child Safe Standards and related child protection laws. Broader child safety issues arising from our common law duty of care are dealt with through our Student Duty of Care policies and procedures.

The School adopts a risk management approach by identifying key risk indicators and assessing child safety risks based on a range of factors including the nature of our School's activities, physical and online environments and the characteristics of the student body.

The School's Child Protection Program relates to all aspects of protecting children from abuse and establishes work systems, practices, policies and procedures to protect children from abuse. It includes:

- A clear Child Safe Policy and a Child Safe Code of Conduct;
- Clear information as to what constitutes child abuse and associated key risk indicators;
- Clear procedures for responding to and reporting allegations of child abuse;
- Strategies to support, encourage and enable staff, Volunteers, Third Party Contractors, External Education Providers, parents and students to understand, identify, discuss and report child protection matters;
- Procedures for recruiting and screening School Board members, staff and Direct Contact Volunteers;
- Procedures for reporting reportable conduct and/or misconduct;
- Pastoral care strategies designed to empower students and keep them safe;
- Policies with respect to cultural diversity and students with disabilities;
- A child protection training program;
- Information regarding the steps to take after a disclosure of abuse to protect, support and assist children;
- Guidelines with respect to record keeping and confidentiality;
- Policies to ensure compliance with all relevant laws, regulations and standards (including the Victorian Child Safe Standards); and
- A system for continuous review and improvement.

As a part of the School's induction process, all staff and Direct Contact Volunteers are required to complete a selection of training modules on the content of the Child Protection Program. Direct Contact Volunteers are those volunteers who are involved in providing support, guidance and supervision directly to students and could potentially have direct contact with students during the normal course of providing the volunteer service.

Additionally, ongoing child protection training at least annually.

Staff, Volunteers, Third Party Contractors and External Education Providers are supported and supervised by the School's Child Safety Officers and/or approved delegates, to ensure that they are compliant with the School's approach to child protection.



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### **Report any concerns**

The Program also includes information for members of the School Board, staff and Direct Contact Volunteers as to how to identify key risk indicators of child abuse and how to report child abuse concerns to one of our School's nominated Child Safety Officers.

It also contains detailed procedures with respect to the reporting of child abuse incidents to relevant authorities.

Third Party Contractors, External Education Providers, Indirect Contact Volunteers, students, parents/carers or other community members who have concerns that a child may be subject to abuse are asked to contact one of the School's Child Safety Officers.

Communications will be treated confidentially on a 'need to know basis,' unless there is a legal requirement for the School to advise an external agency, including Victoria Police. This Child Protection Program Handbook contains detailed information about how to make a report and who should receive the report.

**Whenever there are concerns that a child is in immediate danger, the Police should be contacted on 000.**

**This Child Protection Program applies to all four Bacchus Marsh Grammar Campuses.**

These campuses are operated at Maddingley, Woodlea, Staughton Vale and an Early Learning Centre at Woodlea. A description of each campus is as follows:

Maddingley Campus: Prep Reception – Year 12 consisting of approximately 2200 students

Woodlea Campus: Prep – Year 8 consisting of approximately 900 students

Staughton Vale Campus: 205 acres of various land uses that is used for student day excursions

Early Learning Centre at Woodlea: Caring for children from the ages of 3 through to 5 with a fully integrated kindergarten for children aged 3 to 5 years.

### **Quick Access Documents:**

- Department of Education and Training and Department of Health and Human Services Child Protection, **Four Critical Actions for Schools: Responding to Incidents, Disclosures or Suspicions of Child Abuse, 2018**
- Department of Education and Training and Department of Health and Human Services Child Protection, **Responding to Suspected Child Abuse: A Template for all Victorian Schools, 2018**

## **1 Our Child Safety Officers - Make a Report**

The School has appointed the people listed below as the School's Child Safety Officers. If the Senior Child Safety Officer, Debra Ogston is not available, then each Child Safety Officer is available to answer any questions that a person may have with respect to the School's Child Safe Policy, the Child Safe Code of Conduct and the Child Protection Program.

Child Safety Officers are selected based on a number of considerations, namely;

- Their personal attitudes, experiences and beliefs, for example, a person who is non-judgmental, calm, resilient and demonstrates a high degree of integrity and respect for confidentiality;
- Their role within the School, for example, a person who has seniority and experience working with complex student and family issues at the School and someone who is readily accessible and available to all members of the School community;
- Their personal profile within the School, for example, a person who is approachable, who students and staff trust and who is willing and able to respond to issues personally and sensitively.

The School's Child Safety Officers can be the person's first point of contact for reporting child protection issues within the School.



If the relevant person has any concern that a child may be experiencing any form of abuse, whether or not the person has formed a belief on reasonable grounds that the abuse has occurred, the person should immediately raise their concerns with one of the School's Child Safety Officers. Please be aware that consulting with a Child Safety Officer does not change any obligation that the relevant person has under legislation to report to an external authority. Refer to the Procedures for Responding to and Reporting Allegations of Child Abuse under section 12 of this program.

The welfare and best interests of the child are paramount. Whenever there are concerns that a child is in immediate danger the Police should be called on 000.

The contact details for the Schools Senior Child Safety Officer and Child Safety Officers are set out below:

Name	Position	Contact No.	Email Address
Debra Ogston	Deputy Principal – Head of Senior School	(03) 5366.4800	ogstond@bmg.vic.edu.au
Ros Pittard	Deputy Principal – Head of Pastoral Care	(03) 5366.4800	pittardr@bmg.vic.edu.au
Danielle Copeman	Co-Head of Campus, Woodlea	(03) 5366.4800	copemand@bmg.vic.edu.au
Sarah Hunter	Assistant Principal – Deputy Head of Woodlea	(03) 5366.4900	hunters@bmg.vic.edu.au
Lisa Foster	Assistant Principal – Head of Junior School	(03) 5366.4800	fosterl@bmg.vic.edu.au
Dean Pepplinkhouse	Assistant Principal – Head of Middle School	(03) 5366.4800	pepplinkhoused@bmg.vic.edu.au
Erin Thornton	Assistant Principal – Head of Senior School	(03) 5366.4800	thorntone@bmg.vic.edu.au
Serena Richards	Director of Staughton Vale Programs	(03) 5366.4800	richardss@bmg.vic.edu.au
Kerry Osborn	Director of Early Learning Centre, Woodlea	(03) 5366. 4999	osbornk@bmg.vic.edu.au
Ashlee Grero	Educational Leader / Kindergarten Teacher, Early Learning Centre	(03) 5366.4999	greroa@bmg.vic.edu.au

Please refer to Section 12 of this Child Protection Program for more detailed procedures and explanation about how to make a child protection report.

### 1.1 Our Senior Child Safety Officer

Bacchus Marsh Grammar has appointed Debra Ogston as the School's Senior Child Safety Officer. The Senior Child Safety Officer has an important role in the promotion and maintenance of our child protection culture at the School.

The Senior Child Safety Officer is identified in our publicly available **Child Protection and Safety Policy** as a contact for the wider community when they have child protection concerns relating to the School.

The Senior Child Safety Officer is contactable by phone on (03) 5366 4800 or by emailing [ogstond@bmg.vic.edu.au](mailto:ogstond@bmg.vic.edu.au)



## 2 Definitions and Key Risk Indicators of Abuse

### 2.1 Definition of Child Abuse and Family Violence in Victoria

#### 2.1.1 Child Abuse

Child abuse is defined in section 3 of the *Child Wellbeing and Safety Act 2005* (Vic) as including:

- Any act committed against a child involving a sexual offence or a grooming offence under section 49M(1) listed in the *Crimes Act 1958* (Vic);
- The infliction of physical violence or serious emotional or psychological harm; and
- The serious neglect of a child.

A child is defined by the *Child Wellbeing and Safety Act 2005* (Vic) as a person who is under the age of 18 years.

For more information about sexual offences that constitute child abuse, refer to Sexual Offences.

#### 2.1.2 Family Violence

Whilst the term “family violence” does not form part of the legislative definition of “child abuse”, the impact of family violence on a child is commonly referred to as a form of child abuse.

In Victoria section 5 of the Family Violence Protection Act 2008 (Vic) defines “family violence” as behaviour by a person towards a family member that is:

- Physically or sexually abusive;
- Emotionally or psychologically abusive;
- Economically abusive;
- Threatening;
- Coercive; or
- In any other way controlling or dominating of the family member and causes them to feel fear for their own, or other family member’s safety or wellbeing.

Behaviour that causes a child to hear, witness, or be exposed to the effects of such behaviour also falls within the definition of “family violence”.

### 2.2 Definition of Care, Supervision or Authority

It is important to understand the definition of the legal phrase “care, supervision or authority” and its applicability to staff. The phrase is central to several offences under the *Crimes Act 1958* (Vic).

Under section 37 of the *Crimes Act* the circumstances in which a person will have a child (under 18) under their care, supervision or authority include if the person is:

- The child’s parent or step-parent;
- The child’s teacher;
- The child’s employer;
- The child’s youth worker;
- The child’s sports coach;
- The child’s counsellor;
- The child’s health professional;
- A person with parental responsibility for the child;
- A religious or spiritual guide, or a leader or official (including a lay member) of a church or religious body, however any such guide, leader, official, church or body is described who provides care, advice or instruction to the child or has authority over the child; or
- A police officer acting in the course of their duty in respect of the child.



At the School persons in positions of care, supervision or authority over a child will include teaching staff, sports coaches, youth workers, counsellors, registered nurses and religious leaders or officials.

All members of the School community must be aware that if they engage in certain conduct in breach of this Program, their conduct may constitute a sexual offence under the Crimes Act. For those persons who have a child under their care, supervision or authority, additional offences may apply. Refer to Child Safe Code of Conduct and Staff and Student Professional Boundaries Policy.

## **2.3 Sexual Offences**

A sexual offence occurs when a person involves a child (under 18) in sexual activity, or deliberately puts the child in the presence of sexual behaviours that are exploitative or inappropriate to the child's age and development. Children may be bribed or threatened physically or psychologically to make them participate in the activity. Sexual offences are outlined in section 35 of the *Crimes Act 1958* (Vic).

Sexual abuse can involve a wide range of sexual activity and may include fondling, masturbation, oral sex, penetration, voyeurism, and exhibitionism. It can also include exploitation through pornography or prostitution.

This Program addresses in more detail certain sexual offences which involve behaviour that is intended to prepare or facilitate a child's involvement in sexual activity or conduct. These are: grooming behaviour and the encouragement of a child to engage in, or be involved in, sexual activity. This is because the breadth of these offences and the nature of professional boundaries between School staff and students means that staff must be aware that certain behaviours will not only breach Staff and Student Professional Boundaries, but may also amount to a criminal offence.

### **2.3.1 Possible Physical Indicators that a Sexual Offence Has Occurred:**

- Injury to the genital or rectal areas, such as bruising or bleeding;
- Vaginal or anal bleeding or discharge;
- Discomfort in urinating or defecating;
- Presence of foreign bodies in the vagina and/or rectum;
- Inflammation or infection of the genital area;
- Sexually transmitted diseases;
- Pregnancy, especially in very young adolescents;
- Bruising and other injury to breasts, buttocks or thighs;
- Anxiety related illnesses such as anorexia or bulimia;
- Frequent urinary tract infections.

### **2.3.2 Possible Behavioural Indicators that a Sexual Offence Has Occurred:**

- The student discloses sexual abuse;
- Persistent and age-inappropriate sexual activity, including excessive masturbation, masturbation with objects, rubbing genitals against adults, playing games that act out a sexually abusive event;
- Drawings or descriptions in stories that are sexually explicit and not age appropriate;
- A fear of home, a specific place, a particular adult, or excessive fear of men or of women;
- Poor or deteriorating relationships with adults and peers;
- Poor self-care/personal hygiene;
- Regularly arriving early at school and leaving late;
- Complaining of headaches, stomach pains or nausea without physiological basis;
- Frequent rocking, sucking or biting;
- Sleeping difficulties;
- Reluctance to participate in physical or recreational activities;
- Regressive behaviour, such as bedwetting or speech loss;
- The sudden accumulation of money or gifts;
- Unplanned absences or running away from home;



- Delinquent or aggressive behaviour;
- Depression;
- Self-injurious behaviour, including drug/alcohol abuse, prostitution, self-mutilation, or attempted suicide;
- The sudden decline in academic performance, poor memory and concentration;
- Wearing of provocative clothing, or layers of clothes to hide injuries;
- Promiscuity.

### 2.3.3 Student Sexual Offending

Unwanted sexual behaviour towards a student by a child 10 years or over can constitute a sexual offence and is referred to as a student sexual offending. All incidents, suspicions and disclosures of student sexual offending must be responded to in accordance with the School's **Student Sexual Offending procedures**.

### 2.3.4 Encouragement to Engage in Sexual Activity

It is a criminal offence for an adult to encourage a child to engage in, or to be involved in, sexual activity where the adult seeks or gets sexual arousal or sexual gratification from the encouragement or the sexual activity.

There are two "encouragement" offences in the *Crimes Act 1958* (Vic):

- section 49K: Encouraging a child under the age of 16 to engage in, or be involved in, sexual activity;
- section 49L: Encouraging a child aged 16 or 17 under care, supervision, or authority to engage in, or be involved in, sexual activity.

A section 49K offence carries a maximum 10-year term of imprisonment. A section 49L offence carries a maximum 5-year term of imprisonment.

The *Crimes Act 1958* (Vic) defines 'encourage' to include suggest, request, urge and demand. Examples of encouragement include offering money or gifts or threatening harm. It can be done in person or by electronic communication. An example of conduct prohibited by these offences is an adult asking a child to watch inappropriate material. Conduct which occurred outside Victoria or while the child was outside Victoria can still constitute an offence.

The encouragement offences cover conduct that is similar to grooming but are broader. Both are 'preparatory' offences, but encouragement behaviour occurs at a later stage to grooming, or closer to the substantive sexual offence. The encouragement offence applies to sexual activity that would otherwise not be a criminal offence. For example, if a student was encouraged to watch inappropriate material in contravention of sections 49K or 49L, the act of watching is not a sexual offence, but the encouragement would amount to an offence.

Note: Both offences of grooming and encouragement to engage in sexual activity are sexual offences reportable under every adult's Obligation to Report a Sexual Offence (Failure to Disclose).

Possible indicators of adult encouragement behaviour would include those that may indicate grooming however the pattern of behaviours would not be required. The encouragement would normally be more sexualised.

## 2.4 Grooming

Grooming is defined by the Royal Commission into Institutional Responses to Child Sexual Abuse as behaviours that manipulate and control a child, their family and other support networks, or institutions with the intent of gaining access to the child, obtaining the child's compliance, maintaining the child's silence and avoiding discovery of the sexual abuse.

Grooming by an adult of a child under the age of 16, as well as grooming by an adult of a person who has the care, supervision or authority of a child aged under 16, are sexual offences under section 49M of the Crimes Act. They are therefore "child abuse" as defined in Ministerial Order 870 and sexual offences that must be reported to Police.



Grooming does not necessarily involve any sexual activity or even discussion of sexual activity. For example, it may only involve establishing a relationship with a child or a person who has care, supervision, or authority for a child for the purpose of facilitating sexual activity at a later time. Conduct which occurred outside Victoria or while the child was outside Victoria can still constitute an offence.

Certain behaviours or acts will not in isolation constitute grooming behaviour. However, where there is a repeating pattern of indicative behaviour, or several incidents of indicative behaviour, it may constitute grooming behaviour.

#### **2.4.1 Online Grooming**

The sexual offence of grooming under section 49M includes online grooming which occurs when an adult (18 years or over) uses electronic means to communicate with a child under the age of 16 or a person who has the care, supervision or authority of a child aged under 16 in predatory fashion to try and lower the child's inhibitions, or heighten their curiosity regarding sexual behaviour or activity, with the aim of eventually meeting them in person for the purposes of sexual activity. This can include communications through social media, online chat rooms, sexting or emails.

#### **2.4.2 Encouraging a Child to Engage in Sexual Activity**

Sections 49K and 49L of the *Crimes Act 1958* (Vic) outline offences relating to the encouragement of a child (under 18) to engage in, or be involved in, sexual activity. "Encourage" is defined in the Act to include suggest, request, urge and demand. The type of sexual activity a child may be encouraged to engage in, or be involved in, does not necessarily have to be a sexual offence in its own right to be captured by these offences, for example encouraging a child to masturbate or watch pornography.

Section 49K does overlap with the grooming offence as both are preparatory offences against children, however not all grooming behaviour may be covered by the encouraging offence. Grooming goes further than the encouragement offence as it covers conduct that doesn't include active encouragement but assists in the cultivation of a relationship where sexual offending is more likely. For example, building a relationship with a child's parent or carer to gain trust may be an act of grooming, but is not an act of encouragement for the child to engage in, or be involved in, a sexual activity under sections 49K and 49L.

Additionally, the encouragement offences differ from the grooming offence as they do not require proof that the perpetrator intended to encourage the child to engage in, or be involved in, a sexual activity (in that the perpetrator meant to encourage the child in that way), or that they intended the child to engage in, or be involved in, a sexual activity.

While the encouragement and grooming offences are distinct and separate, due to the possibility for overlap, the following possible risk indicators apply to both types of offending.

#### **2.4.3 Possible Indicators of Grooming Behaviour in Adults:**

- Persuading a child or group of children that they have a special relationship;
- Asking a child to keep the relationship to themselves;
- Inappropriately allowing a child to overstep the rules;
- Testing boundaries, for example by undressing in front of a child;
- Manoeuvring to get or insisting on uninterrupted time alone with a student;
- Buying a student gifts;
- Insisting on physical affection such as hugging, wrestling or tickling even when the student clearly does not want it;
- Being overly interested in the sexual development of a student;
- Taking a lot of photos of a student;
- Engaging in inappropriate or excessive physical contact with a student;
- Sharing alcohol or drugs with a student;
- Making inappropriate comments about a student's appearance or excessive flattery;
- Using inappropriate pet names;



- Making jokes or innuendo of a sexual nature;
- Making obscene gestures or using obscene language;
- Sending correspondence of a personal nature via any medium;
- Inviting, allowing, or encouraging students to attend a staff member's home without parental/carer permission;
- Entering change rooms or toilets occupied by students when supervision is not required or appropriate;
- Communicating with a child's parent/step parent, legal guardian, teacher, religious official or spiritual leader with the intention of facilitating the child's involvement in sexual conduct;
- Inappropriately extending a relationship outside of work;
- Photographing, audio recording, or filming students via any medium without authorisation or having parental consent to do so.

#### **2.4.4 Indicators That a Child May Be Subject to Grooming:**

- Developing an unusually close relationship with an adult;
- Displaying significant mood changes, including hyperactive, sensitive, hostile, aggressive, impatient, resentful, anxious, withdrawn or depressed behaviour;
- Using 'street' or different language they learned from a new or older 'friend';
- Having new jewellery, clothing, expensive items or large amounts of money that were gifts from a new or older 'friend';
- Using a new mobile phone excessively to make calls, videos or send text messages to a new or older 'friend';
- Being excessively secretive about their use of social media or online communications;
- Frequently staying out late or overnight with a new or older 'friend';
- Being dishonest about where they have been or who they were with;
- Drug and alcohol use;
- Being picked up in a car by a new or older 'friend' from home or school or 'down the street'.

#### **2.4.5 Indicators That a Child May Be Subject to Online Grooming:**

- Discovery of pornography on their computer or device;
- Receiving or making calls to unrecognised numbers;
- Increasing or excessive amount of time spent online;
- Increased secrecy in what they are doing online and efforts to try and hide what they are doing online;
- Evidence of people on their 'friends' list that are unknown and they have never met them offline.

#### **2.4.6 What Is Not Grooming?**

Not all physical contact between a student and a staff member or any person engaged by the school to provide services to children, including a volunteer, will be inappropriate and/or an indicator of possible grooming behaviour.

**The following physical contact with students is not grooming behaviour:**

- Administration of first aid;
- Supporting students who have hurt themselves;
- Non-intrusive gestures to comfort a student who is experiencing grief, loss, or distress, such as a hand on the upper arm or upper back; and
- Non-intrusive touching i.e. shaking a student's hand or a pat on the back to congratulate a student.

## **2.5 Physical Violence**

Physical violence occurs when a child (under 18) suffers or is likely to suffer significant harm from a non-accidental injury or injuries inflicted by another person. Physical violence can be inflicted in many ways including beating, shaking, burning or using weapons (such as belts and paddles).

Physical abuse does not mean reasonable discipline, though it may result from excessive or inappropriate discipline.

**2.5.1 Possible Physical Indicators of Physical Violence:**

- Unexplained bruises;
- Bruises or welts on facial areas and other areas of the body, including back, bottom, legs, arms or inner thighs;
- Any bruises or welts in unusual configurations, or those that look like the object used to make the injury, for example fingerprints, handprints, buckles, iron or teeth;
- Burns that show the shape of the object used to make them, such as an iron, grill, cigarette, or burns from boiling water, oil or flames;
- Fractures of the skull, jaw, nose or limbs, especially those not consistent with the explanation offered or with the type of injury probable/possible at the child's age and development;
- Cuts and grazes to the mouth, lips, gums, eye area, ears or external genitalia;
- Human bite marks;
- Bald patches where hair has been pulled out;
- Multiple injuries, old and new.

**2.5.2 Possible Behavioural Indicators of Physical Violence:**

- Inconsistent or unlikely explanation for an injury;
- Inability to remember the cause of an injury;
- Fear of specific people;
- Wearing clothes unsuitable for weather conditions (such as long sleeved tops) to hide injuries;
- Wariness or fear of a parent/carer and reluctance to go home;
- No reaction or little emotion displayed when hurt;
- Little or no fear when threatened;
- Habitual absences from school without explanations (the parent/carer may be keeping the child away until signs of injury have disappeared);
- Overly compliant, shy, withdrawn, passive and uncommunicative;
- Fearfulness when other children cry or shout;
- Unusually nervous or hyperactive, aggressive, disruptive and destructive to self and/or others;
- Excessively friendly with strangers;
- Regressive behaviour, such as bed wetting or soiling;
- Poor sleeping patterns, fear of dark, nightmares;
- Sadness and frequent crying;
- Drug or alcohol misuse;
- Poor memory and concentration;
- Suicide attempts;
- Academic problems.

**2.6 Serious Emotional or Psychological Harm**

Serious emotional or psychological abuse may occur when a child (under 18) is repeatedly rejected, isolated or frightened by threats or the witnessing of family violence. It also includes hostility, derogatory name-calling and put-downs, or persistent coldness from a person, to the extent where the behaviour of the child is disturbed, or their emotional development is at serious risk of being impaired. Serious emotional or psychological harm could also result from conduct that exploits a child without necessarily being criminal, such as encouraging a child to engage in inappropriate or risky behaviours.

Psychological or emotional abuse may occur with or without other forms of abuse.

**2.6.1 Possible Physical Indicators of Serious Emotional or Psychological Harm:**

- Speech disorders;
- Delays in emotional, mental or even physical development;
- Physical signs of self-harming.



### 2.6.2 Possible Behavioural Indicators of Serious Emotional or Psychological Harm:

- Exhibiting low self-esteem;
- Exhibiting high anxiety;
- Overly compliant, passive or undemanding behaviour;
- Extremely demanding, aggressive, or attention-seeking behaviour;
- Anti-social, destructive behaviour;
- Low tolerance or frustration;
- Unexplained mood swings;
- Self-harming;
- Behaviours that are not age appropriate, for example, overly adult (parenting of other children), or overly infantile (thumb sucking, rocking, wetting or soiling);
- Fear of failure, overly high standards and excessive neatness;
- Depression, or suicidal thoughts;
- Running away;
- Violent drawings or writing;
- Contact with other students forbidden.

## 2.7 Serious Neglect

Serious neglect is the continued failure to provide a child (under 18) with the basic necessities of life, such as food, clothing, shelter, hygiene, medical attention or adequate supervision, to the extent that the child's health, safety and/or development is, or is likely to be, jeopardised. Serious neglect can also occur if an adult fails to adequately ensure the safety of a child where the child is exposed to extremely dangerous or life-threatening situations.

### 2.7.1 Possible Physical Indicators of Serious Neglect:

- Consistently dirty and unwashed;
- Consistently inappropriately dressed for weather conditions;
- Consistently without adequate supervision and at risk of injury or harm;
- Consistently hungry, tired and listless, falling asleep in class, or malnourished;
- Unattended health problems and lack of routine medical care;
- Inadequate shelter and unsafe or unsanitary conditions;
- Abandonment by parents;
- Poor hygiene.

### 2.7.2 Possible Behavioural Indicators of Serious Neglect:

- Begging or stealing food;
- Gorging when food is available;
- Inability to eat when extremely hungry;
- Alienated from peers, withdrawn, listless, pale, and thin;
- Aggressive behaviour;
- Delinquent acts, for example, vandalism, drug or alcohol abuse;
- Little positive interaction with parent/carer;
- Appearing miserable or irritable;
- Poor socialising habits;
- Poor evidence of bonding, or little stranger anxiety;
- Indiscriminate with affection;
- Poor, irregular or non-attendance at school or kindergarten/child care;
- Staying at school long hours;
- Self-destructive;
- Dropping out of school;
- Taking on an adult role of caring for a parent;
- Misusing alcohol or drugs;
- Academic issues.



## 2.8 Family Violence

In Victoria "family violence" is a defined term under section 5 of the *Family Violence Protection Act 2008* (Vic). It is a criminal offence.

### 2.8.1 Family violence is behaviour towards a family member that may include:

- Physical violence or threats of violence;
- Verbal abuse, including threats;
- Emotional or psychological abuse;
- Sexual abuse;
- Financial and social abuse.

It is important to remember that "family violence" extends to behaviour that causes a child (under 18) to hear, witness, or be exposed to the effects of "family violence". A child's exposure to family violence constitutes child abuse.

As family violence can result in one or more forms of child abuse (being sexual offences, physical violence, serious emotional or psychological harm or serious neglect) the physical and behavioural indicators of these types of abuse may also be indicative of a family violence situation.

### 2.8.2 Behavioural indicators for older children and young people:

- Moving away or running away from the family home;
- Entering a relationship early to escape the family home;
- Experiencing violence in their own dating relationships;
- Involvement in criminal activity;
- Alcohol and substance abuse.

## 3 Child Safe Policy

The School has developed a clear and focussed Child Safe Policy (**Policy**). This policy is an overarching document that provides key elements of our approach to protecting children from abuse.

The policy forms the foundation of the School's procedures, practices, decision-making processes and ultimately the School's culture with respect to child safety. It is designed to be published on our public website as well as communicated through other mediums such as newsletters, our annual report and in induction and welcome packs for School Board members, staff and Volunteers.

A PDF version of the School's Child Protection Program and Policy is available on the School's website.

The School's Policy has been approved and endorsed by the School's School Board and is regularly reviewed by the Board.

## 4 Policy Objectives

This policy provides the framework for:

- The development of work systems, practices, policies and procedures that promote child protection within the School;
- The creation of a positive and robust child protection culture;
- The promotion and open discussion of child protection issues within the School;
- Compliance with all laws, regulations and standards relevant to child protection in Victoria.



## 4.1 Statement of Commitment to Child Safety

**The School is committed to providing a child safe and child friendly environment, where children and young people are safe and feel safe and are able to actively participate in decisions that affect their lives.**

At the School, there is a zero tolerance for child abuse and are committed to acting in children's best interests and keeping them safe from harm. The School regards its child protection responsibilities with the utmost importance and as such, is committed to providing the necessary resources to ensure compliance with all relevant child protection laws and regulations and maintain a child safe culture.

## 4.2 Child Safe Values & Principles

The School's commitment to child safety is based on the following overarching principles that guide the development and regular review of our work systems, practices, policies and procedures to protect children from abuse.

1. All children have the right to be safe.
2. The welfare and best interests of the child are paramount.
3. The views of the child and a child's privacy must be respected.
4. Clear expectations for appropriate behaviour with children are established in our Child Safety Code of Conduct and Staff and Student Professional Boundaries Policy.
5. The safety of children is dependent upon the existence of a child safe culture.
6. Child safety awareness is promoted and openly discussed within our School community.
7. Procedures are in place to screen all staff, Direct Contact Volunteers\*\*, Third Party Contractors and External Education Providers who have direct contact with children.
8. Child safety and protection is everyone's responsibility.
9. Child protection training is mandatory for all School Board members, staff and Direct Contact Volunteers.
10. Procedures for responding to alleged or suspected incidents of child abuse are simple and accessible for all members of the School community.
11. Children from culturally or linguistically diverse backgrounds have the right to special care and support including those who identify as Aboriginal or Torres Strait Islander.
12. Children who have any kind of disability have the right to special care and support.

*\*\*Direct Contact Volunteers are those volunteers who are involved in providing support, guidance and supervision directly to students and could potentially have direct contact with students during the normal course of providing the volunteer service.*

The *Worker Screening Act 2020* (Vic) defines 'direct contact' as any contact between a person and a child (aged under 18) that involves:

- Physical contact;
- Face to face contact;
- Contact by post or other written communication;
- Contact by telephone or other oral communication;
- Contact by email or other electronic communication.

*Examples of Direct Contact Volunteer activities may include volunteers involved in school camps and excursions, coaching or sporting teams or assisting in learning activities.*

## 4.3 Child Protection Program

The School adopts a risk management approach by identifying key risk indicators and assessing child safety risks based on a range of factors including the nature of our School's activities, physical and online environments and the characteristics of the student body.

The School's Child Protection Program relates to all aspects of protecting children from abuse and establishes work systems, practices, policies and procedures to protect children from abuse. It includes:



- A clear Child Safe Policy and a Child Safe Code of Conduct;
- Clear information as to what constitutes child abuse and associated key risk indicators;
- Clear procedures for responding to and reporting allegations of child abuse;
- Strategies to support, encourage and enable staff, Volunteers, Third Party Contractors, External Education Providers, parents and students to understand, identify, discuss and report child protection matters;
- Procedures for recruiting and screening School Board members, staff and Direct Contact Volunteers;
- Procedures for reporting reportable conduct and/or misconduct;
- Pastoral care strategies designed to empower students and keep them safe;
- Policies with respect to cultural diversity and students with disabilities;
- A child protection training program;
- Information regarding the steps to take after a disclosure of abuse to protect, support and assist children;
- Guidelines with respect to record keeping and confidentiality;
- Policies to ensure compliance with all relevant laws, regulations and standards (including the Victorian Child Safe Standards);
- A system for continuous review and improvement.

As a part of the School's induction process, all staff and Direct Contact Volunteers are required to complete a selection of training modules on the content of the School's Child Protection Program.

Additional, ongoing child protection training at least annually.

Staff, Volunteers, Third Party Contractors and External Education Providers are supported and supervised by the School's Child Safety Officers to ensure that they are compliant with the School's approach to child protection.

#### **4.4 Responsibilities**

Child protection is everyone's responsibility. At the School, the School Board and staff, as well as Volunteers, have a shared responsibility for contributing to the safety and protection of children.

In the School context, all members of the School community have their role to play – teachers, staff, administrators, parents/carers, Volunteers and students. The School's Senior Management Team are committed to 'leading from the front' and engaging in a preventative, proactive and participatory approach to child protection issues.

Students are encouraged to take an active role in developing and maintaining a child safe environment at the School and are provided with opportunities to contribute and give feedback in the development of the School's policies and practices. Students are also made aware of the avenues available to them to report or disclose abuse or concerns for their safety or the safety of others.

Specific responsibilities include:

##### **4.4.1 School Board**

Each member of the School Board is required to ensure that appropriate resources are made available to allow the School's Child Safe Policy and the Child Protection Program to be effectively implemented within the School and are responsible for holding the Principal and the Senior Management team accountable for effective implementation.

##### **4.4.2 The Principal**

The Principal is responsible, and will be accountable for, taking all practical measures to ensure that this Child Safe Policy and the School's Child Protection Program are implemented effectively and that a strong and sustainable child protection culture is maintained within the School.

##### **4.4.3 The School's Child Safety Officers**

A number of senior staff members are nominated as the School's Child Safety Officers. The School's Child Safety Officers receive additional specialised training with respect to child protection issues. They are the first point of



contact for raising child protection concerns within the School. They are also responsible for championing child protection within the School and assisting in coordinating responses to child protection incidents.

#### **4.4.4 Staff Members**

All staff are required to be familiar with the content of the School's Child Safe Policy and our Child Protection Program and their legal obligations with respect to the reporting of child abuse. It is each individual's responsibility to be aware of key risk indicators of child abuse, to be observant, and to raise any concerns they may have relating to child abuse with one of the School's Child Safety Officers. Failure to be aware, observant and to raise concerns with the Child Safety Officers as a matter of urgency will be regarded as serious matters subject to the potential for discipline (refer to HR-006 Performance Management, Misconduct and Disciplinary Action Policy).

#### **4.4.5 Direct Contact Volunteers**

All Direct Contact Volunteers, as defined in this policy, are required to be familiar with the content of the School's Child Safe Policy, our Child Protection and their legal obligations with respect to the reporting of child abuse. It is each individual's responsibility to be aware of key risk indicators of child abuse, to be observant, and to raise any concerns they may have relating to child abuse with one of the School's Child Safety Officers.

#### **4.4.6 Indirect Contact Volunteers**

Indirect Contact Volunteers are those volunteers who are involved in providing support and services whilst not directly assisting a specific group of students.

All Indirect Volunteers are responsible for contributing to the safety and protection of children in the School environment.

All Indirect Volunteers are required by the School to be familiar with the School's Child Safe Policy and Child Safe Code of Conduct.

Examples of Indirect Contact Volunteer activities may include assisting with School administrative functions.

#### **4.4.7 Third Party Contractors**

All Third-Party Contractors engaged by the School are responsible for contributing to the safety and protection of children in the School environment.

Third Party Contractors include, for example, maintenance and building personnel, consultants, casual teachers, tutors, sports coaches and school cleaners.

This also includes instrumental music teachers and other extra-curricular teachers and instructors who are engaged by students and their families directly, rather than the School, but have an agreement with the School to use the School's facilities.

All Third-Party Contractors engaged by the School are required by the School to be familiar with the School's Child Safe Policy and Child Safe Code of Conduct.

The School may include this requirement in the written agreement between it and the Third-Party Contractor.

#### **4.4.8 External Education Providers**

An External Education Provider is any organisation that the School has arranged to deliver a specified course of study that is part of the curriculum, to a student or students enrolled at the School.

The delivery of such a course may take place on School premises or elsewhere.



All External Education Providers engaged by the School are responsible for contributing to the safety and protection of children in the School environment.

All External Education Providers engaged by the School are required by the School to be familiar with our Child Safe Policy and our Child Safe Code of Conduct.

Bacchus Marsh Grammar may include this requirement in the written agreement between it and the External Education Provider.

#### **4.5 Who to contact regarding the reporting of Child Abuse concerns?**

The School's Child Protection Program provides detailed guidance for members of the School Board, staff and Direct Contact Volunteers as to how to identify key risk indicators of child abuse and how to report child abuse concerns to one of the School's nominated Child Safety Officers. It also contains detailed procedures with respect to the reporting of child abuse incidents to relevant authorities.

Staff, Third Party Contractors, External Education Providers, Volunteers, students, parents/guardians and other community members who have concerns that a child may be subject to abuse or grooming are asked to contact the School's Senior Child Safety Officer, **Debra Ogston**, by phoning **her extension listed on the current BMG Telephone directory** or emailing **ogstond@bmg.vic.edu.au**.

Communications will be treated confidentially on a "need to know basis".

**Whenever there are concerns that a child is in immediate danger the Police should be called on 000.**

#### **4.6 Policy and Program Review**

The School is committed to the continuous improvement of its Child Protection Program. The Program is regularly reviewed for overall effectiveness and to ensure compliance with all child protection related laws, regulations, and standards.

### **5 Child Safe Code of Conduct**

The School's Child Safe Code of Conduct sets out the behaviours that are expected and that are acceptable, and those behaviours that are unacceptable and will not be tolerated by the School. The Code provides a high-level statement of professional boundaries, ethical behaviour and acceptable and unacceptable relationships. For more detailed guidance refer to the School's Staff and Student Professional Boundaries Policy.

When individuals are clear about behavioural expectations, they are much more likely to act appropriately with each other and with children. When everyone is educated about the Code of Conduct and the reasons it is so important to uphold, the School environment becomes much more transparent and people are accountable for their behaviour. Above all, a Child Safe Code of Conduct helps to protect children from harm.

The Child Safe Code of Conduct applies to:

- All staff members, including non-teaching staff and temporary or casual staff;
- Volunteers;
- Direct Contact Volunteers;
- Parents and guardians;
- Third Party Contractors
- External Education Providers;
- The School Board;
- Pre-Service Teachers on placement at the School;
- Visitors.

The Child Safe Code of Conduct set out below is designed to stand alone. It can also be incorporated in whole or part into broader codes of conduct that are developed within the School.



Certain staff members, Volunteers and Third Party Contractors at the School may have professional or occupational codes of conduct that regulate their profession or occupation. These codes of conduct must also be complied with. In the event that the staff member, Volunteer or Third Party Contractor considers that there is a conflict between these codes of conduct and the Child Safe Code of Conduct in a particular matter, the relevant staff member, Volunteer or Third Party Contractor must seek advice from their professional or occupational regulatory body and/or a Child Safety Officer, and must advise the Principal of their proposed course of action.

The Child Safe Code of Conduct is made available to all staff, volunteers, families and students via the School's public website.

## **5.1 Our Child Safe Code of Conduct**

This Child Safe Code of Conduct outlines appropriate standards of behaviour for all adults towards students. The Code serves to protect students, reduce any opportunities for abuse or harm to occur, and promote child safety in the School environment. It provides guidance on how to best support students and how to avoid or better manage difficult situations. Where a staff member breaches the Code, the School may take disciplinary action, including in the case of serious breaches, summary dismissal. The School revises the Code annually.

The School has the following expectations of behaviours and boundaries for all adults interacting with students within the School community. This includes all teaching staff, non-teaching staff, Board members, volunteers, direct contact volunteers, third party contractors, External Education Providers and parents/guardians.

The School's School Board has endorsed this Child Safety Code of Conduct.

### **DO:**

- Behave as a positive role model to students.
- Promote the safety, welfare and wellbeing of students.
- Be vigilant and proactive with regard to student safety and child protection issues.
- Provide age appropriate supervision for students.
- Comply with guidelines published by the School with respect to child protection.
- Treat all students with respect.
- Promote the safety, participation and empowerment of students with a disability.
- Promote the cultural safety, participation and empowerment of linguistically and culturally diverse students.
- Use positive and affirming language towards students.
- Encourage students to 'have a say' and then listen to them with respect.
- Respect cultural, religious and political differences.
- Help provide an open, safe and supportive environment for all students to interact, and socialise.
- Intervene when students are engaging in inappropriate bullying behaviour towards others or acting in a humiliating or vilifying way.
- Report any breaches of this Child Safe Code of Conduct.
- Report concerns about child safety to one of the School's Child Safety Officers and ensure that the relevant person's legal obligations to report allegations externally are met.
- Where an allegation of child abuse is made, ensure as quickly as possible that the student involved is safe.
- Acknowledge any contact with a student/s or their family outside the School by completing and submitting a Staff Student Association Register Form.
- Call the Police on 000 if the relevant person has immediate concerns for a student's safety.
- Respect the privacy of students and their families and only disclose information to people who have a need to know.

### **DO NOT:**

- Engage in any form of inappropriate behaviour towards students or expose students to such behaviour.



- Use prejudice, oppressive behaviour or inappropriate language with students.
- Express personal views on cultures, race or sexuality in the presence of students or discriminate against any student based on culture, race, ethnicity or disability.
- Engage in open discussions of an adult nature in the presence of students.
- Engage in any form of sexual conduct with a student including making sexually suggestive comments and sharing sexually suggestive material.
- Engage in inappropriate or unnecessary physical conduct or behaviours including doing things of a personal nature that a student can do for themselves, such as toileting or changing clothes.
- Engage in any form of physical violence towards a student including inappropriately rough physical play.
- Use physical means or corporal punishment to discipline or control a student.
- Engage in any form of behaviour that has the potential to cause a student serious emotional or psychological harm.
- Develop 'special' relationships with students that could be seen as favouritism (for example, the offering of gifts or special treatment for specific students).
- Engage in undisclosed private meetings with a student that is not the person's own child.
- Engage in meetings with a child that is not the person's own, outside of school hours and without permission from the School and the child's parent.
- Engage in inappropriate personal communications with a student through any medium, including any online contact or interactions with a student.
- Take or publish (including online) photos, movies or recordings of a student without parental/carers consent.
- Post online any information about a student that may identify them such as their: full name; age; e-mail address; telephone number; residence; school; or details of a club or group they may attend.
- Ignore or disregard any suspected or disclosed child abuse.

Our Child Protection Program includes a **Staff and Student Professional Boundaries Policy** that provides detailed guidance for all adults at the School on how to maintain professional boundaries between students and adults at the School.

#### **Agreement to Child Safe Code of Conduct**

A copy of the Child Safe Code of Conduct is provided to all Staff, Direct Contact Volunteers and Direct Contact Contractors at Induction, or otherwise prior to them commencing work at the School. It is also communicated via refresher training at regular intervals for all Staff, as well as Direct Contact Volunteers and Direct Contact Contractors.

All Staff, as well as Direct Contact Volunteers, must sign an agreement to adhere to the Child Safe Code of Conduct prior to commencing work at the School. The Child Safe Code of Conduct forms part of the contract between the School and any Direct Contact Contractors. Therefore, all Direct Contact Contractors are deemed to have agreed to adhere to the Child Safe Code of Conduct upon signing the contract or upon commencing work at the School.

#### **Consequences for Breaching the Child Safe Code of Conduct**

Staff, including the Senior Management Team and Principal, Volunteers and Contractors who breach the Child Safe Code of Conduct may be subject to disciplinary actions that may result in a range of measures including (depending on the severity of the breach):

- Remedial action
- Counselling
- Increased supervision
- The restriction of teaching duties
- Appointment to an alternate role
- Suspension or
- In the case of serious breaches, termination of employment, contract or engagement.

Where any other member of the School community breaches any obligation, duty of responsibility within the Child Safe Code of Conduct, the School will take appropriate action.

#### **Report any concerns**



The Program also includes information for members of the School Board, staff and Direct Contact Volunteers as to how to identify key risk indicators of child abuse and how to report child abuse concerns to one of our School's nominated Child Safety Officers.

It also contains detailed procedures with respect to the reporting of child abuse incidents to relevant authorities.

Third Party Contractors, External Education Providers, Indirect Contact Volunteers, students, parents/guardians or other community members who have concerns that a child may be subject to abuse are asked to contact one of the School's Child Safety Officers.

Communications will be treated confidentially on a 'need to know basis'.

**Whenever there are concerns that a child is in immediate danger, the Police should be contacted on 000.**

## **6 Staff and Student Professional Boundaries**

This policy applies to all teaching staff, non-teaching staff, Board members, Volunteers, Third Party Volunteers, Third Party Contractors and External Education Providers (together, known as "staff" for the purposes of this policy only).

The School's staff hold a unique position of influence, authority, trust and power in relation to students at the School. As such, it is their duty, at all times, to maintain professional boundaries with students.

The *Crimes Act 1958* (Vic) includes certain offences for persons, including teachers, whose position places them in a position of care, supervision or authority, with a student. Refer to Encouraging a Child to Engage in Sexual Activity.

Teachers registered with the Victorian Institute of Teaching (VIT) must also comply with principles set out in The Victorian Teaching Profession's Code of Conduct (VIT Code of Conduct).

The following policy and guidelines are designed to raise awareness of situations where professional boundary violations may occur and some strategies to minimise the risk of boundary violations.

The practice of protective behaviours at all times will also reduce the possibility of vexatious claims being brought against staff.

### **6.1 Policy Statement**

The School is committed to providing a safe physical and emotional environment where all students are respected and treated with dignity in an appropriate professional and caring manner where the risk of child abuse is minimised, and a safe and supportive child safe environment is maintained.

It is the School's policy that:

- Staff exercise their responsibilities in a way that recognises professional boundaries with regard to their relationships with students at all times;
- Staff identify, discourage and reject any advances of a sexual nature initiated by a student;
- Staff interaction with students is professional at all times, including inside and outside of school hours;
- Conflict of interest issues must be reported to the Principal as soon as practicable;
- Equal learning opportunities are given to each student without discrimination;
- Appropriate consequences will be applied to staff who breach professional boundaries.

### **6.2 What are Professional Boundaries?**

Professional boundaries are parameters that describe the limits of a relationship in circumstances where one person (a student) entrusts their welfare and safety to another person (a staff member), in circumstances where a power imbalance exists.



The fact that School staff are in a unique position of trust, care, authority and influence with students means that there is always an inherent power imbalance that exists between them. It also means that professional boundaries must be established, maintained and respected at all times.

In most cases this power imbalance is clear, however sometimes it may be more difficult to recognise especially for younger Staff members who may only be a few years older than their students.

The following guidelines are not exhaustive, and given that sometimes “grey areas” may occur, it is expected that all staff (no matter their age or experience) use their own good judgment, think very carefully about the implications and potential consequences of engaging in certain behaviours with students, and always err on the side of caution.

When unsure about whether professional boundaries are being, or have been, breached, individuals are required to ask these questions:

- Would I modify my behaviour if a colleague was present?
- How would I feel about explaining my actions at a staff meeting?
- Am I sharing information for the student's benefit, or for my benefit?
- Am I dealing with this student differently from others in similar circumstances?
- Is my language or demeanour different from normal when dealing with this particular student?

### **6.3 Intimate Relationships**

Staff must not initiate or develop a relationship with any student that is or can be misinterpreted as having a romantic or sexual, rather than professional basis. This is regardless of whether the relationship is consensual, non-consensual, or condoned by parents/guardians.

Staff must not engage in a romantic relationship or sexual relations with a pre-service teacher or a School Intern for a period of 5 years after that pre-service teacher or School Intern has completed Year 12 with the School. Any pre-service teacher or School Intern who is in a pre-existing relationship with a student at the time they join the School in this capacity must disclose this relationship on the Staff/Student Association Register.

Such relationships have a negative impact on the teaching and learning of students and colleagues and may carry a serious reputational risk for the staff member and, in turn, the School.

The professional relationship of staff and students may be breached by:

- Flirtatious behaviour or dating;
- Development of an intimate personal relationship;
- Sexual relations;
- The use of sexual innuendo, inappropriate language and/or material with students;
- Unwarranted and inappropriate touching;
- Unwarranted and inappropriate filming or photography;
- Deliberate exposure to sexual behaviour of others (e.g. pornography);
- Having intimate contact without a valid context via written or electronic means (e.g. email, letters, Telephone, text messages, social media sites or chatrooms);
- Going out, whether alone or in company, to social events such as the movies or dinner;
- Exchanging gifts of a personal nature that encourages the formation of an intimate relationship.

### **6.4 Relationships with Former Students**

The imbalance of power and authority that exists in the staff/student relationship does not suddenly disappear after the student finishes their schooling. Staff should not assume that they would be protected from disciplinary action by claiming that a relationship began only after the student left the School as there may be a reasonable belief that the emotional intimacy of the relationship developed while the staff/student relationship existed.



For registered teachers, it is a breach of the VIT Code of Conduct for a teacher to have a sexualised relationship with a former student:

- Within two years of the learner completing their senior secondary schooling or equivalent; and
- In all circumstances, the former student must be at least 18 years old before a relationship commences.

In addition, if any staff member engages in a romantic/sexual relationship with a person who was previously a student at the School, this may generate concerns that the staff member previously crossed professional boundaries whilst the former student was under the care of the staff member. In particular, concerns may arise that the staff member engaged in grooming behaviour while the person was still a student.

The School will investigate any complaint that a staff member has abused their position and acted unprofessionally by engaging in a relationship with a former student. In considering whether there has been a breach of professional boundaries, the School may take the following factors into account:

- The nature of the relationship, including its closeness, dependence and significance
- The length of the relationship while the former student was attending the School
- Any conduct the staff member undertook which gives cause for concern
- The length of time that has passed between when the person was a student at the School and the commencement of the relationship.

By ensuring that their relationships with Bacchus Marsh Grammar students do not breach Staff and Student Professional Boundaries, a staff member who subsequently forms a relationship with a former student will be less likely to be considered to have breached professional boundaries in relation to that former student, provided that the former student is at least 18 years old and at least two years has passed between the time when the former student concluded their senior secondary schooling and the commencement of the relationship.

## **6.5 Personal Relationships**

Staff must not initiate or develop a relationship with any student that is or can be perceived or misinterpreted as having a personal rather than professional element. This is regardless of whether the relationship is consensual, non-consensual or condoned by parents or carers.

It is the student's perception of Staff behaviour and not the intention of the Staff Member that is important.

An established and expected professional relationship between Staff and students may be compromised by Staff:

- Attending parties or socialising with students outside of organised School events (without parental/carer permission)
- Sharing personal details about their private lives with students
- Meeting with students outside of school hours without permission from the School.

Staff must recognise at all times that their role is not to be a “friend” or “parent” to a student.

Contact between staff and students must be in context.

## **6.6 Fair Learning Opportunities**

The main focus of teaching is effective student learning and as such, teachers are expected to support their students with their professional expertise so as to offer them the best education in their individual circumstances. The quality of teaching and learning between teachers and students characterises their relationship.

Teachers should demonstrate their commitment to student learning by:

- Maintaining a safe and challenging learning environment that promotes mutual respect;
- Recognising and developing each student's abilities, skills and talents by catering to their individual abilities and respecting their individual differences;
- Encouraging students to develop and reflect on their own values;



- Interacting with students without bias;
- Not engaging in preferential treatment;
- Not discriminating against any student on the basis of race, sex, sexuality, disability or religious or political conviction;
- Always making decisions in students' best interests.

## **6.7 Electronic Communications between Staff & Students**

It is expected that all staff at the School will adhere to the following guidelines:

- All use of technology should be for educational purposes or for the organisation of co-curricular activities;
- All email communication between staff and students should be via the School email system and reflect a professional staff/student relationship;
- Staff should not communicate with students via text message where it is not in a professional context;
- Staff should not give out their personal telephone numbers or social media contact details;
- Staff are not to accept or request students as 'friends' on social media or otherwise use social media to communicate in any way that is not condoned or approved by the School;
- Staff should not exchange personal pictures with a student;
- Teachers are not expected or encouraged to respond to concerns of parents/carers or students on holidays, weekends or in the evening;
- Any student personal contact numbers or other personal contact details made available to the School should only be used for School communications.
- Social media contact other than through School mediated channels is highly inappropriate and will be regarded as grounds for disciplinary action.

## **6.8 Physical Contact with Students**

All staff should be aware that situations may arise that can be perceived in a manner that was not intended. For this reason, all staff at the School should adhere to the following guidelines for contact with students both in and outside of School grounds:

- Staff should avoid unnecessary physical contact with students;
- Minimal, non-lingering, non-gratuitous physical contact in the context of the situation is acceptable (e.g. congratulatory pat on the back or handshake);
- Contact for sport, drama and dance instruction is acceptable in a class situation but not in a 1:1 situation. If physical contact is required for specific technical instructions, it must be brief and only with the consent of the student. Note that a student may withdraw consent for this contact either verbally or gesturally and staff must remain vigilant whilst engaging in necessary contact situations. Once consent has been withdrawn no further contact can be or should be made.

## **6.9 Off-Campus Excursions and Camps**

During off-campus excursions or camps, the same physical contact guidelines apply as well as the following:

- checking of sleeping arrangements, or supervising of students changing should be done, where possible, with another staff member present and always in a manner that respects students' privacy and personal space;
- always knock and advise of presence prior to entering a bedroom or dormitory;
- ensure that while in a bedroom or dormitory a strict staff/student relationship is upheld and that inappropriate behaviour, such as sitting on a student's bed, is not undertaken.

## **6.10 Managing Conflicts of Interest**

Where personal relationships with students such as family relationships and close friendship networks exist, questions of conflicts of interest may arise.



This may be more prevalent in close or rural communities where professional boundaries may be tested due to the nature and size of the community. In these circumstances, staff need to be far more diligent in developing and maintaining these boundaries.

Where a staff member feels that a conflict of interest may exist, they should notify the Principal, or the Chair of the Board if the conflict involves the Principal, and arrangements should be implemented to avoid the conflict situation if possible. For example, the teaching of students by a staff member with a conflict should be avoided.

Any significant decisions relating to these students in the School (such as the appointment of classes or selection in sports teams) should be referred to another staff member and endorsed by a supervisor.

### **6.11 Disclosure of Staff/Student Interactions**

It is the School's policy that all staff are encouraged to declare any interactions with students outside school hours by completing a Staff Student Association Register Form. These interactions may include instances where the staff member is:

- Related to the student;
- Friends with the student's parents or family; or
- Given parental consent to interact with the student for academic purposes outside of school hours and has notified the School.

The School maintains records of all declarations made by staff members related to their interactions with students, or relationships with students, that exist outside of school hours or School premises.

These records are kept for a period of seven years.

### **6.12 Staff Responsibilities**

All staff must:

- Follow the guidelines as set out in this policy;
- Immediately report any conflicts of interest;
- Remove themselves from decision making where a conflict has been identified.

**Where a staff member breaches this policy, the School may take disciplinary action, including in the case of serious breaches, summary dismissal.**

### **6.13 Implementation**

These guidelines are implemented through a combination of:

- Staff training and development in professional conduct;
- Student and parent/carer education and information;
- Effective management of teachers engaging in inappropriate relationships with students;
- Effective management of conflicts of interest;
- Effective communication and incident notification procedures;
- Effective record keeping procedures;
- Initiation of corrective actions where necessary.

### **6.14 Related Policies**

Student Duty of Care (Summary)

HR-004 Social Media and Networking Policy which can be accessed on the Schools Website

HR-001 Staff Code of Conduct which can be accessed on the Staff Portal

## **7 Child Protection Responsibilities**

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Society as a whole shares responsibility for promoting the safety and protection of children from abuse. In the School context, all members of the School community have their role to play – teachers, staff, administrators, parents/guardians, Volunteers and students. That said, the School's Senior Management Team are committed to 'leading from the front' and engaging in a preventative, proactive and participatory approach to child protection issues.

Students are encouraged to take an active role in developing and maintaining a child safe environment at the School and are provided with opportunities to contribute and give feedback in the development of the School's policies and practices. Students are also made aware of the avenues available to them to report or disclose abuse or concerns for their safety or the safety of others.

## **7.1 Key Roles & Responsibilities:**

### **7.1.1 School Board Responsibilities**

The School Board is required to approve the School's Child Safe Policy and to ensure the Child Protection Program is being effectively implemented. Each member must:

- Acquire and keep up-to-date knowledge of child protection matters;
- Have an understanding of the nature of the School's operations and the child protection risks associated with these operations;
- Ensure that the School has appropriate resources to effectively implement its Child Safe Policy and Child Protection Program;
- Ensure that the School has appropriate processes for receiving and considering information regarding child protection issues and is able to respond in a timely way to that information;
- Ensure that the School has and implements processes to ensure that the School is complying with its legal and regulatory obligations with respect to child protection;
- Ensure that the School has and implements processes to ensure ongoing monitoring to verify the provision and use of the resources that have been allocated to the management of child protection issues within the School and their effectiveness.

### **7.1.2 The Principal's Responsibilities**

The School Board delegates day-to-day management of the School to the Principal.

The Principal is ultimately responsible, and will be accountable for, taking all practical measures to ensure that:

- The School's Child Safe Policy and Child Protection Program are implemented effectively with available resources effectively deployed;
- Appropriate School Child Safety Officers are appointed and trained;
- A strong and sustainable child protection culture is maintained within the School;
- Any child protection incidents arising are dealt with professionally and in a timely manner;
- The Board receives regular reports with respect to child protection matters;
- The School is complying with its legal and regulatory obligations with respect to child protection.

### **7.1.3 Child Safety Officers' Responsibilities**

A number of staff members are nominated as the School's Child Safety Officers. The names, positions and contact details for all School Child Safety Officers can be found here.

Key responsibilities for the School's Child Safety Officers include:

- Having a good working knowledge of the School's Child Safe Policy and Child Protection Program;
- Without replacing any legal reporting obligations any person may have, promptly managing the School's response to an allegation or disclosure of child abuse, and ensuring that the allegation or disclosure is taken seriously;



- Ensuring that the School's Child Safe Policy is clearly communicated to all key stakeholders including students, parents, staff and Volunteers;
- Ensuring that the School's Child Safe Policy and Child Protection Program are being implemented effectively;
- Ensuring that there are clear procedures to allow people to report child protection concerns and reportable conduct matters within the School;
- Promoting child protection issues within the School community and responding to general queries with respect to the School's Child Safe Policy and Child Protection Program;
- Acting as "Child Protection Champions" and ensuring a strong and sustainable child protection culture is embedded within the School;
- Being a first point of contact for staff, or other members of the School community, raising child protection concerns within the School;
- Assisting the Principal, Senior Child Safety Officer and other senior staff members in coordinating appropriate responses to child protection incidents including liaising with the Police and other external agencies and responding to a child who makes, or is affected by, an allegation of child abuse; and
- Ensuring the School's Child Safe Policy and Child Protection Program are reviewed on a regular basis by an appropriate member of staff.

If a Child Safety Officer cannot perform their role, for example, due to conflicts of interest or absence, these duties must be performed by either another School Child Safety Officer, Senior Child Safety Officer or the Principal.

#### **7.1.4 Our Senior Child Safety Officer**

The School has appointed Debra Ogston as our Senior Child Safety Officer. The Senior Child Safety Officer has an important role in the implementation and operation of our Child Protection Program. She is supported by other Child Safety Officers.

Key responsibilities of the Senior Child Safety Officer include:

- Being a first point of contact for all child protection concerns or queries for the wider community;
- Ensuring that other Child Safety Officers understand and comply with their key responsibilities;
- Ensuring that all Child Safety Officers undergo appropriate annual training in the School's Child Protection Program, their legal responsibilities, and how to appropriately respond to child protection concerns and incidents;
- Coordinating the School's response to child protection incidents in consultation with the School's Principal and the Senior Management Team;
- Developing an alternative procedure for responding to an allegation or disclosure of child abuse if a Child Safety Officer is not able to perform the role, for example if they are absent from school or have a conflict of interest
- Reviewing and assessing the effectiveness of the School's response to a child protection incident;
- Ensuring that the School's Child Protection Program is effectively implemented and communicated to all relevant stakeholders.

#### **7.1.5 Staff Responsibilities**

All staff are required to comply with the School's Child Safe Policy, Child Protection Program and their legal obligations with respect to the reporting of child abuse.

It is each individual's responsibility to be aware of key risk indicators of child abuse, to be observant, and to raise any concerns they may have relating to child abuse with one of the School's Child Safety Officers and/or with external agencies where required.

#### **7.1.6 Direct Contact Volunteers' Responsibilities**

Direct Contact Volunteers are volunteers that are involved in providing support, guidance and supervision directly to students and could potentially have direct contact with students during the normal course of providing the volunteer service.



The *Worker Screening Act 2020* (Vic) defines '**direct contact**' as any contact between a person and a child (aged under 18) that involves:

- Physical contact;
- Face to face contact;
- Contact by post or other written communication;
- Contact by telephone or other oral communication;
- Contact by email or other electronic communication.

**Direct Contact Volunteers may have:**

- Limited supervision by School staff in their role;
- Significant amounts of 1:1 time with students;
- Supervisory responsibility for a group of students with only broad and indirect oversight of a School staff member;
- Full supervisory responsibility for one or more students, such as in a sports coaching role or learning support role.

Examples of Direct Contact Volunteer activities may include volunteers involved in School camps or excursions, coaching sporting teams or assisting in learning activities.

All Direct Contact Volunteers are required to adhere to the School's Child Safe Policy and Child Protection Policy. All Direct Contact Volunteers are required to have a valid WWC (working with children) clearance before commencing work at the School.

They must also be aware that they too have legal obligations with respect to the reporting of child abuse.

It is each individual's responsibility to be aware of key risk indicators of child abuse, to be observant, and to raise any concerns they may have relating to child abuse with one of the School's Child Safety Officers and/or with external agencies where required.

## **7.2 Work experience and structured workplace learning**

To provide a child safe external work environment, the School's staff involved in the delivery and coordination of Work Experience (WE) and Structured Workplace Learning (SWL) will implement the following requirements:

1. Advise Employers of the School's Child Safe Standards with examples of acceptable and unacceptable behaviours in dealing with students.
2. Provide Employers with a copy the School's Child Safe Standards Toolkit and Child Protection Program Handbook.
3. The School will prepare and empower students about employer responsibilities and their rights as a WE or SWL Student. Students will be informed about strategies of how to identify unacceptable behaviours/treatment and ways to appropriately manage potential incidents. Students will be informed about the complaints process.
4. Any student who is attending work experience or structured workplace learning with the School and who is over the age of 18 years, or who will be turning 18 years old during the program, will be required to have a valid Working with Children Check, a copy of which is retained by the School, before the student commences any program.

Students will be knowledgeable about all the above as a measure to mitigate future risk to students in the external workplace.

The School will use its best endeavours to deliver at least one period of face-to-face delivery of 'acceptable workplace behaviour' training to Year 10 students.



All students who attend the training will be required to sign a document that acknowledges that the student has undertaken this training and the document will be retained on student file.

These requirements and further information are included in the School's Child Safe Standards Toolkit and Child Protection Program Handbook.

### **7.3 Indirect Contact Volunteers' Responsibilities**

Indirect Contact Volunteers are those volunteers who are involved in providing support and services whilst not directly assisting a specific group of students.

Examples of Indirect Contact Volunteer activities may include assisting with School administrative functions.

All Indirect Contact Volunteers are responsible for contributing to the safety and protection of children in the School environment.

All Indirect Contact Volunteers must comply with the School's Child Safe Policy, the Child Safe Code of Conduct, this Child Protection Program and must have a valid Working with Children Check in place before they commence with the School if they have direct contact with students. Should any provision in this documentation be breached, the School may immediately terminate the Third Party's Contractor's engagement.

### **7.4 Third Party Contractors' Responsibilities**

All Third-Party Contractors engaged by the School are responsible for contributing to the safety and protection of children in the School environment.

Third Party Contractors include, for example, maintenance and building personnel, consultants, casual teachers, tutors, sports coaches and school cleaners.

This also includes music teachers and other extra-curricular teachers and instructors who are engaged by students and their families directly, rather than the School, but have an agreement with the School to use the School's facilities.

In this Child Protection Program, Third Party Contractors are classified as either "Direct Contact Contractors" or "Indirect Contact Contractors".

#### **7.4.1 Direct Contact Contractors:**

- Those who have direct contact with students during the normal course of their work;
- Those who may be in a position to establish a relationship of trust with a student
- Any contractors whom a school is legally required to screen.

The *Worker Screening Act 2020* (Vic) defines 'direct contact' as any contact between a person and a child that involves:

- Physical contact;
- Face to face contact;
- Contact by post or other written communication;
- Contact by telephone or other oral communication;
- Contact by email or other electronic communication.

#### **7.4.2 Indirect Contact Contractors:**

Indirect Contact Contractors are those contractors who do not meet the definition of a "Direct Contact Contractor". These are contractors who have no contact with students as part of their role or undertake roles where students are not reasonably expected to be present, for example, those contractors who complete work during school holidays.

All Third-Party Contractors engaged by the School are required by the School to comply with the Child Safe Policy, the Child Safe Code of Conduct and this Child Protection Program. All Third-Party Contractors who have direct contact



with students must have a valid Working with Children Check in place and provided to the School's Human Resources Department for verification before this work commences. Should any provision in this documentation be breached, the School may immediately terminate the Third-Party Contractor's engagement.

Where Third Party Contractors are engaged at short notice, making it impractical to undertake normal screening and/or briefing sessions, the School should take reasonable steps to ensure the protection of children at the School while the work is being completed.

The School may include this requirement in the written agreement between it and the Third-Party Contractors.

## **7.5 External Education Providers**

An External Education Provider is any organisation that the School has arranged to deliver a specified course of study that is part of the curriculum, to a student or students enrolled at the School.

The delivery of such a course may take place on School premises or elsewhere.

All External Education Providers engaged by the School are responsible for contributing to the safety and protection of children in the School environment.

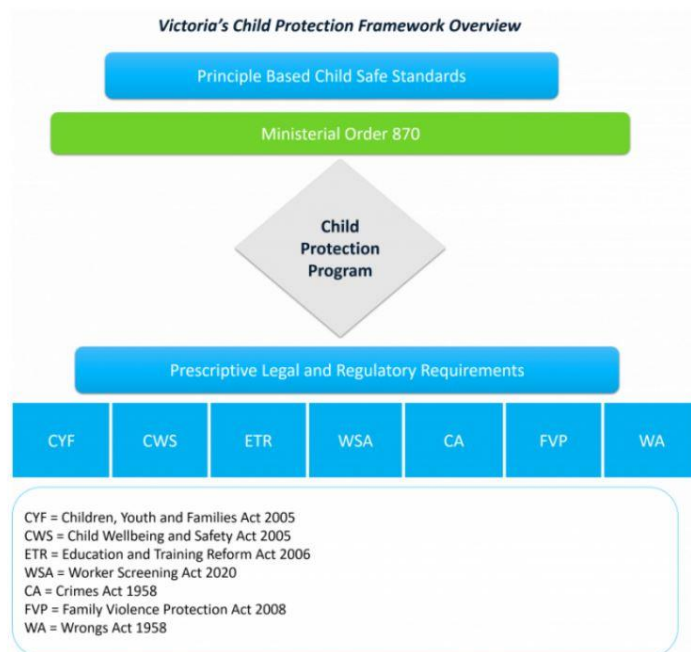
All External Education Providers engaged by the School must comply with the School's Child Safe Policy, Child Safe Policy and this Child Protection Program. All External Education Providers who have direct contact with students must have a valid Working with Children Check in place and provided to the School's Human Resource Department for verification before this work commences. Should any provision in this document be breached, the School may immediately terminate the External Education Provider's engagement.

The School may include this requirement in the written agreement between it and the External Education Provider.

## **8 Child Protection Law and Regulation in Victoria - An Overview**

The legal and regulatory framework for child protection in Victoria is made up of a complex web of laws, regulations and guidance notes.

This diagram and the commentary below provides an overview of the framework.



## 8.1 Victorian Child Safe Standards

At the top of the diagram are the Victorian Child Safe Standards. These Standards are designed to improve the way all organisations that provide services to children, including schools, prevent and respond to child abuse. These Standards are 'principle based' laws which means that, whilst they have the force of law, how the Standards are applied in practice is open to interpretation and will depend largely on the size, nature and complexity of the organisation that is seeking to comply with the Standards.

To provide a higher level of guidance for schools the Minister of Education has published Ministerial Order No. 870 under the Education and Training Reform Act 2006 (Vic) that contains requirements that all registered schools must meet to comply with each of the Child Safe Standards. A copy of the Ministerial Order is available [here](#).

The next section of this program sets out each of the Victorian Child Safe Standards and how we comply with each Standard at Bacchus Marsh Grammar as required by the Minister of Education.

## 8.2 Prescriptive Legal and Regulatory Requirements

At the bottom of the diagram there are seven separate pieces of legislation that work together to make up the legal and regulatory framework for child protection in Victoria. They are in summary:

### 8.2.1 The Children, Youth and Families Act 2005

The Children, Youth and Families Act has many functions including:

- Establishing the "child's best interests" principle;
- Regulation of community services and care providers;
- The management of child protection responses;
- Children in need of therapeutic treatment if exhibiting sexually inappropriate behaviour;
- Promoting stability in care arrangements.

For the purpose of the School's Child Protection Program the Children, Youth and Families Act is important because it establishes obligations with respect to Mandatory Reporting.

### 8.2.2 Child Wellbeing and Safety Act 2005

The Child Wellbeing and Safety Act is a companion piece of legislation to the Children, Youth and Families Act.



Its primary function is to provide for the establishment of various government bodies that oversee the Victorian child and family services system.

For the purpose of our Child Protection Program, the Child Wellbeing and Safety Act is important for three reasons:

- It provides the Statutory Definition of Child Abuse;
- It is the Act through which the Victorian Child Safe Standards are created.;
- It is the Act through which the Reportable Conduct Scheme in Victoria is established.

### **8.2.3 Education and Training Reform Act 2006**

From a child safety perspective, the key functions of the Education and Training Reform Act are to:

- Require schools to notify the Victorian Institute of Teaching (VIT) when a school has taken action against a teacher;
- Make compliance with the Victorian Child Safe Standards a requirement for registration of all Victorian schools.

### **8.2.4 Worker Screening Act 2020**

The *Worker Screening Act* establishes a framework to screen the criminal records and the professional conduct of people who intend to work with or care for children.

People who are assessed as posing an unjustifiable risk to the safety of children will fail the Working with Children Check and the Act prohibits these people from working with children.

The Act imposes penalties for schools and individuals that do not comply with the Act.

### **8.2.5 Crimes Act 1958**

The Crimes Act in Victoria sets out a number of child protection related offences and key definitions including those relating to indecent acts and persistent sexual abuse.

Of key relevance to the Victorian child protection framework and the School environment are the offences of:

- **Grooming** - which targets predatory conduct designed to facilitate later sexual activity with a child.
- **Encouraging a Child to Engage in Sexual Activity** – which is a broader preparatory sexual offence than grooming, and targets behaviour that encourages sexual activity of children.
- **Failure to Protect** - which says that a person commits an offence if:
  - By reason of the position they occupy within or in relation to the School, they have the power or responsibility to reduce or remove a substantial risk that a relevant child (under the age of 16 who is, or may come under the care, supervision or authority of the School) will become the victim of a sexual offence committed by a person (aged 18 years or over) who is associated with the School; and
  - They know that there is a substantial risk that the person will commit a sexual offence against a relevant child; and
  - They negligently fail to reduce or remove that risk.
- **Failure to Disclose** – which applies to all adults aged 18 years or over, not just professionals who work with children, and says that an adult commits an offence if they fail to report to the Police where they hold a reasonable belief that a sexual offence has been committed by another adult against a child in Victoria.

### **8.2.6 Wrongs Act 1958**

The Wrongs Act is the principal legislation governing claims for damages for economic and non-economic loss arising from personal injury and death in Victoria, as a result of negligence or fault. It is through this Act that child abuse victims may claim compensation for loss arising from child abuse.

Section 91 of the Wrongs Act imposes a duty of care on schools to take reasonable precautions to prevent the physical



or sexual abuse of a child under its care, supervision or authority, by an individual associated with the school. If the school is involved in a proceeding under the Wrongs Act, the school is presumed to have breached its duty of care unless it can prove, on the balance of probabilities, that it took reasonable precautions to prevent the abuse.

Whether or not a school took reasonable precautions will be assessed by a court in accordance with considerations set out in the Wrongs Act and case law. The effective implementation of the School's risk management strategies in Child Protection Risk Management is an example of taking reasonable precautions to prevent the physical or sexual abuse of a child.

It is important to note that the operation of section 91 is subject to section 5.4.10 of the Education and Training Reform Act which states that the School will not have a duty relating to the care or control of a student while that student is employed under an approved work experience arrangement, structured workplace arrangement or an apprentice contract.

### 8.2.7 Family Violence Protection Act 2008

Finally, the Family Violence Protection Act is designed to maximise safety for children and adults who have experienced family violence and forms a key part of the overall legal and regulatory framework for child protection in Victoria.

Critically the Act provides an extensive definition of "family violence" that includes behaviour that causes a child to hear, witness, or be exposed to the effects of such behaviour.

## 8.3 The School's Child Protection Program

In order to comply with the Victorian Child Safe Standards and Ministerial Order No. 870, as well as each of the seven separate pieces of legislation noted above, the School has established this Child Protection Program which sets out work systems, practices, policies and procedures designed to not only ensure compliance, but also to develop a child safe culture.

## 9 The Victorian Child Safe Standards

The Victorian Child Safe Standards comprise seven Standards and three Principles.

The seven Standards are as follows:

**Standard 1:** Strategies to embed an organisational culture of child safety, including through effective leadership arrangements.

**Standard 2:** A child safe policy or statement of commitment to child safety.

**Standard 3:** A code of conduct that establishes clear expectations for appropriate behaviour with children.

**Standard 4:** Screening, supervision, training and other human resources practices that reduce the risk of child abuse by new and existing personnel.

**Standard 5:** Processes for responding to and reporting suspected child abuse.

**Standard 6:** Strategies to identify and reduce or remove risks of child abuse.

**Standard 7:** Strategies to promote the participation and empowerment of children.

In addition to the seven Standards, the School is required to take into consideration the following three Principles as part of our response to each Standard:

**Principle 1:** promoting the cultural safety of Aboriginal and Torres Strait Islander children;

**Principle 2:** promoting the cultural safety of children from culturally and/or linguistically diverse backgrounds; and

**Principle 3:** promoting the safety of children with a disability.

The Minister for Education has published Ministerial Order No. 870 that prescribes certain matters with which registered schools in Victoria must comply as part of their registration requirements.



The School has established and implemented this Child Protection Program in accordance with the Victorian Child Safe Standards.

The table in **appendix 1** sets out each Standard with a summary of how the School complies with that Standard.

## **9.1 Principle of Inclusion**

In addition to implementing the Standards, the School implements principles of inclusion prescribed by the Standards and Ministerial Order No. 870 through the School's:

- Disability Discrimination Policy; and
- Cultural Diversity Policy.

These policies address the three (3) Principles in addition to our response to each Standard.

The School is committed to ensuring that the needs of all students including but not limited to Aboriginal and Torres Strait Islander students, students from culturally or linguistically diverse backgrounds and students with disabilities or who are vulnerable are taken into account when the School develops and implements its Child Protection Program.

The School understands that allegations of abuse that involve Aboriginal and Torres Strait Islander children, children from diverse backgrounds or children with disabilities will require varied and particular responses to ensure that appropriate action is taken. The School provides training for all of its School Child Safety Officers that specifically covers how to make a culturally appropriate and sensitive response to allegation of abuse in order to overcome any impairments or barriers culturally diverse students or students with a disability may face.

## **10 Creating and Maintaining a Child Safe Environment**

The School has adopted a number of key strategies as controls for identifying and removing child protection risks and to promote the participation and empowerment of children. These are as follows:

### **10.1 Child Safe Human Resources Practices**

The School only engages people who are suitable to work with students at the School and has developed and implemented child-safe human resources practices accordingly.

In addition to ensuring Working with Children Checks are completed in accordance with our legal obligations, the School is committed to ensuring that newly recruited and existing staff, Board members and Direct Contact Volunteers understand the importance of child safety, are aware of all relevant policies and procedures, and are trained to minimise the risk of child abuse.

This is done through various human resources work systems, practices, policies and procedures designed to protect children from abuse and create a child safe culture. This includes:

- Child Safe Recruitment Practices
- Working with Children Checks
- Child Protection Training
- Our Child Safe Culture

#### **10.1.1 Child Safe Recruitment Practices**

The School is committed to ensuring that its recruitment practices create a safe environment for all students. To this end, the School have established policies and procedures for recruiting employees, Board members and Direct Contact Volunteers and for assessing their suitability to work with children.

The School's recruitment processes are designed to select appropriate staff, Board members and Direct Contact Volunteers and discourage inappropriate people from working within the School.

**Job Descriptions**

Each job description for staff involved in child-connected work (being those persons with direct contact with children that is regular and not incidental to the work) has a clear statement that sets out the requirements, duties and responsibilities regarding child protection for those in that role and the occupant's essential qualifications, experience and attributes in relation to child protection.

All applicants for child-connected work at the School are informed about these requirements and the School's child protection practices prior to commencing work at the School.

**Screening**

It is the School's policy that all new staff and Board members undergo screening including:

- Verification of their Working with Children Check clearance or registration as a teacher status;
- Personal identity verification and background checking;
- Verification of professional or other qualifications relevant to the job;
- An examination of the person's history of child-connected work;
- Reference checking that addresses the person's suitability for the job and working with children.

The School verifies and records proof of personal identity and any other professional or other qualifications about volunteers, pre-service teachers, external education providers and contractors whom it proposes to engage to perform child-connected work through:

- Verification of their Working with Children Check Clearance
- Personal identity verification

**Application to Direct Contact Volunteers**

All Direct Contact Volunteers must have a valid Working with Children Check clearance, unless they are exempt. For more information, refer to Working with Children Checks.

With the exception of parents/guardians volunteering in an activity that their child is participating in, all of the School's Direct Contact Volunteers may undergo the following screening (or modified versions of it, depending on their role) prior to their engagement by the School:

- Personal identity verification and background checking;
- Verification of professional and other qualifications if relevant to their role;
- An examination of the person's history of child-connected work;
- Reference checking that addresses the person's suitability for the job and working with children.

In line with the School's risk-based approach to child safety and protection, where parent volunteers are volunteering at large off-site activities, such as overnight excursions or camps, the School requires that these parent volunteers have a Working with Children Check clearance as a matter of best practice.

All School Board members, staff and Direct Contact Volunteers are also subject to rigorous interview procedures.

**Supervision and Performance Monitoring**

Probationary periods apply to all new staff members and Direct Contact Volunteers to monitor their compliance with the School's child protection policies and procedures.

Performance and development reviews are regularly undertaken for all staff and include consideration of performance against the School's Child Safe Code of Conduct and the requirements of the Child Protection Program. For example, ensuring that a staff member has not breached any of the School's reporting procedures or the Child Safe Code of Conduct.

**10.1.2 Child Safe Recruitment and Other Legislation**



The School's recruitment practices are subject to State and Federal anti-discrimination legislation (refer to our Equal Employment Opportunity and Anti-Discrimination policy) and the requirements of the Privacy Act when obtaining, using, disclosing, and storing information from applicants and referees (see our Privacy Program).

## **10.2 Working with Children Checks**

### **10.2.1 Source of Obligation**

The *Worker Screening Act 2020* (Vic) (the Act) aims to protect children from harm by ensuring that people who work with, or care for, them have their suitability to do so checked by a government body.

The Act aims to prevent those who pose a risk to children from working or volunteering with them.

### **10.2.2 Who Needs to apply for a WWC Check?**

Subject to the exemptions referred to below, any worker who engages in child-related work that involves direct contact with a child (being a person under 18 years of age) needs to apply for a Working with Children Check (WWC Check).

Section 3 of the Act defines '**direct contact**' as any contact between a person and a child that involves:

- Physical contact;
- Face to face contact;
- Contact by post or other written communication;
- Contact by telephone or other oral communication;
- Contact by email or other electronic communication.

A WWC Check will apply to any person who is engaged by the School as an employee, a Board member, a self-employed person, a Volunteer, Third Party Contractors (who have or are likely to have direct contact with children), a supervisor of child employees, part of practical training through an educational or vocational course, unpaid community work under a court order, a minister of religion or performing duties of a religious vocation, an officer of a body corporate, a member of a committee of management of an unincorporated body or a member of a partnership.

### **10.2.3 What is Child Related Work?**

Child-related work is defined in section 7 of the Act as voluntary or paid work, in any of the occupational categories listed in the Act, that usually involves direct contact with a child.

For the purposes of the Act work will not be 'child-related work' by reason only of occasional direct work with children that is incidental to the work.

### **10.2.4 Child related Work for Ministers of Religion**

The Act defines child-related work for ministers of religion more broadly than for other occupations. All ministers of religion are required to get a WWC Check unless the contact they have with children is only occasional and always incidental to their work.

This would include for example having children in their congregation, attendance at schools or school camps even when all their contact with children is supervised. An example of when a minister of religion would not require a WWC Check is a minister conducting purely administrative roles within a church's bureaucracy.

The following are considered to be child-related work:

- Mentoring and counselling services for children;
- Direct provision of child health services;
- Clubs, associations, movements, societies or other bodies (including bodies of a cultural, recreational or sporting nature);
- Educational and care services, child care centres, nanny services and other child care;
- Coaching and tuition services for children;
- Any religious organisation where children form part of the congregation;



- Boarding houses or other residential services for children and overnight camps for children;
- Transport services specifically for children, including school bus services and taxi services for children with a disability and supervision of school road crossings;
- Commercial photography services for children unless they are merely incidental to or in support of other business activities;
- Commercial talent competitions for children unless they are merely incidental to or in support of other business activities;
- Commercial entertainment or party services for children unless they are merely incidental to or in support of other business activities.

#### **10.2.5 Key Exemptions**

The following groups of people are not required to have a WWC Check:

- Teachers registered with the Victorian Institute of Teaching (VIT).
- Victorian or Australian Federal Police officers.

In line with the School's risk-based approach to child safety and protection, where parent volunteers are volunteering at large off-site activities, such as overnight excursions or camps, the School requires that these parent volunteers undergo a Working with Children Check clearance as a matter of best practice.

#### **10.2.6 How to Apply for a WWC Check?**

A worker who engages in child related work is responsible for applying for his or her own WWC Check. An employer can not apply on behalf of a worker.

To apply:

1. Fill out an online application form at [www.workingwithchildren.vic.gov.au](http://www.workingwithchildren.vic.gov.au). You must list Bacchus Marsh Grammar in the organisation details section;
2. Upon completion of the application, you will be provided with an online receipt.
3. Verify your identity either as part of your online application or in person at a participating Australia Post outlet:
  - Online – you will need 2 primary proof of identity documents which are current and, when combined, show your full name, date of birth and photo
  - In person – when you finalise your application with Australia Post, bring 3 original proof of identity documents (1 primary and 2 secondary documents; 2 primary and 1 secondary document; or 3 primary documents).
4. Finalise your application at a participating Australia Post outlet, bringing with you your application summary, one additional identity document if you verified your identity online or your 3 identity documents if you are verifying your identity in person, and any applicable fee.
5. If the WWC Check is for paid work, a fee is payable for a five-year clearance (unless the applicant holds a NDIS clearance). The School will reimburse this fee for staff on presentation of a valid receipt.
6. If applying outside Victoria, the following must be posted to the Victorian Department of Justice:
  - An application summary and receipt or the completed paper form signed in front of a certifying officer.
  - A signed statement by a certifying officer confirming they have witnessed the signature of the person applying for the WWC Check.
  - Certified true copies of the person's identification documents.
  - 2 passport-sized photos, one certified on the back by the certifying officer and the other attached to the application summary or paper form.
  - A bank cheque or money order for the fee if the person is a paid worker of the School.

Mail to: Working with Children Check Unit, Department of Justice, GPO Box 1915, Melbourne VIC 3001

#### **10.2.7 What is Checked?**

When a person applies for a WWC Check, the following information is checked:



- The person's criminal record in all Australian states and territories across their lifetime, including serious sexual, violent and drug offences that the person has previously been charged with, regardless of the outcome of those charges
- The person's professional conduct, which is determined by:
  - the Victorian Institute of Teaching (VIT)
  - the Suitability Panel, established under the Children, Youth and Families Act 2005, which makes findings related to the suitability of registered out of home carers
  - the Commission for Children and Young People (CCYP) through the Reportable Conduct Scheme
- The person's compliance (if applicable) with historical and current health practitioner legislation
- The person's current or historical reporting obligations or orders under the Sex Offenders Registration Act 2004, the Serious Sex Offenders Monitoring Act 2005 or the Serious Offenders Act 2018

#### **10.2.8 Outcome of the WWC Check**

There are only two results for a WWC Check – a WWC clearance to work with children or a WWC exclusion barring an applicant from working with children.

##### **WWC Clearance**

Where the outcome is a WWC clearance, the applicant will receive a text message on their mobile phone confirming they have passed the Check and will then receive a WWC Check Card in the mail.

An Employee WWC Check Card allows workers to engage in any paid or voluntary child-related work. A Volunteer WWC Check Card can only be used for voluntary child-related work. The card, which is valid for five years, has the worker's name, signature, photograph, card number and expiry date.

Cleared applicants will be subjected to ongoing monitoring for relevant new records which could lead to the card being suspended or revoked before the five-year expiry date.

##### **WWC exclusion**

Where an applicant has failed the WWC Check, they will be issued with a WWC exclusion. The WWC exclusion will bar an applicant from engaging in child-related work from the date of notice. A copy of the Notice will be sent to all the organisations listed in the application, but they will not be notified of the reasons for the WWC exclusion.

Once issued with a WWC exclusion, an applicant cannot reapply for a WWC Check for five years, unless their circumstances have changed, which can include:

- A pending charge being withdrawn or dismissed by a court;
- Being found not guilty of a pending charge;
- Being no longer required to report under the Sex Offenders Registration Act 2004 (Vic);
- Being no longer subject to a supervision order, a detention order or an emergency detention order.

In limited circumstances, applicants can appeal a WWC exclusion by making an application to the Victorian Civil and Administrative Tribunal within 28 days of the decision.

#### **10.2.9 Workers' Obligations**

Upon receiving clearance, it is compulsory that the worker show their WWC Check Card to the School and provide their Card and Application Receipt numbers.

The worker must notify the Victorian Department of Justice within 21 days of any changes to their name, residential address, electronic address, birth date or phone numbers provided in the application.

The worker must notify the Department of the details of a new organisation they are starting child-related work within 21 days.



The worker must stop working with children immediately if their WWC Check Card has been suspended during a reassessment.

The worker must not let another person use their WWC Check Card for child-related work and must lodge a renewal form before the Card expires.

#### **10.2.10 The School's Obligations**

The School must:

- Not engage anyone in child-related work who does not have a WWC Check Card;
- Not allow anyone who has a WWC exclusion to undertake child-related work, even if they are directly supervised or exempt;
- Set up a process to ensure new staff and volunteers notify the Department within 21 days of commencing child-related work with the School;
- Ensure workers engaged in paid work have an Employee WWC Check Card and not a Volunteer WWC Card.

#### **10.2.11 Penalties**

It is an offence to work with children without a valid WWC Check Card or Application receipt while the person's Check is being processed. It is an offence for anyone to apply for or engage in child-related work if they have been issued a WWC exclusion. The maximum penalty is two years' imprisonment, a fine or both.

The School must take reasonable steps to ensure they do not engage or continue to engage a person in child-related work who does not hold a valid WWC Check Card. The penalty for organisations is a significant fine.

#### **10.2.12 Record Keeping Obligations**

For the School's record keeping obligation relating to WWC Checks, refer to Child Protection Record Keeping.

### **10.3 Child Protection Training**

The School recognises that without training and education of its staff, the School Board and Direct Contact Volunteers, the School's policies and procedures will not operate to effectively keep the students safe and protect them from abuse.

The Board, staff and Direct Contact Volunteers receive child protection training when they first commence their role at the School as part of the induction process and are required to complete ongoing training on child protection issues at least annually.

All Mandatory Reporters undergo the School's Child Protection Training course when they first commence their role at the School as part of the induction process, as well as periodic refreshed training to ensure ongoing understanding of their obligations.

The School's Child Protection Training Course consists of the following modules:

- Module 1 - An Overview of Our Child Protection Program
- Module 2 - The Meaning of Child Abuse and its Key Risk Indicators
- Module 3 - The Legal and Regulatory Framework for Child Protection in Victoria
- Module 4 - Victorian Child Safe Standards
- Module 5 - Our Child Safe Policy and Child Safe Code of Conduct
- Module 6 - How to Respond to a Child Protection Incident
- Module 7 - Child Protection Reporting
- Module 8 - Working with Children Checks
- Module 9 - Staff and Student Professional Boundaries



### **10.3.1 Child Protection Training Record Keeping**

Through the School's on-line child protection training course, the School creates and maintains electronic records of child protection training.

## **10.4 Our Child Safe Culture**

The School believes that the safety of children is dependent on the existence of a child safe culture within our School community. The School has developed the following work systems, practices, policies and procedures designed to create a child safe culture including:

- A holistic approach to child protection through this Child Protection Program;
- The appointment of the School's Child Safety Officers and a Senior Child Safety Officer;
- Establishing key child protection principles in the School's Child Safe Policy;
- Establishing clear expectations for appropriate behaviour with students through the School's Child Safe Code of Conduct;
- Educating the School Board, staff and Direct Contact Volunteers through the School's Child Protection Training;
- Clear procedures for reporting alleged or suspected incidents of child abuse;
- Clear procedures for reporting reportable conduct to the Commission for Children and Young People;
- Recognition that children from culturally diverse backgrounds have the right to special care and support including Aboriginal and Torres Strait Islander children;
- Recognition that children who have any kind of disability have the right to special care and support;
- Clearly defining the roles and responsibilities of personnel involved in protecting children;
- Establishing comprehensive child protection record keeping procedures to ensure that the School can evidence reasonable precautions taken to prevent abuse at the school in accordance with the School's child protection risk management strategies.

## **10.5 Participation and Empowerment of Children**

Children often do not report abuse because they:

- Feel uncomfortable doing so;
- Do not recognise behaviours as abuse or grooming;
- Do not know how to raise their concerns or make a report.

The School recognises that in order to achieve a child safe environment at the School which meets students' intellectual, physical, social, emotional and moral needs, students need to be involved in the creation and maintenance of such an environment.

It is the School's policy that it has simple and accessible processes in place to assist children (including those from diverse cultural backgrounds and those with a disability) to develop appropriate knowledge and skills to identify and communicate when they do not feel safe.

It is the School's policy that relevant staff members are trained on methods of empowering children and encouraging their participation.

This is done through various work systems, practices, policies and procedures. This includes:

**Pastoral Care - Child Protection**

**Students with a Disability**

**Cultural Diversity**



## **10.6 Pastoral Care - Child Protection**

Pastoral care is the support given to students for their development as a person. It relates to the total care of students and involves tending to both the academic and non-academic needs of students including spiritual, emotional and social wellbeing. The School's complete Pastoral Care Policy can be found on the School's website.

The School is committed to providing a safe, supportive and social environment where students feel nurtured as they learn.

To this end, the School has developed, and will continue to develop, a comprehensive range of pastoral care policies and procedures that are designed to promote the social and emotional wellbeing of all students, and to deliver age-appropriate education to all students about:

- Healthy and respectful relationships (including sexuality);
- Child abuse awareness and a child's right to be safe;
- A child's right to make decisions about their body and their privacy;
- How they can raise concerns about abuse;
- Resilience and coping with adversity;
- The fact that any concerns they do raise will be taken seriously and responded to appropriately;
- The School's Child Safe Policy and Child Safe Code of Conduct;
- Standards of behaviour for students.

The School is committed to ensuring that child abuse reporting procedures are age appropriate, simple, and accessible for all children including children from culturally diverse backgrounds and children with a disability.

Students are encouraged to provide feedback about child safety and protection issues at the School and the School conducts student focus groups and organises student surveys about various safety issues at the School, including child protection. The School takes all student contributions seriously and actively looks for ways to implement improvements to its Child Protection Program to reflect these contributions.

Information about these topics, as well as other child safety and wellbeing topics, is made available to all students through various age appropriate pastoral care initiatives as well as communications such as newsletters and the School's intranet. Child safety and wellbeing topics are also incorporated into the School's curriculum.

## **10.7 Students with a Disability**

The School has an obligation to students with a disability to ensure that they are afforded the same level of educational and pastoral care as any other student at the School and considers how each policy and procedure the School establishes and implements may affect students with a disability.

The School is committed to ensuring that it fulfils the School's legal obligations including those related to discrimination and disability standards (refer to the School's Disability Discrimination Policy).

The School recognises that students with a disability will not only require additional assistance to participate and engage in School activities in a safe and supportive manner, but also that there are specific child protection risks that arise in relation to students with a disability. Managing these risks may include, for example, stricter screening procedures and training for staff who assist students who require help with personal activities such as toileting or dressing.

As a result, the School has implemented specific risk controls in relation to the safety of students with disabilities. This includes:

- Specific screening and training for staff/Volunteers that will have direct contact with students with a disability;
- Written guidelines for staff and Volunteers working with students with a disability;



- Express, written permission from the parent/guardian of a student with a disability where physical contact is required as part of their care;
- Alternative reporting avenues to suit the needs of students with a disability at the School.

Students with a disability at the School may also require varied reporting avenues or systems to students without a disability, and the School has considered this when creating and implementing its Procedures for Responding to and Reporting Allegations of Child Abuse.

When supporting a student with a disability who has been impacted by child abuse, it is critical that the School considers:

- The chronological age, developmental age and cognitive function of the student in order to tailor developmentally appropriate support strategies;
- The student's vulnerability to on-going abuse when considering the need to make a further report and/or implement further risk mitigation strategies.

### **10.8 Culturally and Linguistically Diverse Students**

Students from culturally and linguistically diverse backgrounds are those who identify as having particular cultural or linguistic affiliations by virtue of their place of birth, ancestry or ethnic origin, religion, preferred language or language spoken at home or because of their parents' identification on a similar basis. They include children of Aboriginal or Torres Strait Islander descent that identify as being Aboriginal or Torres Strait Islander.

The School values and respects the racial and cultural diversity of its students and is committed to ensuring that the backgrounds of all students are sensitively recognised, catered for, celebrated and valued so that racial and cultural differences do not compromise a student's safety and wellbeing.

It is the School's policy that the School:

- Identifies children from culturally and linguistically diverse backgrounds when they are enrolled in the School;
- Employs appropriate strategies to ensure the safety of these children as required;
- Encourages participation and empowerment of these children in the development of these strategies;
- Considers these children when developing and implementing policies and procedures related to child protection at the School;
- Educates the School's staff about these cultural differences and the strategies and procedures that the School has employed.

When supporting students from culturally and linguistically diverse backgrounds, including Aboriginal or Torres Strait Islander students, or those who identify as Aboriginal or Torres Strait Islander, it is critical that the School provides culturally appropriate support. Where possible the School will work with relevant cultural support groups, ensure that confidentiality of the family is maintained and engage an interpreter when communicating with the student's family.

Similarly, when supporting overseas students who have been impacted by abuse, the School will consider appropriate measures to be taken for the welfare of the students, including additional support where appropriate given that the student's family may not be present to provide support within the home environment.

Students from refugee backgrounds who have been impacted by abuse may also be experiencing trauma, dislocation and loss. Sensitive consideration should be given when determining how to support the student and their family.

## **11 Child Protection Risk Management**

The School has adopted a proactive risk management approach to child protection by developing and implementing strategies to identify and mitigate our child protection risks based on:

- The nature of all School environments including physical and online environments;



- The activities students undertake at the School (including the provision of services by contractors or outside the School's physical environment);
- The characteristics and needs of all of the School's students.

### **11.1 Risk Management Strategies**

The School has implemented the following risk mitigation strategies to ensure that the School maintains a proactive approach to its duty of care to protect children from harm and comply with its legal and regulatory obligations:

- This Child Protection Program, including the Child Safe Policy and the Child Safe Code of Conduct;
- A comprehensive Staff and Student Professional Boundaries Policy, implemented through training and communicated publicly;
- Induction and ongoing training provided to the Board members, staff and Direct Contact Volunteers, at least annually, about identifying risks of child abuse in the School environment, their obligations and responsibilities for managing these risks, how to report and respond to child protection incidents, and the School's current child safety standards;
- The appointment of the School's Child Safety Officers who are "Child Protection Champions" at the School and receive specialised, additional training to ensure that any concerns about child safety and protection in the School environment held by students, staff, Volunteers and parent/carers may be discussed in a safe and supportive environment;
- Extensive policies and procedures relating to excursions and camps ensuring that child protection risks specific to excursions and overnight stays are identified and controls are put in place;
- Extensive policies and procedures relating to work experience placements, including the completion of the Student Work Experience Checklist that outlines key child protection requirements;
- Ongoing, periodic reviews of all physical School environments to eliminate physical isolation risks, such as solid classroom doors or rooms with no windows, or implement procedural controls where elimination is not possible;
- Specific procedures for verifying the Working with Children Check clearance status of all External Education Providers and Third Party Contractors, who may have direct contact with students, to ensure that students remain safe in all School environments both internal and external to the School grounds, including under a work experience arrangement;
- Clear procedures for reporting Reportable Conduct to the Commission for Children and Young People (CCYP) to ensure all risks specific to staff and Volunteer conduct are identified and controls are put in place;
- Identifying and recording all risks of child abuse in all School environments in a child protection risk register, and assessing the risks with regard to the likelihood of the risk event occurring and the potential consequences if it was to occur;
- A system of assurance through which risks of child abuse, and actions taken to reduce or remove these risks (risk controls), are recorded. The system is also used to monitor risk controls and to evaluate their overall effectiveness on a regular basis.

### **11.2 The School's Assurance System**

The School has implemented Complispace Assurance as one strategy to manage the risk of child abuse in School environments.

Complispace Assurance is an online risk and compliance workflow management tool that integrates with the Child Protection Program to provide a system of risk management, compliance and continuous improvement based on international standards.

Through this system, key risks and compliance obligations are captured, documented, and converted into plain-English questions that are assigned via email to responsible individuals for action. Each individual is provided with a calendar view of their compliance performance via an online browser.

Un-actioned tasks are escalated and reported to allow the School to monitor and record its compliance performance in real-time. The School also uses this risk management system as a method of evaluating and reviewing the ongoing effectiveness of the implementation of its risk measures and controls.

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## 12 Procedures for Responding to and Reporting Allegations of Child Abuse

### 12.1 Overview

The School will take appropriate, prompt action in response to **all** allegations or disclosures of abuse, neglect, inappropriate behaviour or concerns about child safety by reporting all matters to the Department of Families, Fairness and Housing (Child Protection), the Commission for Children and Young People (CCYP), or the Police, depending on the allegation or disclosure made.

The School has established simple and accessible procedures for anyone to report, if appropriate, a child safety and protection concern internally to one of the School's Child Safety Officers. Please be aware that consulting with a Child Safety Officer does not change any legal obligation the person has under legislation to report to an external authority.

The School has developed and implemented procedures for Board members, staff and Direct Contact Volunteers for responding to allegations and disclosures of child abuse, or suspected child abuse, including procedures for support following a disclosure by a student.

Reporting procedures for Third Party Contractors, External Education Providers, Indirect Contact Volunteers, parents/carers and other community members are also included in our Child Safe Policy which is available on our public website.

Age appropriate reporting procedures for students are developed through the School's pastoral care program.

This section describes our work systems, practices, policies and procedures for responding to and reporting allegations of child abuse both internally and externally. This includes:

#### **Managing the Initial Response to a Child Protection Incident**

#### **Reporting a Child Abuse Concern Internally**

#### **The Obligation to Report a Sexual Offence (Failure to Disclose) and Failure to Protect**

#### **Mandatory Reporting**

#### **Reportable Conduct**

#### **Student Sexual Offending**

#### **Responding to Other Concerns About the Wellbeing of a Child**

#### **Conduct that is Reportable to the Victorian Institute of Teachers (VIT)**

#### **Communication with Parents/Carers**

#### **Support for Students Interviewed at the School**

#### **Making Additional Reports**

#### **Child Protection Complaints Management**

#### **Confidentiality & Privacy**

#### **Child Protection Record Keeping**

#### **Information Sharing under Part 6A of the Child Wellbeing and Safety Act 2005 (Vic)**

#### **Information Sharing under Part 5A of the Family Violence Protection Act 2008 (Vic)**

The School's policies and procedures for responding to and reporting allegations of suspected child abuse are made available to staff, students, parents/guardians and the wider School community through the School's staff intranet and by request.

All of the School's procedures for reporting and responding to allegations of child abuse are designed and implemented taking into account the diverse characteristics of the School community.

A summary of these procedures is made publicly available on the School's website through the School's Child Safe Policy and is accessible to all children, School staff and the wider community.

The School will respond to all allegations of child abuse in an appropriate manner including:

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- Informing the appropriate authorities and fully cooperating with any resulting investigation;
- Protecting any child connected to the allegation until it is resolved and providing ongoing support to those affected;
- Taking particular measures in response to an allegation that concerns a culturally diverse child or a child with a disability;
- Securing and retaining records of the allegation and the School's response to it.

Note: fulfilling the roles and responsibilities contained in the procedure does not displace or discharge any other obligations that arise if a person reasonably believes that a child is at risk of child abuse.

## **12.2 Documenting Observations and Actions**

All teaching staff, non-teaching staff, Board members, Volunteers, Third Party Contractors and External Education Providers must keep clear and comprehensive notes relating to incidents, disclosures and allegations of child abuse. This information may be sought at a later date if the matter is the subject of court proceedings. These notes may also assist later if the person taking the notes is required to provide evidence to support the decisions made regarding the handling of child protection incidents.

For more information about how to record observations, disclosures or allegations refer to the Child Protection Record Keeping section of this Program.

## **12.3 Preserving Evidence**

When an incident of suspected child abuse occurs at the School, consider all of the following:

- Environment: do not clean up the area and preserve the sites where the alleged incident occurred;
- Clothing: take steps to ensure that the person who has allegedly committed the abuse and the child who has allegedly been abused remain in their clothing. If this is not possible, ensure the clothes are not washed, handled as little as possible and stored in a sealed bag;
- Other physical items: ensure that items such as weapons, bedding and, condoms are untouched;
- Potential witnesses: reasonable precautions must be taken to prevent discussion of the incident between those involved in the alleged incident.

## **12.4 Managing the Initial Response to a Child Protection Incident**

### **12.4.1 Responding to an Emergency**

All teaching staff, non-teaching staff, Board members, Volunteers, Third Party Contractors and External Education Providers must act as soon as they witness a child protection incident or form a reasonable belief that a child has been or is at risk of being abused.

If a child is at immediate risk of harm the relevant person must ensure the child's safety by:

- Separating alleged victims and others involved;
- Administering first aid;
- Calling 000 for urgent medical assistance or Police assistance to address immediate health and safety concerns;
- Briefing the Senior Child Safety Officer to be the future liaison with the Police on the matter.

The following sections outline the ways that a person may become aware that a child may be experiencing abuse and strategies for managing each situation and supporting and assisting children involved in the disclosure or report.

### **Witnessing a Child Protection Incident**

#### **Observation of Risk Indicators**

#### **Private Disclosure by a Child**

#### **Public Disclosure by a Child**

#### **Third Party Disclosure**

#### **Disclosure by a Former Student**



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## Support Following Disclosure

### 12.4.2 Witnessing a Child Protection Incident

If a person witnesses an incident where they believe a child has been subject to abuse, they must take immediate action to protect the safety of the child or children involved.

Where there is an immediate risk to the health and/or safety of a child, follow the steps outlined in the Responding to an Emergency section of this Program.

The School's Procedures for Responding to and Reporting Allegations of Child Abuse should be followed after the health and safety of the child involved is ensured.

### 12.4.3 Observation of Risk Indicators

The different types of child abuse and their key risk indicators are set out in detail in the Definition and Key Risk Indicators of Abuse section of this program.

The process of identifying child abuse purely through observation of risk indicators can be complex and may occur over time. The complexity is magnified by the fact that many of the key risk indicators described may also occur as a result of other factors, not related to child abuse.

If the person involved forms a concern that a child may be being abused, they should make written notes of their observations recording both dates and times. The person should also report the matter internally to a School Child Safety Officer.

### 12.4.4 Private Disclosure by a Child

If a student discloses a situation of abuse or neglect privately, the person receiving this disclosure should stay calm and not display expressions of panic or shock.

The person receiving this disclosure should reassure and support the child. This can be done by:

- Stating clearly that the abuse is not the child's fault;
- Reassuring the child that the person believes them;
- Telling the child that disclosing the matter is the right thing to do.

The recipient of the disclosure should be patient and allow the child to talk at their own pace. When responding, use the child's language and vocabulary.

Sometimes a student may try to elicit a promise that the recipient of the disclosure will not tell anyone about the allegation. The person must not make this promise, as they are responsible for reporting the matter.

Finally, remember that the recipient of the disclosure's role is not to investigate the allegation. The child should not be interrogated and pressured to tell more than they want to.

Once a disclosure is made, the recipient of the disclosure must report the matter internally to a School Child Safety Officer as soon as possible. The person should also make written notes of the circumstances of the disclosure recording both dates and times.

Following a disclosure of abuse or neglect by a student, staff should follow the steps set out in the School's Support Following Disclosure policy.

### 12.4.5 Public Disclosure by a Child

Public disclosure occurs where a child is observed disclosing abuse to another child or group of children.



In this circumstance, the person hearing this disclosure should use a strategy of “protective interrupting”. The aim of “protective interrupting” is to prevent a child from disclosing details of abuse in front of other children, whilst at the same time providing the child with the opportunity to disclose later, in a safe and confidential manner.

This can be achieved by:

- Asking the child if the relevant person can talk privately;
- Moving the child away from the other students to a quiet space,

and then following the guidelines with respect to managing a private disclosure.

Following a disclosure of abuse or neglect by a student, staff should follow the steps set out in the School's Support Following Disclosure policy.

#### **12.4.6 Third Party Disclosure**

A third party such as a friend of the child, a relative or another parent/carer may provide you with information relating to child abuse.

In this situation, the recipient of the disclosure should:

- Listen to the person's concerns seeking clarification where required;
- Thank the person for raising their concern;
- Advise the person that the School has procedures for dealing with situations like this;
- Advise the person they you will discuss their concerns with the relevant authorities.

As with Private Disclosure, the relevant person should reassure and support the person providing the information.

Sometimes a person may try to elicit a promise from the person receiving the disclosure that they will not tell anyone about the allegation. The recipient of the disclosure must not make this promise, as they are responsible for reporting the matter.

Finally, remember that the recipient of the disclosure's role is not to investigate the allegation. The person should not interrogate the third party and pressure them to tell more than they want to.

Once a third-party disclosure is made, the recipient of the disclosure must report the matter internally to a School Child Safety Officer as soon as possible. The person should also make written notes of the circumstances of the disclosure recording both dates and times.

#### **12.4.7 Disclosure by a Former Student**

A former student of the School may come forward to disclose past abuse from their time at the School. If a person receives a disclosure from a former student about historical abuse, they must act.

If the former student is still of schooling age in Victoria and currently attending a Victorian school, the recipient of the disclosure must follow the Procedures for Responding to and Reporting Allegations of Child Abuse in this Program, specifically the obligations they may have under the following policies:

- Failure to Protect;
- the Obligation to Report a Sexual Offence (Failure to Disclose);
- Mandatory Reporting;
- Reportable Conduct;
- Conduct That is Reportable to the Victorian Institute of Teaching.

If the former student is no longer of schooling age or attending a school in Victoria, the recipient of the disclosure must still act. For example, if the disclosure includes an allegation against a current staff member or teacher at the



School this may trigger obligations under the School's Failure to Protect policy to remove the risk of abuse to other students.

#### **12.4.8 Support Following Disclosure**

All recipients of disclosures should take the following steps to support and assist a child after a disclosure of child abuse or neglect is made.

The range of measures employed will depend on:

- The degree of severity of the situation;
- The risk of harm to the child;
- The capability and willingness of the parent to protect the child from harm.

#### **12.4.9 After a disclosure is made:**

- Do not promise the child that no one will be told about the allegation;
- Reassure the child that it was the right thing to do to tell an adult;
- Tell the child what will happen next;
- Do not confront the person believed to be the perpetrator;
- Report the matter to one of the School's Child Safety Officers who will be able to assist the relevant person in developing additional support strategies;
- Whenever there are concerns that a child is in immediate danger the Police should be called on 000.

#### **12.4.10 Support for Staff and Volunteers**

Witnessing a child protection incident or receiving a disclosure or allegation of abuse can be a stressful experience for staff and Volunteers involved. The School provides support to impacted staff and Volunteers to access necessary support.

### **12.5 Reporting a Child Abuse Concern Internally**

Child abuse situations can be very complex, not only from the perspective of ascertaining whether abuse has occurred but also in understanding what steps to take to protect a child.

It is important to remember at all times that the safety and welfare of the child are paramount.

Therefore, if a person has a concern that a child may be experiencing abuse, whether or not they have formed a belief on reasonable grounds that the abuse has occurred, they should immediately raise their concerns with one of the School's Child Safety Officers. The School's Child Safety Officers will be able to assist the person in clarifying their concerns and managing the next steps.

Contact details for the School's Child Safety Officers, including for the School's Senior Child Safety Officer, are set out in section 1.

**Please note that reporting the matter internally does not release the person from other legal and regulatory reporting obligations that they may have under the following policies:**

- Obligation to Report Child Sex Abuse;
- Failure to Protect;
- Mandatory Reporting;
- Reportable Conduct.

**In addition, these reporting obligations apply even if the Principal, a member of the Board or a Child Safety Officer advises the person not to proceed with reporting suspected abuse.**

### **12.6 The Obligation to Report a Sexual Offence (Failure to Disclose) and Failure to Protect**

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### Failure to Disclose

A person commits an offence if:

- They are aged 18 years or over; and
- They have information that leads them to form a reasonable belief that a sexual offence has been committed in Victoria, against a child under the age of 16 years, by another person aged 18 years or over; and
- They fail to disclose the information to the Police as soon as practicable.

### Failure to Protect

A person commits an offence if:

- a) By reason of the position they occupy within or in relation to the School, they have the power or responsibility to reduce or remove a substantial risk that a relevant child (under the age of 16 who is, or may come under the care, supervision or authority of the School) will become the victim of a sexual offence committed by a person of or over the age of 18 years who is associated with the School; and
- b) They know that there is a substantial risk that the person will commit a sexual offence against a relevant child; and
- c) They negligently fail to reduce or remove that risk.

Details of these obligations are set out in the following sections:

#### **The Obligation to Report a Sexual Offence (Failure to Disclose)**

#### **Failure to Protect**

## **12.7 The Obligation to Report a Sexual Offence (Failure to Disclose)**

### **12.7.1 Source of Obligation**

Under the *Crimes Act 1958 (Vic)* (s 327), anyone aged 18 years or over must make a report to the Police if they form a reasonable belief that a sexual offence has been committed against a child under the age of 16 years, by a person aged 18 years or over. The person must disclose the information to the Police as soon as it is practicable to do so. Failure to make a report without reasonable excuse is an offence and carries a prison term.

If a report is made to the Department of Families, Fairness and Housing (Child Protection) in accordance with mandatory reporting requirements, an additional report to the Police will not usually be required unless further information is obtained.

This obligation applies to anyone aged 18 years or over, including all non-teaching staff, Volunteers, and students aged 18 and over. The legislation also applies to teaching staff if not already covered by the mandatory reporting obligation.

### **12.7.2 What Must Be Reported?**

The information that led the person aged 18 or over to form a reasonable belief that a sexual offence has been committed by an adult (a person aged 18 years or over) against a child under 16 must be reported to the Police.

### **12.7.3 What is a Sexual Offence?**

The Crimes Act sets out what constitutes a "sexual offence". This includes:

- Rape;
- Indecent assault;
- Incest;
- Sexual penetration;
- Grooming a child, or a person who has the care, supervision or authority of a child under 16, for sexual conduct with the child;
- Encouraging a child to engage in, or be involved in, sexual activity.

A "sexual offence" includes an attempted sexual offence.



#### 12.7.4 What is a Reasonable Belief?

A 'reasonable belief' is formed if a reasonable person in the same position would have formed the belief on the same grounds.

A 'reasonable belief' might be formed when:

- A child states that they have been sexually abused;
- A child states that they know someone who has been sexually abused (sometimes the child may be talking about themselves);
- Someone who knows the child states that the child has been sexually abused;
- Signs of sexual abuse lead to a belief that the child has been sexually abused.

#### How to make a report to the Police

To report to the Police that a child is in immediate risk of being sexually abused please call Triple Zero (000).

#### 12.7.5 Exceptions - Failure to Disclose

If a relevant person fails to disclose a sexual offence against a child to the Police, that person will not be held liable where your reason for not reporting is that:

- They fear on reasonable grounds for the safety of any person (other than the offender), and a failure to report is reasonable;
- The victim told the person about the sexual offence (directly or indirectly), the victim was over 16 years old when they told the person about the sexual offence, and the victim requested that the information not be disclosed (unless the victim has an intellectual disability and does not have the capacity to make an informed decision about this);
- They believe on reasonable grounds that the information has already been disclosed to the Police by another person (such as by Child Protection, in response to a Mandatory Report) and they have no further information.

Unacceptable reasons for not reporting include if the relevant person is concerned with the interests (including the reputation, legal liability or financial status) of:

- The person involved in the sexual offence;
- Any organisation (such as the School).

Making a report made under the *Children, Youth and Families Act 2005* (Vic) mandatory reporting obligations may constitute a 'reasonable excuse' if the relevant person believes that they have no further information to provide to the Police.

#### 12.7.6 Overseas Students

The School must notify the VRQA if the alleged sexual offence relates to an international student and the School has issued a Confirmation of Appropriate Accommodation and Welfare (**CAAW**) letter in relation to that student thereby assuming responsibility for approving the student's accommodation, support and general welfare.

#### 12.7.7 Record Keeping Obligations

For the School's record keeping obligations relating to child protection incidents, refer to Child Protection Record Keeping

### 12.8 Failure to Protect

#### 12.8.1 Source of Obligation

The School has a duty of care which requires the protection of all students from foreseeable risks while at school or engaging in School activities.



In addition, under section 490 of the *Crimes Act 1958* (Vic) (**Crimes Act**) a person commits an offence if:

- a) By reason of the position they occupy within or in relation to the School, they have the power or responsibility to reduce or remove a substantial risk that a relevant child (under the age of 16 who is, or may come under the care, supervision or authority of the School) will become the victim of a sexual offence committed by a person of or over the age of 18 years who is associated with the School; and They know that there is a substantial risk that the person will commit a sexual offence against a relevant child, and
- b) **They negligently fail to reduce or remove that risk.**

### 12.8.2 Who must act to protect?

The person responsible for taking steps to remove or reduce the risk to the student will depend upon their role at the School and the source of the risk. In a normal school context usually a member of the Senior Management Team would have the necessary degree of supervision, power and authority to remove or reduce the risk posed by another adult working at the School. However, on a day to day basis, and on tours, excursions, or camps, others at the School could have the requisite power and responsibility.

Examples of people who may have the power and responsibility, by reason of their position, to act could include:

- School Board members;
- Teachers;
- Volunteers where they are in a position of supervision, such as volunteer coaches.

### 12.8.3 When Should Action Be Taken?

The Failure to Protect offence means that any staff member, Volunteer or Third Party Contractor who has the requisite power or responsibility must act when they:

- **Know** that an adult associated with the School poses a **substantial risk** that a student or students may become the victim of a **sexual offence**. Action must be taken as soon as the risk becomes known.

*Knowledge* is more than holding a tentative belief or mere suspicion.

If a staff member, Volunteer or Third Party Contractor has a suspicion or belief that students are at risk of harm they must take steps to follow up on that suspicion or belief by investigating further and should raise the issue with a School Child Safety Officer.

The duty to act extends to situations where the students at risk or the person in authority is outside of Victoria.

### 12.8.4 What is a Substantial Risk?

A risk will be a substantial risk if a reasonable person would have judged the risk of a sexual offence being committed against the student as being substantial.

It is not necessary to prove that a sexual offence was committed in order for the substantial risk to exist i.e. a person in a position of authority should not wait for a student to be harmed before acting.

A number of factors will contribute to determining if a risk is a substantial risk, including:

- The likelihood or probability that a child will become the victim of a sexual offence;
- The nature of the relationship between a child and the adult who may pose a risk to the child;
- The background of the adult who may pose a risk to the child, including any past or alleged misconduct;
- Any vulnerabilities particular to a child which may increase the likelihood that they may become the victim of a sexual offence;
- Any other relevant fact which may indicate a substantial risk of a sexual offence being committed against a child.



#### 12.8.5 What is a Sexual Offence?

Action must be taken where there is a substantial risk of sexual offences occurring, including:

- Rape;
- Indecent assault;
- Incest;
- Sexual penetration;
- Grooming a child for sexual conduct;
- Encouraging a child, or person who has the care, supervision or authority of a child under 16, for sexual conduct with the child;
- Encouraging a child to engage in, or be involved in, sexual activity;
- An attempted sexual offence or an assault with intent to commit a sexual offence.

#### 12.8.6 Who is “a Person Associated with the School”?

A person associated with the School is an adult and can be a:

- School Board members;
- Principal;
- Teacher;
- Boarding house supervisor;
- Employee;
- Volunteer (including parent/carer, volunteers);
- Third Party Contractor.

A person will not be considered to be associated with the School purely because they receive services from the School. Therefore, students aged 18 or over, parents/guardians and other family members of students who are not staff members, Volunteers or Third Party Contractors are not associated with the School for the purposes of the Failure to Protect offence.

#### 12.8.7 Procedure to Reduce or Remove a Substantial Risk

Where any person in a position of authority at the time who has the requisite power or responsibility, becomes aware of a risk of a sexual offence against a student or students under their care, they should immediately:

- Take reasonable steps which would remove or reduce the risk to the student or students, which may include immediately removing the person from contact with the student or students;
- Report the matter to a School Child Safety Officer, and the Principal, as soon as practicable;
- Conduct an investigation unless this relates to a Mandatory Reporting situation;
- Make the appropriate report.

Appropriate action to be taken may include, for example:

- A current employee who is known to pose a risk to a student or students should be immediately removed from contact with students and reported to authorities and investigated;
- A parent who is known to pose a risk of sexual abuse to children in a school should not be allowed to attend overnight school camps as a parent helper.

**Whenever there are concerns that a child is in immediate danger call the Police on 000.**

#### 12.8.8 Record Keeping Obligations

For the School’s record keeping obligations relating to child protection incidents, refer to Child Protection Record Keeping



## 12.9 Mandatory Reporting

### 12.9.1 Source of Obligation

The *Children, Youth and Families Act 2005* (Vic) (**CYFA**) (section 184) requires Mandatory Reporters to make a report to the Department of Families, Fairness and Housing (Child Protection) when they believe that a child (aged under 17) is in need of protection from significant harm from physical injury or sexual abuse.

If Mandatory Reporters make a report in accordance with their Mandatory Reporting obligations under CYFA, an additional report to the Police under *327 Crimes Act 1958* (Vic) may not be required unless the relevant person has further information.

This policy must be read in conjunction with the Child Abuse Key Risk Indicators, and The Obligation to Report a Sexual Offence (Failure to Disclose).

### 12.9.2 Who Must Make a Mandatory Report?

Mandatory reporters are defined by the CYFA in section 182, and include:

- Registered teachers and early childhood teachers;  
School Principals;
- Registered medical practitioners;
- Nurses;
- Midwives;
- Registered psychologists;
- Police Officers;
- School counsellors;
- Early childhood workers;
- Out of home care workers (excluding voluntary foster and kinship carers);
- Youth justice workers;
- Persons in religious ministry.

It is the responsibility of other staff, Volunteers or members of the School community to check whether they are Mandatory Reporters under child protection legislation.

### 12.9.3 Reporting by Non-Mandated Staff

If the relevant person is not a Mandatory Reporter, they still have the option of making a report to Child Protection under the CYFA if they believe on reasonable grounds that a child is in need of protection.

The CYFA states that any person who believes on reasonable grounds that a child is at risk of harm should report their concerns to Child Protection.

All School staff who have concerns that a student may be in need of protection or may have been the victim of a sexual offence, should notify a School Child Safety Officer as soon as possible to discuss their concerns. Also refer to The Obligation to Report a Sexual Offence (Failure to Disclose).

### 12.9.4 What Gives Rise to a Mandatory Report?

A mandatory report must be made when the relevant person forms a belief on reasonable grounds that a child is in need of protection where the child has suffered, or is likely to suffer, significant harm as a result of:

- **Physical injury; or**
- **Sexual abuse;**

and the child's parents have not protected, or are unlikely to protect, the child from harm of that type.

### 12.9.5 Reasonable Grounds



The concept of 'reasonable grounds' requires the relevant person to consider whether another person, when faced with similar information, would also draw the same conclusion. It does not mean reporters are required to be certain, but rather reporters should ensure their concerns are well founded and based on information from a reliable source. There may be reasonable grounds for forming such a belief if:

- A child states they have been physically or sexually abused;
- A child states that they know someone who has been physically or sexually abused;
- Someone who knows the child states that the child has been physically or sexually abused;
- A child shows signs of being physically or sexually abused;
- The staff member is aware of persistent family violence or parental substance misuse, psychiatric illness or intellectual disability that is impacting on a child's safety, stability or development;
- The staff member observes signs of abuse, including non-accidental or unexplained injury, persistent neglect, poor care or lack of appropriate supervision;
- A child's actions or behaviour may place them at risk of significant harm and the child's parents are unwilling or unable to protect the child.

#### **12.9.6 Significant**

'Significant' means that which is sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent.

What is 'significant' is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child's safety, welfare or wellbeing.

Significant harm can result from a single act or omission or an accumulation of these.

#### **12.9.7 Physical Injury or Sexual Abuse**

To assist in identifying physical injury or sexual abuse, refer to the School's information relating to Definition and Key Risk Indicators of Abuse.

#### **12.9.8 Parents Have Not Protected, or Are Unlikely to Protect, the Child from Harm of That Type**

The meaning of this phrase is not defined by legislation, but some examples may assist.

A parent who 'has not protected or is unlikely to protect that child from harm of that type' includes a parent who wants to protect his or her child from harm but lacks the means to.

It also includes a parent who has the means to protect his or her child from harm but does not want to.

A parent may be rendered 'unlikely to protect' that child for many reasons. For example:

- That parent does not, or refuses to recognise that harm is occurring;
- That parent or child may be subject to domestic violence;
- That parent's partner may be abusive or harmful to the child.

'Parent' includes:

- The child's father;
- The child's mother;
- The spouse of the mother or father of the child;
- The domestic partner of the father or mother of the child;
- A person who has custody of the child;
- A person who is named as the father on the child's birth certificate;
- A person who acknowledges that he is the father of the child by an instrument under the *Status of Children Act 1974* (Vic);



- A person in respect of whom a court has made a declaration or a finding or order that the person is the father of the child.

#### 12.9.9 What to Report and When

A report becomes mandatory as soon as is practicable after forming the belief.

A report must include details of the belief, and the reasonable grounds of that belief.

Additional reports must be made on each occasion where the relevant person becomes aware of any further reasonable grounds for the belief.

Refer to the Victorian Department of Education's Guide to Making a Report to Child Protection or Child FIRST (Child and Family Information, Referral and Support Team) for guidance on making a decision on whether to report.

**A Mandatory Reporter must still make a report if:**

- **The Mandatory Reporter has discussed the matter with a Child Safety Officer or the Principal and the Child Safety Officer or the Principal does not share the Mandatory Reporter's belief that a report must be made;**
- **Another Mandatory Reporter, such as a Child Safety Officer or the Principal has undertaken to make the report but has not done so (for more information, refer to Making Additional Reports).**

#### 12.9.10 How is a Report/Referral Made?

Whenever there are concerns that a child is in immediate danger the Police should be called on 000.

A report to Child Protection should be considered if the staff member forms the view the child is in need of protection because:

- The harm or risk of harm has a serious impact on the child's immediate safety, stability or development;
- The harm or risk of harm is persistent and entrenched and is likely to have a serious impact on the child's safety, stability and development;
- The child's parents cannot or will not protect the child from harm.

To report concerns about the immediate safety of a child within their family unit, call the 24-hour Child Protection Crisis Line 13 12 78.

Concerns that require immediate attention should be made to the local or regional Human Services Child Protection office, or the After Hours Child Protection Emergency Services on 13 12 78.

#### 12.9.11 What If I Don't Have a Reasonable Belief?

If the relevant person does not have a reasonable belief about a child, but still has concerns, they can refer the matter to a School Child Protection Officer.

There is also the option to refer the matter to Child FIRST.

A referral to Child FIRST should be considered if a staff member forms the view that the concerns have a low-to-moderate impact on the child and the immediate safety of the child is not compromised.

A referral can be made when the following factors may affect a child:

- Significant parenting problems;
- Family conflict;
- A family member's physical or mental illness, substance abuse, disability or bereavement;
- Isolated or unsupported families;
- Significant social or economic disadvantage.

For more information, refer to Responding to Other Concerns About the Wellbeing of a Child.



### 12.9.12 What Happens After a Report/Referral is Made?

After receiving a report, Child Protection may seek further information, usually from professionals who may also be involved with the child or family, to determine whether further action is required. In most cases, Child Protection will inform the reporter of the outcome of the report.

After receiving a referral, Child FIRST may consult an experienced community-based Child Protection practitioner in their assessment. The assessment may lead to the involvement of a local family services organisation.

In most cases, Child FIRST will inform the referrer of the outcome of the referral.

Child FIRST must report the matter to Child Protection if they form the view the child is in need of protection. Reports made to the Police will be dealt with in accordance with Police practice.

### 12.9.13 Overseas Students

The School must notify the VRQA if the alleged abuse relates to an overseas student and the School has issued a Confirmation of Appropriate Accommodation and Welfare (**CAAW**) letter in relation to that student thereby assuming responsibility for approving the student's accommodation, support and general welfare.

### 12.9.14 Record Keeping Obligations

For the School's record keeping obligations relating to child protection incidents, refer to Child Protection Record Keeping.

## 12.10 Reportable Conduct

### 12.10.1 Source of Obligation

- 1.1.1 The *Child Wellbeing and Safety Act 2005* (Vic) (**the Act**) requires School to investigate and report to the Commission for Children and Young People (**CCYP**) allegations of 'employee' reportable conduct or misconduct that may involve reportable conduct.
- 2.1.1 The School has developed the following Policy which sets out our systems for enabling persons to report reportable conduct and for such reports to be investigated and responded to. This policy is made available to all staff, Volunteers, Third Party Contractors, members of the Board, parents/carers and students via our public website and staff intranet
- 3.1.1 The CCYP's website provides additional guidance and materials which assist the School to understand and meet their obligations under the Act.

### 12.10.2 Who is an Employee?

Section 3 of the Act defines "employee" as a person aged 18 years or over who is:

- Employed by the School whether or not that person is employed in connection with any work or activities of the School that relate to children; or
- Engaged by the School to provide services, including as a volunteer, contractor, office holder or officer, whether or not the person provides services to children.

A minister or religion or a religious leader is also an employee.

Of relevance to the School, the following people are considered to be employees:

- School Board Members;
- The Principal;
- Staff members;
- Volunteers;



- Third Party Contractors;
- External Education Providers.

For the purposes of this policy, all of the above are referred to collectively as "staff" or "staff members".

### 12.10.3 What is Reportable Conduct?

Reportable conduct is defined in the Act to mean:

- A sexual offence committed against, with or in the presence of, a child, whether or not a criminal proceeding in relation to the offence has been commenced or concluded;
- Sexual misconduct committed against, with or in the presence of, a child;
- Physical violence committed against, with or in the presence of, a child;
- Any behaviour that causes significant emotional or psychological harm to a child; or
- Significant neglect of a child.

"Sexual misconduct" includes:

- Behaviour, physical contact or speech or other communication of a sexual nature, for example 'sexting';
- Inappropriate touching or physical contact;
- Grooming behaviour;
- Voyeurism.

"Sexual offence" for the purposes of the Reportable Conduct Scheme means a serious sexual offence as set out in clause 1 of Schedule 1 of the *Sentencing Act 1991* (Vic), which includes rape, attempted rape, sexual assault, incest, indecent act with a child, persistent sexual abuse of a child, grooming and the production or possession of child pornography.

"Significant" means in relation to emotional or psychological harm or neglect, that the harm is more than trivial or insignificant, but need not be as high as serious and need not have a lasting permanent effect.

The CCYP has provided guidance on how to identify physical violence, behaviours that causes emotional or psychological harm to a child and neglect.

**Physical violence** includes an act that causes physical injury or pain. Examples of physical violence can include:

- Hitting/kicking/punching;
- Pushing/shoving/grabbing/throwing/shaking;
- Using an object to hit or strike;
- Using inappropriate restraint/excessive force.

Physical violence does not include:

- Reasonable steps taken to protect a child from immediate harm, such as taking a child's arm to stop them from going into oncoming traffic; or
- Medical treatment given in good faith by an appropriately qualified person, such as a first aid officer administering first aid.

**Behaviour that causes emotional or psychological harm to a child** requires a clear link between the alleged conduct and the significant harm suffered (significant is defined above).

Signs that a child may have been emotionally or psychologically harmed may include:

- Patterns of out-of-character behaviour;
- Regression in behaviour;
- Distress and anxious behaviours;
- Other physical symptoms, such as self-harm.



The exacerbation or aggravation of an existing mental health disorder may also cause emotional or psychological harm.

Examples of emotional or psychological harm may include:

- Exposure to violence or threats of violence;
- Self-destructive behaviour;
- Antisocial behaviour;
- Persistent hostility/rejection;
- Humiliation/belittling;
- Scapegoating.

It will not be reportable conduct if:

- A person takes reasonable steps to protect a child from immediate harm;
- A person with responsibility for discipline takes lawful and reasonable disciplinary action, such as sending a child to sit in 'time out' for a period of time (refer to Student Discipline Policy);
- An appropriately qualified person gives medical treatment in good faith such as a first aid officer administering first aid.

**Neglect** occurs when a person does not meet their obligations and responsibilities to keep a child safe and well. The neglect:

- Must be more than minor and insignificant;
- Does not need to have a lasting or permanent effect;
- May be an ongoing situation or a one off incident, as long as it is not minor in nature.

Refer to **Definition and Key Risk Indicators of Abuse** or more information about sexual offences, grooming, physical violence, emotional or psychological harm and neglect.

The School's **Child Safe Code of Conduct** outlines expected standards of behaviour for all staff, Volunteers and Third Party Contractors at the School. It is important to note that a breach of this Code will not always constitute an incident of reportable conduct. Such breaches can often be dealt with at the School level and don't need to be reported to the CCYP. For example, reasonable discipline of a student would not amount to behaviour that causes emotional or psychological harm to a child and therefore is not reportable conduct.

#### 12.10.4 What Must Be Notified to the CCYP?

Under the Act, the School must notify the CCYP of a reportable allegation against a staff member.

Reportable allegation is defined in the Act to mean any information that leads a person to form a reasonable belief that a Staff Member has committed:

- Reportable conduct; or
- Misconduct that may involve reportable conduct – whether or not the conduct/misconduct is alleged to have occurred in the course of the person's employment at the School.

Guidance from the CCYP states that reasonable belief is more than a suspicion. There must be some objective basis for the belief. However, it is not the same as proof and does not require certainty.

#### 12.10.5 Who Must Make the Notification?

Any person may disclose a reportable allegation to the CCYP by using an online form available from the CCYP's website, by phone or by letter (section 16L of the Act).



While any person may disclose a reportable allegation, the Head of the School to which the reportable conduct scheme applies must notify the CCYP of a reportable allegation (section 16M).

The “head” for the purpose of the reportable conduct scheme is defined under section 3(1) of the Act as:

- The chief executive officer of the entity (however described); or
- If there is no chief executive officer, the principal officer of the entity (however described); or
- If there is no chief executive officer or principal officer, a person, or the holder of the position in the entity nominated by the entity and approved by the CCYP.

At the School, the “head” for the purpose of the reportable conduct scheme is the Principal.

The “head” of the School has distinct responsibilities under the Reportable Conduct Scheme.

It is a criminal offence for the Principal to fail to disclose a reportable allegation to the CCYP without a reasonable excuse. The Act doesn’t define what a reasonable excuse may be but section 16M(5) provides an exemption if they honestly and reasonably believed that another person had notified the CCYP.

The “head” of the School must notify the CCYP using an online form available from the CCYP’s website.

In practice, the Head is the person who is primarily responsible for the School’s compliance with the reportable conduct obligations under the Act. Guidance from the DHHS states that a school Principal may be a Head.

At the School, the Head is the Principal.

#### **12.10.6 Principal and Delegation**

The Principal is responsible for ensuring the School complies with the reportable conduct obligations under the Act. However, the CCYP does not expect the Principal to practically carry out their responsibilities alone. They may seek help from other people within the School. This may include creating and developing systems, sending approved notifications to the CCYP, or conducting investigations on the behalf of the Principal.

The Principal cannot delegate their responsibilities under the Act – they are still solely responsible for ensuring the School’s compliance with the Reportable Conduct Scheme.

The Principal has authorised the Deputy Principal to carry out physical or practical tasks such as making notifications to the CCYP, or liaising with the CCYP, when the Principal is unavailable.

#### **12.10.7 Reportable Conduct and Other Reporting Obligations**

The Reportable Conduct obligation covered in this policy is separate and distinct from the:

- Mandatory Reporting obligation under the *Children, Youth and Families Act 2005* (Vic);
- Obligation to Report a Sexual Offence (Failure to Disclose) obligation under the *Crimes Act 1958* (Vic); a
- Conduct that is Reportable to the Victorian Institute of Teaching under the *Education and Training Reform Act 2006* (Vic).

The threshold for reporting allegations of reportable conduct is much lower than these other reporting obligations.

Any allegations of criminal conduct, including physical violence, significant emotional or psychological abuse, sexual offences and significant neglect must be reported to the Victorian Police as the first priority. A Police investigation will take priority over any investigation conducted by the School under this policy.



### 12.10.8 Internal Reporting of Reportable Allegations

As soon as a person, including a staff member, forms a reasonable belief that a staff member at the School has engaged in reportable conduct or misconduct that may involve reportable conduct (the reportable allegation), the person must notify the Principal.

Where the reportable allegation involves the Principal, the staff member must notify the Child Safety Officer who must then notify the Deputy Principal or the CCYP.

The internal report may be made verbally or in written form using the Responding to Suspected Child Abuse Template available.

This Template was created for reporting abuse, rather than reportable conduct but it is an excellent way to record as much information about the reportable allegations as is available.

Where a verbal report is made by a staff member, it should be followed up with a written report provided to the Principal within 48 hours of the verbal report.

Where a staff member has a reasonable belief that the Principal has engaged in reportable conduct, verbal and written reports should be given to the Deputy Principal or the CCYP directly using an online form available from the CCYP's website, by phone or by letter.

### 12.10.9 Reporting to the CCYP

When the "head" of the School (or other authorised person under this policy) receives a reportable allegation from any person, including a staff member, they must notify the CCYP within three business days.

Where the reportable allegation involves the Principal, the person must notify the Deputy Principal who will become the 'Head of the School' for the purposes of reporting the reportable allegation to the CCYP.

#### **There are two stages of reporting.**

The CCYP must be notified by the Principal in writing of:

- The reportable allegation as soon as possible, and in any event within three business days of the "head of the School" (or other authorised person under this policy) being notified of the reportable allegation (Stage One Report);
- The proposed next course of action (see below), as soon as practicable, and within 30 days of becoming aware of the reportable allegation (Stage Two Report).

### 12.10.10 Stage One Report

The report to the CCYP must state:

- That a reportable allegation has been made against a staff member;
- The name (including any former name and alias, if known) and date of birth, if known, of the staff member;
- Whether the Victoria Police has been contacted about the reportable allegation;
- The name, address and telephone number of the School;
- The name of the Principal.

An online form available on the CCYP's website must be used for the Stage One Report.

If the staff member is a registered teacher and the misconduct involves a charge, conviction or finding of guilt of a sexual offence, the School must immediately notify the Victorian Institute of Teaching (VIT) under the School's **Conduct that is Reportable to the Victorian Institute of Teaching policy**. The timing of making a Stage One Report to the Commission under this policy will coincide with the timing of a report made to the VIT.

### 12.10.11 Stage Two Report



The report to the CCYP must state:

- Detailed information about the reportable allegation;
- Whether or not the School proposes to take any disciplinary or other action in relation to the staff member and the reasons why it intends to take, or not to take, that action;
- Any written submissions made to the Principal (or other authorised person under this policy) concerning the reportable allegation that a staff member wished to have considered in determining what, if any disciplinary or other action should be taken in relation to the staff member.

**Any allegation of criminal conduct, including physical violence, significant emotional or psychological abuse, sexual offences or significant neglect, must be reported to the Victorian Police. A Police investigation will take priority over any investigation conducted by the School under this policy.**

#### 12.10.12 What Happens After a Report to the CCYP is Made?

After the Principal or the Deputy Principal has made a report to the CCYP, they must ensure that an appropriate investigation of the reportable allegation is conducted.

The investigation can be conducted by the Principal or the Deputy Principal (if authorised by the Principal) or the allegation involves the Principal. Alternatively, the School can appoint a regulator (for example the VIT) or an independent investigator. A regulator engaged by the School for the purposes of an investigation may also appoint an independent investigator.

The Principal or the Deputy Principal must notify the CCYP of who will be conducting the investigation.

The investigation must be conducted in accordance with the rules of procedural fairness and natural justice. For example, the investigation should be conducted without bias and the person against whom the allegation is made should be given the right to respond. Refer to the CCYP's Information Sheet 4 Investigation overview for more information on what to consider when conducting an investigation.

A Police investigation into any matter takes priority over an investigation by the School. On becoming aware that the Police are investigating a reportable allegation:

- The Principal should consult with the Police before commencing an investigation to find out if the Police are, or will be, conducting an investigation;
- The School's investigation should be put on hold until the Police investigation is complete.

The Principal or Deputy Principal must give the CCYP:

- A copy of the findings of the investigation and the reasons for those findings;
- Details of any disciplinary or other action that the Principal (or Chair) proposes to take in relation to the staff member and the reasons for that action;
- If the School does not propose to take any disciplinary or other action in relation to the staff member, the reasons why no action is to be taken.

Under the Act, a staff member may seek a review by the CCYP of a finding made at the conclusion of an investigation.

#### 12.10.13 Information Sharing: Children and Parents/Guardians

Under the Act, the Principal or Deputy Principal (if authorised by the Deputy Principal) may disclose:

- Information about the progress of the investigation;
- The findings, reasons for the findings and the recommendations made at the conclusion of the investigation;
- An action taken in response to those findings;

to:

- The child who is the subject of the reporting allegation;



- A parent
- A guardian;
- Child Protection if the child is under its care.

#### 12.10.14 Information Sharing: Schools, the CCYP and Others

Under the Act, the Principal or Deputy Principal (if authorised by the Principal) may disclose information in relation to:

- A reportable allegation;
- A concern that reportable conduct has been committed;
- The investigation of a reportable allegation or concern about reportable conduct;
- The findings of an investigation and the reasons or recommendations made at the conclusion of the investigation;
- Any action taken in response to those findings;

to:

- The CCYP;
- The head of another entity governed by the Act, such as another school;
- A regulator;
- The Chief Commissioner of Police;
- If necessary for the purposes of an investigation, an independent investigator;
- If necessary for the purposes of a Working with Children Check, the Secretary to the Department of Justice and Regulation;
- A relevant Minister;
- A prescribed body under the Act.

#### 12.10.15 Publication of Information

The School must not publish information that would enable the identification of:

- A person or who notified the CCYP;
- A child in relation to whom a reportable allegation was made or a finding of reportable conduct was made.

The Act provides more information on the meaning of 'publish', which includes making the information publicly available in writing or email.

#### 12.10.16 Powers of the CCYP

The CCYP has broad powers under the Act in relation to investigating a reportable allegation at the School. The CCYP may visit the School, inspect documents and interview staff or students involved in the reportable allegation.

The School must assist the CCYP in all reasonable aspects of its investigation.

#### 12.10.17 Record Keeping

The School maintains records of these reportable allegations, written reports and reportable conduct investigation findings indefinitely.

Records relating to a child protection incident are only disposed of in accordance with our Records Management Policy.

## 13 Student Sexual Offending

All staff, Volunteers, Third Party Contractors and External Education Providers must take action if they suspect, or are witness to, student sexual offending.



The Four Critical Actions for Schools: Responding to Student Sexual Offending must be applied in any circumstance where there is an incident, allegation, or you form a suspicion that, a student is victim to a student sexual offence and/or a student has committed a sexual offence.

This includes suspected sexual offending that may have taken place outside of School grounds and hours.

### **13.1 What is student sexual offending?**

Student sexual offending refers to sexual behaviour by a student at the School, over 10 years of age, which amounts to a sexual offence. Sexual offences are defined in the *Crimes Act 1958* (Vic) and include:

- Rape
- Sexual assault
- Indecent acts
- Other unwanted sexualised touching.

### **13.2 Sexual Behaviour in Children under 10 Years of Age**

Under the Crimes Act children under the 10 years of age cannot commit a sexual offence, however children under 10 may display problem sexual behaviour. This is behaviour that is developmentally inappropriate and/or aggressive sexual behaviour and includes self-focused sexual behaviour. Such behaviour may include:

- Frequent, repeated sexual behaviour, for example compulsive masturbation
- Sexual behaviour between children who do not know each other well
- High-frequency occurrences of sexual behaviour that interfere with normal childhood activities
- Sexual behaviour associated with emotional distress
- Sexual behaviour between children of different ages and development levels
- Aggressive, forced and/or coerced interaction between children
- Behaviour that does not stop once the child is told to stop, or occurs in secrecy
- Behaviour that causes harm to the child or other children.

If the relevant person suspects that a student under 10 years of age has engaged in concerning sexual behaviour, notify the Principal who will advise the parents/guardians of the child. The School will work with the parents/guardians to ensure that the child is aware that their behaviour is not appropriate in a school environment.

In the event of very concerning sexual behaviour advice should be sought from Child Protection on 131 278.

For any students affected by concerning sexual behaviour, the School will develop a Student Support Plan and offer School-based support or refer the student to appropriate external support services.

### **13.3 Responding to Incidents of Student Sexual Offending**

There are four main ways to become aware of student sexual offending:

- Witnessing an incident
- Forming a suspicion through observing risk indicators
- Receiving a disclosure from or about a current student
- Receiving a disclosure from or about a former student

For more information about how to respond in the first instance refer to Managing Your Initial Response to a Child Protection Incident.

When the relevant person becomes aware of, or suspect, student sexual offending, or that a student is at risk of perpetrating or suffering student sexual offending, the relevant person must follow the Four Critical Actions for Schools: Responding to Student Sexual Offending:

1. Responding to an Emergency



2. Reporting to Authorities
3. Contacting Parents/Carers
4. Providing Ongoing Support

### **13.3.1 Action 1: Responding to an Emergency**

As soon as the relevant person becomes aware of student sexual offending, the relevant person must take steps to protect all affected students, including:

Separating the alleged victim and others involved, ensuring all affected students are supervised by a staff member

Arranging and providing any necessary urgent medical care by either administering first aid or calling 000 for an ambulance

Calling 000 for urgent Police assistance if the alleged student offender poses an immediate health or safety risk to any person at the School

Taking reasonable steps to preserve the environment, clothing, other items or potential witnesses until the Police arrive.

The relevant person must record all immediate action taken in the Student Sexual Offending Record Keeping Template available in the Child Protection Record Keeping section of this Program.

### **13.3.2 Action 2: Reporting to Authorities**

#### **Report to Victoria Police**

After the immediate health and safety of all students involved has been addressed, the relevant person must report incidents, allegations, disclosures and suspicions of student sexual offending to Victoria Police on 000.

#### **Report to Child Protection**

Additionally, the relevant person must report the incident to Child Protection if the relevant person reasonably believes that:

The victim's parents/guardians are unable to protect the child

The student who is alleged to have engaged in student sexual offending is:

Over 10 and under 15 years of age and may be in need of therapeutic treatment (see below) to address their sexually abusive behaviours

Displaying physical and behavioural indicators which lead you to reasonably believe that they may have been a victim of abuse, neglect or grooming.

When reporting to Child Protection, the relevant person must identify a contact person at the School for future liaison with Child Protection about the incident. This can be the Principal or the Senior Child Safety Officer for example. Additionally, the relevant person should seek advice from Child Protection about contacting parents/guardians.

#### **Report to the Principal and/or the Senior Management Team**

Following any incident, allegation, disclosure or suspicion of student sexual offending the relevant person must report the matter to the Principal and/or to the Senior Management Team. When reporting to the Principal and/or the Senior Management Team include:

The details of the suspected student sexual offending, including the names of those involved



Any immediate actions taken to protect the safety of the students involved

The relevant person's report to Victoria Police and/or Child Protection

Possible steps that can be taken to contact parents/guardians to support the students impacted by the incident, where appropriate.

If the relevant person has notified the Principal before making an external report to Victoria Police or Child Protection, and they advise the relevant person not to make an external report, the relevant person must disregard this advice if they have formed a reasonable belief that student sexual offending has occurred, and the relevant person must make a report to the Police and, where appropriate, Child Protection.

A failure to report student sexual offending may amount to a criminal offence under the Obligation to Report a Sexual Offence (Failure to Disclose).

If the relevant person decides not to report externally, the relevant person must record the reasons for this decision in the Student Sexual Offending Record Keeping Template available in the Child Protection Record Keeping section of this Program.

The Principal has additional responsibilities in coordinating the School's response to the incident. Refer to the Principal's Checklist developed by Child Protection.

### **Overseas Students**

If the student sexual offending relates to an overseas student, and the School has issued a Confirmation of Appropriate Accommodation and Welfare (CAAW) letter in relation to the student, you will be required to make an additional report to the VRQA on (03) 9637 2806 or via email at [vrqa.schools@edumail.vic.gov.au](mailto:vrqa.schools@edumail.vic.gov.au).

### **Child in Need of Therapeutic Treatment**

Any person may report concerns to Child Protection about a child's (aged over 10 years and under 15 years) sexually abusive behaviour. Child Protection may then make an application to the Children's Court for a therapeutic treatment order if it assesses that the child is in need of therapeutic treatment, and the child, or the child's parents/guardians, are unable or unwilling to access treatment.

Note that reporting to Child Protection in relation to a child in need of therapeutic treatment does not replace the relevant person's requirement to report student sexual offending to Victoria Police. All instances of student sexual offending must be reported to the Police.

### **Making Additional Reports**

Every report is critical to protecting a child by building evidence and providing more information to authorities. Therefore, the relevant person must make a new report in any circumstances where the relevant person becomes aware of any further incidents, allegations, disclosures, or form a new suspicion, of student sexual offending.

Even where Child Protection or Victoria Police have been involved or notified regarding the same incident, the relevant person must report all new information.

The relevant person's reporting obligations are separate from others' obligations, so even where the relevant person thinks that another person at the School might make a report about an incident based on their own information, the relevant person too must report their suspicion or knowledge of student sexual offending. It's important to remember that others may not have the specific detail that the relevant person has regarding the incident.

Where the relevant person and another staff member have formed a reasonable belief of student sexual offending involving the same child, based on the same events or information, the relevant person can discuss who is best placed



to report the matter to Victoria Police or Child Protection, however the non-reporter must ensure that the report has been made.

### **Reporting Student Sexual Offending and Other Reporting Obligations**

The obligation for staff, Volunteers, Third Party Contractors and External Education Providers to report student sexual offending to Victoria Police and, where appropriate, Child Protection is separate and distinct from other legal reporting obligations.

However, there are times when more than one reporting obligation will apply.

For example, an incident of student sexual offending may give rise to the obligation to report to Victoria Police under these student sexual offending requirements, the Mandatory Reporting scheme and the Obligation to Report a Sexual Offence (Failure to Disclose).

The offence of Failure to Protect a child from a substantial risk of becoming a victim of a sexual offence committed by an adult associated with the School does not apply to student sexual offending, unless you form a reasonable belief that an adult associated with the School may have also engaged in the offence.

#### **13.3.3 Action 3: Contacting Parents/Guardians**

Following an incident, allegation, disclosure or suspicion of student sexual offending, communicating with the parents/guardians of students involved is critical.

However, it is equally important that before contacting parents/guardians, advice is sought from Victoria Police and/or Child Protection to ensure that communication is the correct decision and also to confirm what should be communicated.

Sometimes communication with parents/guardians is not appropriate because:

- A disclosure to the parent/guardians may subject the child to abuse
- The student is an adult (aged 18 years or over) and has requested that their parent/guardian not be notified
- The student is a mature minor (assessed to be sufficiently mature and intelligent to make such decisions on their own behalf) and has requested that their parent/guardian not be notified (in these circumstances it is preferable that the child nominate another responsible adult to be contacted)
- Contacting the parents/guardian is likely to adversely affect a Victoria Police or Child Protection investigation of the student sexual offending.

If the Police or Child Protection have advised that it is appropriate to contact the parents/guardians, remember to:

- Remain calm, be empathetic, and acknowledge their concerns
- Provide appropriate details of the incident of student sexual offending
- Outline the action the School has taken to date, including who the incident has been reported to
- Provide the name and contact number of the Police officer or Child Protection worker who is investigating the matter
- Provide information on whether they are likely to be contacted by the Police or Child Protection
- Inform them that the investigation may take some time and ask what further information or assistance the School can provide
- Assure them that the School's wellbeing staff can provide support to the student.

All communication with parents/guardians must be recorded using the Student Sexual Offending Record Keeping Template available in the Child Protection Record Keeping section of this Program.



### **13.3.4 Action 4: Providing Ongoing Support**

Instances of student sexual offending can cause trauma and significantly impact on the mental health and wellbeing of students involved, and School community members.

In addition to reporting incidents of student sexual offending, and communication with parents/guardians, the School must provide ongoing support to students, staff, Volunteers and other members of the School community affected by the incident.

Support for affected students (including victims of the offending, or those who engaged in the offending) can include direct support from wellbeing professionals including the School Wellbeing Team, referral to external wellbeing professionals, support during any Police or Child Protection interviews with the student, and should also include the development of a Student Support Plan.

Where appropriate, this ongoing support should be provided in partnership with affected students' parents/guardians.

Whilst a child's background should not impact on a decision to report alleged or suspected abuse, neglect or grooming, the relevant person should be sensitive to a child's individual circumstances when providing support and working with parents/guardians impacted by abuse. Before creating a Student Support Plan, special consideration needs to be taken for students who:

- Have a disability
- Identify as Aboriginal or Torres Strait Islander
- Are from culturally or linguistically diverse (CALD) backgrounds
- Have refugee backgrounds
- Are overseas students.

Support must also be provided to staff and Volunteers impacted by student sexual offending. Staff and Volunteers can contact Independent Schools Victoria on (03) 9825 7200 for more information about wellbeing support.

The relevant person must record the planned actions to be taken to support all students involved in the student sexual offending using the Student Sexual Offending Record Keeping Template available in the Child Protection Record Keeping section of this Program.

## **13.4 Responding to Other Concerns About the Wellbeing of a Child**

If a person has any concern about the wellbeing of a child or young person, regardless of whether or not it has been caused by abuse or neglect, their concern should be taken seriously and acted upon.

The School and its teaching staff, non-teaching staff, Board members, Principal, Volunteers, Third Party Contractors and External Education Providers (together, known as "staff" for the purposes of this policy only) owe a duty of care to all students at the School to ensure that they feel safe and are supported at School.

Concerns about the wellbeing of a child, that do not appear to be the result of abuse or neglect, may be reported to:

- Child FIRST;
- The Victorian Police.

Child Protection should also be contacted if the relevant person believes a child is in need of protection.

### **13.4.1 Child FIRST**

Child FIRST is a community-based referral point to Family Services in Victoria. In addition to reporting suspected abuse to the appropriate authorities in accordance with the School's Procedures for Responding to and Reporting Allegations of Child Abuse, all staff should make a referral to Child FIRST if:

- They have significant concern for a child's wellbeing;



- Their concerns have a low-to-moderate impact on the child;
- The child's immediate safety is not compromised;
- They, or the School, have discussed the referral with the child's family and they are supportive of it.

Examples of concerns that staff should refer to Child FIRST include instances where a child's care or development is significantly impacted by:

- Parenting problems;
- Family conflict or breakdown;
- Pressure due to a family member's physical/mental illness;
- Significant social or economic disadvantage.

#### **13.4.2 Victoria Police**

In addition to reporting suspected abuse to the appropriate authorities in accordance with the School's Procedures for Responding to and Reporting Allegations of Child Abuse, all staff must contact Victoria Police on 000 if:

- A child's immediate safety is compromised;
- A child is partaking in any risk taking activity that is illegal or extreme in nature or poses a high risk to the child.

#### **13.4.3 Child Protection**

In addition to reporting suspected abuse to Child FIRST or the Police, the appropriate authorities in accordance with the School's Procedures for Responding to and Reporting Allegations of Child Abuse, all staff should contact Child Protection if they believe a child is in need of protection.

Common grounds for protection include instances where:

- A child's parents have abandoned the child and after reasonable inquiries, the parents cannot be found, and no other suitable person can be found who is willing and able to care for the child;
- A child's parents are dead or incapacitated and there is no other suitable person willing and able to care for the child;
- A child is displaying extreme risk-taking behaviour, which has potentially severe or life-threatening consequences. For example: severe alcohol or drug use, unsafe sexual activity including prostitution, or violent or dangerous peer group activity. Staff should also report extreme risk-taking behaviour that is illegal to the Police;
- There is a threat of harm to an unborn child, including circumstances where a parent has previously demonstrated an inability to safely parent.

#### **13.4.4 Record Keeping Obligations**

For the School's record keeping obligations relating to child protection incidents or child wellbeing concerns, refer to Child Protection Record Keeping.

## **14 Conduct that is Reportable to the Victorian Institute of Teaching**

### **14.1 Purpose of this Policy**

Registered teachers in Victoria are exempt from holding a Working with Children Check (WWCC) clearance. This is because, in considering applications for registration or re-registration as a teacher, the Victorian Institute of Teaching (VIT) has similar information sharing requirements to and considers similar information and undertakes a similar assessment as, WWC Checks.



This policy is designed to ensure that staff who are registered teachers and the School meet their responsibilities to notify the VIT of required information relevant to child protection. It is also designed to ensure that teaching staff who would fail the WWCC (were they not exempt) are removed from employment or engagement at the School.

For more information about teachers' registration with VIT, refer to Teachers' Requirements Policy.

## **14.2 Source of Obligation**

Under section 2.6.57 of the *Education and Training Reform Act 2006* (Vic) (**the Act**), registered teachers must notify the VIT, and include in any application for registration or renewal of their registration, if they are committed for trial or been convicted or found guilty of certain criminal offences that accord with those relevant to WWCC Checks.

Registered teachers must also notify Working with Children Check Victoria (**WWCCV**) of all organisations in which they engage in child-related work (other than teaching).

Under section 2.6.31 of the Act, the School must notify the VIT if the School has taken:

- Any action against a registered teacher in response to allegations:
  - Of serious incompetence
  - Of serious misconduct
  - That the teacher is unfit to be a teacher
  - That the teacher's ability to practice as a teacher is seriously detrimentally affected or likely to be seriously affected because of an impairment, or
- Any other actions against a registered teacher that may be relevant to their fitness to teach.

The School must also immediately notify the VIT if it becomes aware that a teacher:

- Has been charged with, or convicted or found guilty of, certain criminal offences that accord with those relevant to WWCCs or
- Has been given a negative notice in relation to the WWCC.

Section 2.3.10 of the Act requires that the School dismiss or remove from its employment or engagement any teacher who has either:

- Been convicted or found guilty of certain criminal offences that accord with those relevant to WW Checks or
- Been given a WWCC exclusion notice.

## **14.3 Staff Responsibilities**

Registered teachers must meet their obligations under the Act and notify the VIT if they are committed for trial, or found guilty or convicted of, certain relevant offences, including:

- Serious sexual offences
- Serious violent offences
- Serious drug-related offences
- Offences against the *Child, Youth and Families Act 2005* (Vic)
- Other offences linked to the safety of children.

They must also notify WWCCV of all organisations in which they undertake child-related work (other than teaching) within 21 days of starting that child-related work, using the Notification Form.

In addition, to enable the School to meet its obligations under the Act, it is the School's policy that:

- Registered teachers must inform the Principal (or, if the person is the Principal, the Chair of the Board) if they are charged with, committed for trial for, or convicted or found guilty of any of the above offences or if they have been given a negative notice in relation to a WWCC Check.



- All staff must immediately report to the Principal (or, if the incident or allegation involves the Principal, to the Chair of the Board) any incident or allegation that raises concerns about a teacher's fitness to teach, including:
  - Serious incompetence
  - Serious misconduct
  - That the teacher is unfit to be a teacher
  - That the teacher's ability to practice as a teacher is seriously detrimentally affected or likely to be seriously affected because of an impairment
  - That the teacher has been charged with, or has been convicted or found guilty of, any of the above offences.

#### **14.4 Teacher Misconduct Reportable to VIT and the Child Safe Code of Conduct**

The Child Safe Code of Conduct outline expected standards of behaviour for all Staff at the School. Teachers in Victoria are also expected to comply with the Victorian Institute of Teaching's Victorian Teaching Profession's Code of Conduct. However, breaches of these Code of Conduct will not always constitute teacher misconduct that is reportable to the VIT.

Some breaches of the Child Safe Code of Conduct can be dealt with at the School level and the results of the investigation would not need to be reported to the VIT by the School. For example, a new teacher accepting a social media 'friend' request from a student on a single occasion would be a breach of our Child Safe Code of Conduct but may not amount to serious misconduct, the investigation outcome of which must be reported to the VIT.

However, all breaches of Code of Conduct must still be reported internally under the School's Child Safe Code of Conduct policy.

#### **14.5 The School's obligations**

Where the School becomes aware of any incident or allegation that raises concerns about a teacher's fitness to teach, the Principal (or, if the incident or allegation involves the Principal, the Chair of the Board) must conduct an internal investigation in such a manner as the circumstances demand, unless the incident or allegation is the subject of:

- A report to Child Protection or Police, in which case the internal investigation may only occur with the consent of the relevant agency
- An internal investigation under the School's Reportable Conduct policy, in which case that investigation constitutes the internal investigation under this policy.

Where the School becomes aware that a teacher has been:

- Convicted or found guilty of certain criminal offences that accord with those relevant to WWC Checks or
- Given a WWC exclusion.

The School must dismiss or remove the teacher from its employment or engagement.

In either case, the School must make the required notifications to the VIT.

#### **14.6 Who Notifies and What must be Notified to VIT**

The Principal (or, if the incident or allegation involves the Principal, the Chair of the Board) must notify the VIT if the School has taken "action" against a registered teacher, whether as a result of its internal investigation or otherwise.

"Actions" which will be reported by the School to the VIT include (but are not limited to):

- Any final disciplinary actions taken by the School after investigation (i.e. decisions to stand a teacher down from duties during an investigation is not an "action" that must be notified), which may include:
  - A formal warning or reprimand
  - A financial penalty
  - A reduction in classification



- Suspension or termination of employment
- Where a teacher resigns, or their employment ends by mutual agreement, after being advised by the School that it is inquiring into allegations.

The School should also notify the VIT if a teacher takes action against the School in another forum such as the Fair Work Commission.

### **14.7 When to Notify the VIT**

The VIT should be notified, of actions taken against a teacher, after the investigation is finalised and:

- One or more of the above allegations is found to be proven
- Action has been taken in relation to those allegations.

### **14.8 How to Notify the VIT**

Notifications to the VIT must be in writing and must include:

- A description of the allegations found proved and the action taken
- In cases where the teacher's employment ceased prior to the School taking any action, a description of the concerns
- Relevant documentation associated with the allegations, which may include:
  - Statements of complainants and the identity of witnesses
  - Complaints received by the School about the registered teacher (including from Staff, Parents and students)
  - Correspondence between the School and the registered teacher concerning the allegations
  - Any statements or responses received from the registered teacher (or their representative)
  - The registered teacher's letter of resignation
  - Investigation reports and materials
- Any other relevant information.

For more information, refer to the 'Notifying us about teacher concerns' section of the VIT's website.

### **14.9 VIT Response to Notification**

When it is notified that a teacher has been charged with, convicted or found guilty of a relevant offence, the VIT may, and in some cases must, refuse, cancel or suspend the teacher's registration, depending on the kind of offence and on whether the teacher has been charged, convicted or found guilty.

For more information on what actions the VIT may or must take, refer to the Table in the VIT's Teacher Obligations Factsheet.

The VIT must then notify WWCCV if it has been suspended (or revoked such a suspension) or cancelled a teacher's registration.

On receiving other notifications regarding concerns about a teacher's fitness to teach, the VIT has the power to:

- Ensure that it has obtained all relevant information from the School, and may request further information
- Decide whether the matter does not reach the threshold required for it to proceed
- Conduct an investigation, an informal hearing, or a formal hearing
- Summarily suspend the teacher on an interim basis pending an investigation, if the VIT forms a reasonable belief that the teacher poses an unacceptable risk of harm to children and believes that suspension is necessary to protect children.



A formal hearing may result in findings which can result in cautions, reprimands, conditions imposed including counselling and further education, suspension, cancellation of registration and/or a period of disqualification.

### **14.10 VIT Notifications and Other Reporting Obligations**

The internal reporting and VIT notification obligations covered in this policy are separate and distinct from obligations to report to Child Protection, obligations to report to and reporting obligations under the Reportable Conduct Scheme.

#### **14.10.1 Overseas Students**

In addition to notifying the VIT, the School must notify the Victorian Registration & Qualifications Authority (VRQA) if an incident or concern that is investigated and notified to VIT under this policy relates to an overseas student and the School has issued a Confirmation of Appropriate Accommodation and Welfare (**CAAW**) letter in relation to that student, thereby assuming responsibility for approving the student's accommodation, support and general welfare.

### **14.11 Record Keeping About VIT Notifications**

For the School's record keeping obligations relating to VIT Notifications, refer to Child Protection Record Keeping.

### **14.12 Key Definitions**

#### **14.12.1 Serious incompetence**

Registered teachers are required to achieve and maintain an acceptable level of competence in their practice.

Serious incompetence refers to a situation where a teacher is failing to meet the Australian Professional Standards of Teaching (APST) to such a degree that their whole approach to teaching:

- Is fundamentally flawed
- Defeats the cause of imparting knowledge to students.

#### **14.12.2 Serious misconduct**

Serious misconduct generally involves a substantial departure from the accepted standards of the profession, including conduct that is found to be:

- Infamous
- Disgraceful
- Dishonourable
- Shameful.

In many (but not all) cases, breaches of the Child Safe Code of Conduct could meet this definition.

#### **14.12.3 Unfit to be a teacher**

Fitness to teach is defined as whether the character, reputation and conduct of a person are such that the person should be allowed to teach in a school.

A teacher's behaviour, whether in the practice of teaching or in their private lives, may demonstrate qualities of a kind that indicate that person is not fit to practice as a teacher. In many (but not all) cases, breaches of the Child Safe Code of Conduct could meet this definition.

#### **14.12.4 Impairment**

Impairment is defined as a:

- Physical or mental impairment
- Disability, condition or disorder (including substance abuse or dependence).



If a teacher's ability to practice as a teacher is seriously affected, detrimentally affected, or likely to be affected, due to an impairment, then they may be considered unfit to teach.

### 14.13 Communication with Parents/Guardians

In many cases of suspected child abuse, or where it is suspected that a child is at risk of being abused, it is critical that the child's parents/guardians are notified as soon as is practicable after a notification has been made to the appropriate external authority. This enables the child's parents/guardians to take steps to:

- Prevent or limit their child's exposure to further abuse;
- Ensure that their child receives the support that is needed.

It is the School's policy that any notification made to parents/guardians of a child suspected to have been abused, or is at risk of being abused, is made by the Principal or the Senior Child Safety Officer after a notification to either Child Protection or the Police has been made.

**Before contacting parents/guardians** the School's Principal or a Child Safety Officer must seek advice from Child Protection or the Police, depending on who the report was made to. The Principal or a Child Safety Officer will be advised by an external authority not to contact the parents in circumstances where:

- the parents/guardians are alleged to have engaged in the abuse;
- a disclosure to the parents/guardians may subject the child to further abuse;
- the child is a mature minor (assessed to be sufficiently intelligent and mature to make such decisions on their own behalf) and has requested that the parents/guardians not be contacted;
- the notification is likely to have an adverse effect on an ongoing investigation into the incident.

The Principal may disclose information about an investigation into a reportable allegation to a parent or carer of the child in relation to which a reportable allegation has been made. Refer to Reportable Conduct.

### 14.14 Support for Students Interviewed at the School

The School has certain legal requirements when a request is made by the Police or Child Protection workers to interview students regarding child protection incidents at the School. Students to be interviewed may include victims, witnesses or those alleged to have perpetrated abuse

#### 14.14.1 Support for Students

All students interviewed by the Police or Child Protection at the School must be supported. Where possible, the student's parents/carers should be present for any interview. Where this is not practicable, one of the following persons may provide support to the student during the interview, as appropriate:

- The Principal;
- A Child Safety Officer;
- In the case of Police interviews, an **independent support person** over the age of 18 who is not connected with the School, for example a social worker or nurse (independent supportive adult).

Consideration should be given as to whether there may be a conflict of interest between the independent supportive adult and the student being interviewed. For example, a situation may arise where the Principal or Child Safety Officer is related to the perpetrator of the child protection incident, the student is a family member, or the Principal or Child Safety Officer may be the perpetrator.

#### 14.14.2 General Protocols

**The School's Principal must:**

- Facilitate interviews requested by the Police or Child Protection workers;
- Advise students of their right to have an independent supportive adult, parent or carer present at such an interview;



- Arrange for the student to choose an independent supportive adult to be present;
- Balance their obligation to protect the rights of students with their obligation to assist the Police and Child Protection in their exercise of duty;
- Ensure there is someone acting as an independent supportive adult for students interviewed at school by the Police or Child Protection workers;
- Observe confidentiality at all times in the management of a mandatory reporting or criminal case.

#### **14.14.3 Contacting Parents/Guardians**

Before contacting a student's parents/guardians, the Principal must seek advice from the Police or Child Protection to determine if parents/guardians should be present at the interview.

Where appropriate, parents/guardians must be advised of the scheduling of an interview with the Police. Parents/guardians should also be advised of interviews that have been scheduled with Child Protection where it is deemed to be appropriate, however Child Protection may conduct interviews with students without parental/carer knowledge or consent in exceptional circumstances.

#### **14.14.4 Student as a Victim/Witness**

When the Principal allows interviews involving students who may be victims or witnesses, they should:

- Support and encourage the student to provide as much information as possible;
- Inform the student that a note of the circumstances and the content of the interview will be made and communicated to their parents/guardians as soon as possible, unless doing so causes a risk of abuse.

#### **14.14.5 Student as a Suspect**

If Police need to speak with a student who has allegedly abused another child, or student at the School, this should preferably be done in the presence of the student's parents/guardians, or another independent supportive adult.

#### **14.14.6 Complying with Court Orders**

A subpoena or witness summons is a court order that compels the School to produce documents or attend court and give evidence, or both. The Principal or a staff member will usually be issued with a subpoena or witness summons because a party to legal proceedings believes that the School, the Principal or a staff member has information or documents that are relevant to the proceeding.

The School will seek external legal advice and support relating to complying with subpoenas or witness summons.

### **14.15 Making Additional Reports**

There are some circumstances in which the relevant person will be required to make an additional report to an appropriate external authority.

#### **14.16 Reporting Further Grounds for Belief or Suspicion**

If a person holds a reasonable belief that a child has been, or is at risk of being abused, they must still make a report to the relevant external authority about a child even if:

- Child Protection or the Police have previously been involved or are currently involved with the child and/or their family;
- The person is aware that another party, such as another staff member, Volunteer, or family member, has raised concerns with the relevant authorities.

Every report is critical to protecting a child by building evidence and enabling external authorities to gain a clear understanding of the risks posed to the child.

#### **14.17 Another Person Has Made a Report**



There may be times when two or more staff members at the School (for example the Principal and a Child Safety Officer) has formed a belief about the same child on the same occasion and based on the same information.

In this situation, it is sufficient that only one of the staff members make a report to the relevant external authority, as the belief is based on the same information. However, the other staff member, who does not make the report, is obliged to ensure that the report has been made and that all grounds for their own belief were included in the report made to the authority.

If staff members do not agree on what should be reported, for example a staff member does not agree with the Principal's decision to make a report to an external authority, the staff member is legally obliged to make a report anyway.

#### **14.18 Other Concerns About the Wellbeing of a Child**

If a relevant person believes that a child has not been subjected to abuse or neglect but still hold significant concerns about the child's wellbeing, they still may be required to report your concerns to Child Protection, the Police or Child FIRST. For more information about reporting wellbeing concerns refer to the Responding to Other Concerns About the Wellbeing of a Child section of this Program.

#### **14.19 Child Protection Complaints Management**

The School has developed a Complaints Handling Program to ensure that any child protection-related feedback, comments or complaints from School community members and relevant stakeholders are captured, analysed and acted upon where appropriate.

This may include feedback about certain staff members or volunteers, or the School's Child Protection Program.

When a complaint is made to the School it is important for the School to consider whether the complaint raises any concerns about unreported abuse and/or risk of abuse at the School.

The School Board, staff including the Principal, Volunteers, Third Party Contractors and External Providers must follow the School's Procedures for Responding to and Reporting Allegations of Child Abuse if any information received with a complaint leads to new grounds for a reasonable belief or suspicion that a student may be subject to, or at risk of, any unreported abuse.

#### **14.20 Confidentiality and Privacy**

##### **14.20.1 Confidentiality of Information Relating to Child Protection Matters**

Anyone who has access to information regarding a case of suspected child abuse must keep such information confidential and secure and must only disclose or discuss this information with those involved in managing the situation.

The relevant person must not provide undertakings that are inconsistent with their reporting obligations in the School's Child Protection Program. In particular, they must not promise a student that they will not tell anyone about the student's disclosure.

Students and any other parties who become involved in the investigation (this may include other students) should be informed of the reporting process and be required to maintain confidentiality.

Inappropriate disclosure will be subject to disciplinary action.

##### **14.20.2 Protection of Reporter's Identity**

Reports or referrals made to Child Protection or Child FIRST are confidential and the reporter's identity is generally protected by law. Exceptions include if:

- The reporter chooses to inform the child or family of the report;



- The reporter consents in writing to their identity being disclosed;
- A court or tribunal decides it is necessary for the identity of the reporter to be disclosed to ensure the safety and wellbeing of the child;
- A court or tribunal decides the reporter is required to attend court to provide evidence.

The identity of the person who makes a report to the Police, including reports under section 327 of the *Crimes Act 1958* (Vic) (Obligation to Report a Sexual Offence), will remain confidential unless:

- The person themselves discloses their identity or they consent in writing to their identity being disclosed;
- A court or tribunal decides that it is necessary in the interests of justice for the person's identity to be disclosed.

#### 14.20.3 Reporter Liability

A person who makes a mandatory report in accordance with the *Children, Youth and Families Act 2005* (Vic), or a report under the *Child Wellbeing and Safety Act 2005* (Vic) (reportable conduct scheme) will not be held liable for the eventual outcome of any investigation.

If a report is made in good faith, it does not constitute a breach of professional ethics on the part of the reporter and the reporter cannot be held legally liable in respect of the report.

#### 14.20.4 Protection of Staff's WWCC Status

The School will only be informed of whether an individual passes or fails the Check. None of the information gathered for the Check, such as criminal or professional records, will be passed on to the School.

#### 14.20.5 Protection of Personal Information

How the School handles the information it collects about individuals (referred to in the *Privacy Act 1988* (Cth) as personal information) is very important, as the people the School deals with expects the School to handle their personal information properly and the School has a legal obligation to do so. Personal information is information, or an opinion, about an identified individual, or an individual who is reasonably identifiable:

- Whether the information, or opinion, is true or not;
- Whether the information, or opinion, is recorded in a material form or not.

The *Privacy Act 1988* (Cth) only applies to personal information that is captured in a record.

#### 14.20.6 Requests for Information

If a relevant person receives a request from the Police, the CCYP or Child Protection for information relating to a student who has been impacted (or is suspected to have been impacted) by child abuse, they should:

- Obtain the request for information in writing; and
- Ensure that the written request includes:
  - a. the name of the Police, representative of the CCYP or Child Protection worker, the organisation they work for and their contact details;
  - b. a description of the information and/or documents being sought;
  - c. the reasons why the information and/or documents are being sought;
  - d. what authority the officer or the organisation believes that they have to access the requested information and documents.

When information and/or documents are requested in this way, the relevant person may be permitted to share the information. However, **the person is not compelled** to do so.



If you receive a request to share information under Part 6A of the Child Wellbeing and Safety Act 2005 (Vic), or under Part 5A of the Family Violence Protection Act 2008 (Vic), the request must be forwarded to the Principal (or to the "head" of the School if the requested information relates to the Principal). See **Information Sharing Under Part 6A of the Child Wellbeing and Safety Act 2005 (Vic)** and/or **Information Sharing under Part 5A of the Family Violence Protection Act 2008 (Vic)**.

#### 14.20.7 Information Sharing with the School Community

The School takes great care to assess the relevance and appropriateness of sharing information about a child protection incident before providing any information about child abuse to the School community because even the confirmation of an incident or allegation can lead to the identification of a victim.

#### 14.20.8 Record Keeping Obligations

For the School's record keeping obligations relating to child protection incidents, refer to Child Protection Record Keeping.

## 15 Child Protection Record Keeping

### 15.1 Overview

Effective child protection record keeping is one of the School's key strategies in the management of its child protection obligations, including the fulfilment of the School's duty of care.

It is through such record keeping that the School can ensure that, should there ever be a need for evidence of the School's child safe culture or precautions and preventative measures taken in response to the risk of child abuse, the School has well-documented and easily-accessible records.

The School will continue to adhere to all confidentiality and privacy obligations in respect of the retention of this information.

### 15.2 Documenting a suspicion or belief of abuse

Where a staff member, Board member, Direct Contact Volunteer or other member of the School community forms the belief on reasonable grounds that a student is in need of protection, written and dated notes of their observations and concerns should be recorded to assist in a referral/report of child abuse.

All verbal and written communications regarding child protection matters (including notes of observations, student disclosures, meetings and telephone calls) must be properly documented. The documented records should include dates and times and enough detail to record key conversations, especially those relating to the student's disclosure. The author of those notes may be required to provide this documentation to the Senior Child Safety Officer who will then retain this information on behalf of the School.

The records of child protection must be stored securely. Refer to the School's Records Management Policy for information on how the School stores records.

### 15.3 How to Record Observations, Disclosures or Allegations of Abuse, Grooming or Student Sexual Offending

The School requires all members of the School community, including the Board, staff, Volunteers, Third Party Contractors and External Education Providers to use the Responding to Suspected Child Abuse Template or the Student Sexual Offending Record Keeping Template form to record all observations, beliefs, suspicions, disclosures or allegations of abuse, grooming or student sexual offending.

The Templates are provided by the DET and Child Protection for all Victorian schools and are made available on the School's public website, internal intranet, and in hard copy at the School. Copies of the Templates are also available in the Additional Resources section of this Program under Child Safe Standards Toolkit.



The 'Process of Review' section of the Templates must be completed between 4-6 weeks after an incident, suspicion or disclosure of abuse in conjunction with the School's Principal, a Child Safety Officer or a senior member of staff.

All completed Template reporting forms are to be given to the School's Principal, a Child Safety Officer or a senior member of staff. The School maintains records of all child abuse observations, disclosures, allegations, incidents and subsequent investigations in electronic form indefinitely. Records relating to a child protection incident are only disposed of in accordance with our Records Management Policy.

#### **15.4 Working with Children Check documentation**

It is the responsibility of the School Principal to verify the status of all School staff and non-parent volunteers' Working with Children Check (**WWC Check**) clearances.

The School maintains records (electronic or hard copy format) of child-related workers including:

- Full name;
- WWC Check Application Receipt Number;
- WWC Check Card Number;
- Date and outcome of WWC Check clearance;
- Notices sent by the Department of Justice;
- Expiry date.

Where Third Party Contractors or External Education Providers are used, it is these entities that are responsible for verifying the current status of WWC checks for the workers engaged by these entities. However, through written agreement/contract, the School is able to request confirmation of the status and currency of this information for those persons who have contact with School students.

#### **15.5 Records of Teacher Registration and VIT Notifications**

Under our Teacher's Requirements Policy, the School maintains a register of the registration status of all teachers at the School. The register includes a record of the date and type of any notifications made to the Victorian Institute of Teaching (VIT) by the School about a registered teacher pursuant to Conduct that is Reportable to the Victorian Institute of Teaching.

It is the responsibility of the Executive Assistant to the Principal to ensure that the register of teachers is maintained up to date with relevant notifications.

#### **15.6 Recording Child Protection Actions**

Section 91 of the *Wrongs Act* imposes a duty of care on schools to take reasonable precautions to prevent the physical or sexual abuse of a child under its care, supervision or authority, by an individual associated with the school. If the school is involved in a proceeding under the *Wrongs Act*, the school is presumed to have breached its duty of care unless it can prove, on the balance of probabilities, that it took reasonable precautions to prevent the abuse.

Whether or not a school took reasonable precautions will be assessed by a court in accordance with considerations set out in the *Wrongs Act* and case law. The effective implementation of the School's risk management strategies in Child Protection Risk Management is an example of taking reasonable precautions to prevent the physical or sexual abuse of a child.

It is critical that the School maintains accurate and comprehensive records of these policies, procedures, work systems and strategies should the courts ever call on such evidence in relation to a claim against the School for damages in respect of child abuse. The School will also manage the retention of information and records in accordance with the School's Privacy Policy.

For more information about the School's record keeping procedures refer to the School's Records Management Policy.

Records must be readily available if required for audit and monitoring purposes.

## 16 Information Sharing under Part 6A of the Child Wellbeing and Safety Act 2005 (Vic)

### 16.1 Background

The School may, or in some cases must, share information relating to the safety and wellbeing of children and young people with specific agencies or people.

Despite laws prohibiting or restricting the disclosure of personal information, organisations and services prescribed as an “information sharing entity” (ISE), including non-government schools, must share confidential information relating to the safety and wellbeing of a child or young person (Child Information) with other ISEs:

- when requested to do so by the ISE under Part 6A of the Child Wellbeing and Safety Act 2005 (Vic) (CWS Act); and/or
- to fulfil Reportable Conduct obligations and Mandatory Reporting/Reporting to Police obligations.

Part 6A of the CWS Act also permits ISEs to voluntarily disclose to other ISEs confidential information about any person, for the purpose of promoting the wellbeing or safety of a child or group of children.

It also permits ISEs to disclose confidential information to a child, or to a parent or carer of the child, for the purpose of managing a risk to the child’s safety.

Together, the CWS Act and the Child Wellbeing and Safety (Information Sharing) Regulations 2018 (Vic) (Child Information Sharing Regulations) establish a statutory information sharing regime, called the Child Information Sharing Scheme (CIS Scheme).

The CIS Scheme prioritises the sharing of Child Information, to ensure the protection and wellbeing of children and young people, over the protection of an individual’s privacy and confidentiality.

The CIS Scheme does not affect reporting obligations created under other legislation, such as Mandatory Reporting.

It also does not prevent or limit the School from using or disclosing Child Information if it is required or permitted to do so by or under any other Act or law.

The Child Information Sharing Ministerial Guidelines and this policy set out how Staff must handle Child Information and how the School must apply the legislative principles of the CIS Scheme.

### 16.2 Source of Obligation

The School, as a non-government school, is a prescribed ISE under regulation 5 and Schedule 1 of the Child Information Sharing Regulations.

### 16.3 Mandatory Information Sharing with ISEs

Under section 41W of the CWS Act, an ISE may make a request for Child Information from another ISE for the purpose of promoting the wellbeing or safety of a child or group of children. The ISE to whom the request is made must disclose the requested Child Information (other than excluded Child Information) if:

- the disclosure is made for the purpose of promoting the wellbeing or safety of a child or group of children; and
- the ISE reasonably believes that the disclosure may assist the receiving ISE to carry out decisions, assessments, plans, an investigation, provide a service or manage risks to a child or group of children.



## 16.4 Voluntary Information Sharing with ISEs

Under section 41V, an ISE **may voluntarily** share Child Information with another ISE, on its own initiative, if:

- the disclosure of the Child Information is made for the purpose of promoting the wellbeing or safety of a child or group of children; and
- the School reasonably believes that the disclosure may assist the receiving ISE to carry out decisions, assessments, plans, an investigation, provide a service or manage risks to a child or children.

## 16.5 Information Sharing with the Child, their Parent/Carer and other People

Under section 41Y of the CWS Act, an ISE **may** disclose Child Information to a child, a person who has parental responsibility for the child or a person with whom the child is living, for the purpose of managing a risk to the child's safety.

The person to whom the Child Information has been disclosed must not use or disclose that Child Information except for the purpose of managing the risk to the child's safety.

Under privacy law, any person may seek their own personal information (including Child Information covered by this policy) from Bacchus Marsh Grammar. In the usual circumstances, the School is required to give that person access to their own Child Information. However, under section 41ZF of the CWS Act, the School may refuse to give a person access to their Child Information if it believes on reasonable grounds that giving the person access to the Child Information would increase a risk to the safety of a child or group of children.

For more information about sharing Child Information with children and parents/carers, refer to Communication with Parents/Carers (about responding to and reporting allegations of child abuse), Reportable Conduct and our Privacy Program.

## 16.6 Interaction of the CIS Scheme and the Family Violence Information Sharing Scheme

The CIS Scheme and the Family Violence Information Sharing Scheme (FVIS Scheme) were designed to complement each other. Both Schemes enable certain organisations and services to share information to respond to the range of needs and risks facing children and families. Both Schemes prioritise the sharing of information to promote a child's safety over the privacy of any person.

As an ISE under both Schemes, the School must comply with both the FVIS Scheme and the CIS Scheme.

While the purposes for which information may be shared differ between the Schemes, when a child is affected by family violence there will be substantial overlap between the FVIS Scheme and the CIS Scheme. In these cases, it may be that the School will be sharing information with some ISEs under the CIS Scheme and with different ISEs under the FVIS Scheme, or it could be that the School will be sharing different information with a single ISE under each Scheme.

Overlap between the Schemes is particularly likely when:

- a student who is aged under 18 is the victim of family violence (including by being exposed to family violence between other family members) (called a "child victim survivor" in the Ministerial Guidelines)
- a student who is aged under 18 is believed or suspected to be a perpetrator of family violence, whether against a family member or against a person (including another student) with whom they are or were in an intimate personal relationship (called an "adolescent who uses violence" in the Ministerial Guidelines).

For more information, refer to Information Sharing Under Part 5A of the Family Violence Protection Act 2008 (Vic) and Chapters 5 and 6 of the Family Violence Information Sharing Ministerial Guidelines.

## 16.7 Child Information Sharing Scheme Principles

The legislative principles that guide the sharing of Child Information under the CIS Scheme are set out in section 41U of the CWS Act. They are that ISEs should:

1. give precedence to the wellbeing and safety of a child or group of children over the right to privacy
2. seek to preserve and promote positive relationships between a child and the child's family members and people significant in the child's life



3. seek to maintain constructive and respectful engagement with children and their families
4. be respectful of, and have regard to, a child's social, individual and cultural identity, the child's strengths and abilities and any vulnerability relevant to the child's safety or wellbeing
5. promote the cultural safety and recognise the cultural rights and familial and community connections of children who are Aboriginal, Torres Strait Islander or both
6. seek and take into account the views of the child and the child's relevant family members, if it is appropriate, safe and reasonable to do so
7. take all reasonable steps to plan for the safety of all family members believed to be at risk from family violence
8. only share confidential Child Information to the extent necessary to promote the wellbeing or safety of a child or group of children, consistent with the best interests of that child or those children
9. work collaboratively in a manner that respects the functions and expertise of each information sharing entity.

## 16.8 Key Definitions

### Child Information/Confidential Information

The CIS Scheme permits the sharing of "confidential information" relevant to the safety or wellbeing of a child or group of children.

Section 3 of the CWS Act defines "confidential information" as:

- health information; or
- personal information; or
- sensitive information as defined in the Privacy and Data Protection Act 2014 (such as a criminal record); or
- unique identifiers; or
- identifiers as defined in the Health Records Act 2001.

For the purposes of this policy, we refer to confidential information relevant to the safety and wellbeing of a child or group of children as "Child Information".

### Excluded Information

Under section 41Q of the CWS Act and the Child Information Sharing Scheme Ministerial Guidelines, Child Information is "excluded information" if the collection, use or disclosure of the Child Information could be reasonably expected to do any of the following:

- endanger a person's life or result in physical injury – this includes to the child, their family or any other person. For example, if sharing the location of a child could be reasonably expected to pose a threat to the life or physical safety of the child or another person, this Child Information must not be shared
- prejudice the investigation of a breach or possible breach of the law or prejudice the enforcement or proper administration of the law. For example, Child Information that could unfairly influence or reveal details of a police investigation or Commission for Children and Young People investigation
- prejudice a coronial inquest or inquiry. For example, Child Information that could unduly influence a witness expected to give evidence before a coronial inquest
- prejudice the fair trial of a person or the impartial adjudication of a particular case. For example, Child Information that could unfairly influence the outcome of a proceeding
- disclose the contents of a document, or a communication, that is of such a nature that the contents of the document, or the communication, would be privileged from production in legal proceedings on the ground of legal professional privilege or client legal privilege
- disclose or enable a person to ascertain the identity of a confidential source of information in relation to the enforcement or administration of the law. For example, Child Information could reveal or be used to reveal the name of a person who has confidentially provided information to police
- contravene a court order or a provision made by or under the CWS Act or any other Act that prohibits or restricts the publication or other disclosure of information for or in connection with any proceeding, or requires or authorises a court or tribunal to close any proceeding to the public. For example, if Child Information is part of a closed court proceeding
- be contrary to the public interest. For example, Child Information that could reveal covert investigative techniques.

For the purposes of this policy, Excluded Child Information is Child Information that **must not** be shared by an ISE, whether in response to a request from another ISE or on its own initiative without a request.



## 16.9 The School's Policy

It is the School's policy to comply with all Part 6A requests for Child Information (other than Excluded Information) by other ISEs whenever the School has formed the required reasonable belief. See Grounds for Sharing Information between ISEs.

It is the School's policy to voluntarily share Child Information (other than Excluded Information) with other ISEs under Part 6A of the CWS Act whenever the School has formed the required reasonable belief, and regardless of whether the other ISE has requested the Child Information. See Grounds for Sharing Information between ISEs.

It is the School's policy to share Child Information (other than Excluded Information) with a child or their parent or carer whenever the School considers that doing so is necessary to manage a risk to the child's safety. See Communication with Parents/Carers.

It is the School policy to refuse to disclose Child Information to a person (including a staff member, Volunteer, Contractor, student or a student's parent/carers) whenever the School reasonably believes that giving the person access to the Child Information would increase a risk to the safety of a child or group of children. See our Privacy Program.

It is the School's policy to follow the Child Information Sharing Scheme Ministerial Guidelines whenever Child Information is to be shared under this policy.

## 16.10 Consent to Information Sharing under the Child Information Sharing Scheme

The School can share Child Information with, or seek Child Information from, another ISE under Part 6A of the CWS Act without the consent of the child or their family.

However, it is the School's policy that:

- wherever appropriate, safe and reasonable to do so, informed consent to the proposed information sharing is sought from the child or young person and/or their parents/carers
- where it is not possible to obtain informed consent, the child's and/or their parents/carers views will be sought prior to the proposed information sharing, provided that it is appropriate, safe and reasonable to do so
- at enrolment, parents/carers are informed that Child Information about students may be, or is, provided to other organisations.

It is the School's policy to follow the Child Information Sharing Scheme Ministerial Guidelines when seeking the informed consent, or otherwise seeking the views, of a child or family member about information sharing.

## 16.11 Who is Authorised to Share Child Information under the Child Information Sharing Scheme?

The Principal is the School's authorised representative for the purposes of sharing Child Information with, or requesting Child Information from, other ISEs on behalf of the School.

Where the Child Information relates to the Principal, the **Senior Deputy Principal** is the School's authorised representative and is responsible for recording, investigating and managing requests for or proposals to share Child Information under this policy. Therefore, any such requests or proposals should be directed to them.

References to the Principal in this policy include the **Senior Deputy Principal** when managing the sharing of Child Information that relates to the Principal.

## 16.12 Who is an ISE under the Child Information Sharing Scheme?

The list of ISEs prescribed under regulation 5 and Schedule 1 of the Child Information Sharing Regulations is extensive.



It includes services that work with children, young people and families, such as government and non-government schools, family violence services, alcohol and other drug services, homelessness services, mental health services, community health centres, registered general medical practitioners/nurses and out of home care services.

It also includes government agencies and regulatory bodies such as Child Protection, Youth Justice, Maternal and Child Health, Victoria Police, the Commission for Children and Young People, the Disability Services Commissioner, the Victorian Institute of Teaching and the Victorian Registrations and Qualifications Authority.

All ISEs can access an online ISE list which is a database that can be used to identify other ISEs. For information on how to use the online ISE list refer to the ISE List User Guide.

For more information about ISEs, see Appendix 2 of the Child Information Sharing Scheme Ministerial Guidelines.

### 16.13 Grounds for Sharing Child Information between ISEs

If the grounds for sharing Child Information are met, an ISE:

- **may make a request** for Child Information to another ISE;
- **must disclose** relevant Child Information (other than Excluded Information) to another ISE, if requested; and
- **may disclose** Child Information (other than Excluded Information) voluntarily (without a request) to other ISEs.

ISEs may share Child Information if:

1. where the ISE is requesting or disclosing Child Information about any person, the request or disclosure is made for the purpose of promoting the wellbeing or safety of a child or group of children; and
2. the disclosing ISE reasonably believes that sharing the Child Information may assist the receiving ISE to carry out one or more of the following activities:
  - making a decision, an assessment or a plan relating to a child or group of children
  - initiating or conducting an investigation relating to a child or group of children
  - providing a service relating to a child or group of children
  - managing any risk to a child or group of children; and
3. the Child Information being disclosed or requested is not known to be Excluded Information (and is not restricted from sharing by another law).

Further guidance about the collection, use or disclosure of Child Information under Part 6A of the CWS Act can be found in Chapter 1 of the Child Information Sharing Scheme Ministerial Guidelines.

### 16.14 Information that Cannot be Shared

ISEs **must not**, under the CIS Scheme, disclose Excluded Information to another ISE or to a child or their parent/carer. ISEs also **must not**, under the CIS Scheme, share Child Information that is known to be restricted under another law. Refer to Chapter 4 of the Child Information Sharing Scheme Ministerial Guidelines for more information.

### 16.15 Procedure for Making a Request for Child Information to an ISE

Where a staff member wishes to request Child Information from another ISE under section 41W of the CWS Act, the request must be made to the Principal, who will consider whether or not to make the request for Child Information to the other ISE.

The Principal must determine whether:

- they reasonably believe that obtaining the Child Information is for the purpose of promoting the wellbeing or safety of a child or group of children; and
- they reasonably believe that receiving the Child Information would assist the School to do one of the following:
  - make a decision, an assessment or a plan relating to a child or group of children
  - initiate or conduct an investigation relating to a child or group of children
  - provide a service relating to a child or group of children
  - manage any risk to a child or group of children; and



- the Child Information being requested is Excluded Information or is otherwise restricted from sharing by another law.

If the Principal decides to request the Child Information from the other ISE then, before making the request, they should first try to contact the ISE by phone to discuss the ISE's information needs and ensure that the request is well targeted. Then, the Principal should request, in writing, that the Child Information be provided to the School. The written request must contain sufficient information to enable the ISE to consider the request.

The request for Child Information must be recorded. See Record Keeping About Information Sharing Under the Child Information Sharing Scheme.

### **16.16 Procedure for Responding to a Child Information Request from an ISE**

When a request for Child Information is received by the School from another ISE, the following steps must be followed:

- if the request is received by a person other than the Principal, the request must be forwarded to the Principal (or to the **Senior Deputy Principal** if the requested Child Information relates to the Principal)
- the Principal must consider whether the request contains sufficient information to determine whether disclosing the Child Information is for the purpose of promoting the wellbeing or safety of a child or group of children, and whether they reasonably believe that the Child Information would assist the recipient of the Child Information to:
  - make a decision, an assessment or a plan relating to a child or group of children
  - initiate or conduct an investigation relating to a child or group of children
  - provide a service relating to a child or group of children
  - manage any risk to a child or group of children; and
- if sufficient information to make these determinations has not been given by the other ISE, the Principal may seek further information from the ISE or may decline the request
- if sufficient information has been given and the grounds for sharing the Child Information are met, the Principal must:
  - comply with the request and provide the Child Information to the ISE in accordance with section 41W(3); or
  - decline to comply with the request if the Child Information is Excluded Information or otherwise restricted from disclosure by another law.

If the Principal declines to provide Child Information in response to a request made under section 41W, they must record the request and why it was refused and provide these reasons to the requesting ISE in writing. See Record Keeping About Information Sharing Under the Child Information Sharing Scheme.

If a determination is made that the Child Information must be shared, the Child Information may be shared verbally or in writing. The sharing of the Child Information must be recorded. See Record Keeping About Information Sharing Under the Child Information Sharing Scheme.

### **16.17 Procedure for Providing Child Information to an ISE without a Request**

If a staff member proposes that Child Information should be shared with another ISE without a request having been made, this proposal must be put to the Principal for their consideration and action.

The Principal must determine whether:

- they reasonably believe that disclosing the Child Information is for purpose of promoting the wellbeing or safety of a child or group of children; and
- they reasonably believe that the provision of the Child Information would assist the proposed recipient to do one of the following:
  - make a decision, an assessment or a plan relating to a child or group of children
  - initiate or conduct an investigation relating to a child or group of children
  - provide a service relating to a child or group of children
  - manage any risk to a child or group of children.

If the grounds for information sharing are met, it is the School's policy that the Principal must share the Child Information unless the Child Information is Excluded Information or otherwise restricted from disclosure by another law.



The Child Information may be shared verbally or in writing.

The sharing of the Child Information must be recorded. See Record Keeping About Information Sharing Under the Child Information Sharing Scheme.

### 16.18 Procedure for Responding to a Request from an Individual for Their Own Child Information

Requests by a person (including a staff member, Volunteer, Contractor, student or a student's parent/carer) to access their own personal information are usually managed by \*client to insert, e.g. our Privacy Officer\*. For more information, refer to our Privacy Program.

However, where a person requests access to personal information that is Child Information covered by this policy, the request to access the Child Information must be referred to the Principal (or if the request is made by the Principal, to the \*client to insert\*) for a decision about whether or not the Child Information should be disclosed to the person.

If:

- the person seeking access is a student or their parent/carer; and
- the Principal reasonably believes that disclosing the Child Information:
  - is necessary to manage a risk to the child's safety; and
  - does not present a risk to the safety of a child or group of children

it is the School's policy that the Principal **must** share the Child Information unless the Child Information is Excluded Information or otherwise restricted from disclosure by another law.

The Child Information may be shared verbally or in writing.

The sharing of the Child Information must be recorded. See Record Keeping About Information Sharing Under the Child Information Sharing Scheme.

If the Principal reasonably believes that giving a person access to their own Child Information would increase a risk to the safety of a child or group of children, it is the School's policy that the Principal must refuse to disclose the Child Information to the person. For more information, refer to our Privacy Program.

If the Principal declines to give a person access to their own Child Information, they must record the request and why it was refused. See Record Keeping About Information Sharing Under the Child Information Sharing Scheme.

### 16.19 Complaints under the Child Information Sharing Scheme

An ISE may make a complaint to another ISE about how the other ISE has undertaken any activities under the CIS Scheme, including where a request for Child Information has not been fulfilled.

Complaints from an ISE about the School's performance of its information sharing functions under the CWS Act are managed pursuant to our Complaints Handling Program.

If such a complaint is made to the School, the School must record:

- the date the complaint was made and received;
- the nature of the complaint;
- any action that was taken to resolve the complaint;
- any necessary action that has been taken to prevent, or lessen, the risk of further similar complaints by addressing the reasons for the complaint;
- the time taken to resolve the complaint; and
- if the School was unable to resolve the complaint, what (if any) further action was taken by the School.

For more information about how the School manages and records complaints (including complaints about its information sharing functions under the CWS Act), refer to our Complaints Handling Program.

### 16.20 Protection from Liability



If any person who is authorised to share Child Information under Part 6A of the CWS Act, acting in good faith and with reasonable care, shares Child Information in accordance with Part 6A of the CWS Act, that person is not liable to any civil or criminal action, or any disciplinary action, for providing such Child Information. The person cannot be in breach of any code of professional etiquette or ethics or be considered to have departed from any accepted standards of professional conduct.

Generally, a person may be considered to have acted in good faith and reasonable care when they can demonstrate that they:

- shared the Child Information in accordance with their obligations, functions and authorisations
- intended for the Child Information to be shared for the purpose of promoting the wellbeing and safety of a child and not for another purpose
- did not act maliciously, recklessly or negligently when exercising their power to share information
- Restriction on Use of Child Information

If any Child Information is provided to the School under Part 6A of the CWS Act, the School must not, except as otherwise required or permitted by any law, use or disclose the Child Information for any purpose that is not associated with the safety, welfare or wellbeing of the child or young person (or class of children or young persons) to whom the Child Information relates.

## 16.21 Offences

Offences and penalties may apply if Child Information is shared in ways that are not permitted under Part 6A of the CWS Act:

1. The offence of **unauthorised use or disclosure of confidential information** includes a significant fine for a person or body corporate (section 41ZK). It is a defence if the person used or disclosed the Child Information in good faith and with reasonable care (section 41ZK(2)).
2. The offence of intentional or reckless unauthorised use or disclosure includes penalties of imprisonment of up to five years and/or a significant fine for an individual or a body corporate (section 41ZL).

These two offences do not apply in the following circumstances:

- to a child or their parents or people living with a child who has/have been provided with Child Information by an ISE for the purposes of managing a risk to the safety of the child under the scheme;
- use or disclosure is made with the consent of the person to whom the Child Information relates;
- if the person to whom the Child Information relates is incapable of giving consent to the use or disclosure, a use or disclosure made with the consent of the person's authorised representative;
- disclosure made to a court or tribunal in the course of legal proceedings or made pursuant to an order of a court or tribunal;
- a use or disclosure made to the extent reasonably required to enable the investigation or the enforcement of law;
- disclosure made to an Australian legal practitioner for the purposes of obtaining legal advice or representation; or
- use or disclosure made as required or authorised by the CWS Act or any another Act.

3. The offence of falsely claiming to be an ISE or an authorised representative of an ISE – or knowingly allowing someone else to believe that you are – includes a significant fine for a person or body corporate (section 41ZM). It is a defence if the person reasonably believes that there is authorisation by the ISE.

## 16.22 Record Keeping About Information Sharing Under the Child Information Sharing Scheme and the Family Violence Information Sharing Scheme

Section 41ZC of the Child Wellbeing and Safety Act 2005 (Vic) requires that the School keeps records of information sharing requests to, and disclosures made by, the School pursuant to the CIS Scheme. Section 7 of the Child Wellbeing and Safety Act 2005 (Vic) prescribe the specific information that must be recorded for this Scheme.

Section 144PB of the Family Violence Protection Act 2008 (Vic) requires that the School keeps records of information sharing requests to and disclosures made by the School pursuant to the FVIS Scheme. Part 3 of the Family Violence



Protection (Information Sharing and Risk Management) Regulations 2018 (Vic) prescribe the specific information that must be recorded for this Scheme.

The record keeping requirements under both Schemes are similar.

### **16.23 Disclosure of Information to an ISE**

The School must record the following information about disclosures of Information to information sharing entities (ISEs) under both the CIS Scheme and the FVIS Scheme:

- the ISE that requested the Information
- the Information that was requested
- the date on which the ISE made the request
- a record of the Information that was disclosed
- the date on which the Information was disclosed
- the ISE to which the Information was disclosed
- a copy of any family violence risk assessments or safety plans relevant to the disclosure
- for disclosures under the CIS Scheme or for disclosures of information relating to a child victim survivor under the FVIS Scheme:
  - whether the School sought and obtained the views of the child, or the views of that child's parent and, if not, the reason why
  - whether the child or that child's parent was informed that the Information was or would be disclosed.
- for disclosures under the FVIS Scheme:
  - where a relevant consent was required and was provided, a record of the consent
  - where a relevant consent was not provided and the Information was shared without consent:
    - the reason why consent was not obtained
    - whether the views of the person were sought and obtained, and if not the reasons why not
    - whether the person was informed that their Information was shared without their consent.

#### **Refusal to Disclose Information to an ISE**

If the School declines a request from an ISE for Information about any person, the School must record the:

- details of the request
- reason why the request was declined.

#### **Refusal to Disclose a Person's Own Information to the Person**

If the School declines a request from a person to access their own Information (under the CIS Scheme policy's Procedure for Responding to a Request from an Individual for their Own Information or the FVIS Scheme policy's Procedure for Responding to a Request from an Individual for Their Own FV Information), the School must record the:

- details of the request
- reason why the request was declined.

### **16.24 Requests by the School To Another ISE**

When the School makes a request for Information to another ISE, the School should record the:

- date of the request
- ISE that the request was made to
- Information that was sought
- reason why the Information was sought.

## **17 Information Sharing under Part 5A of the Family Violence Protection Act 2008 (Vic)**

### **17.1 Background**



The Family Violence Protection Act 2008 (Vic) (FVP Act) and the Family Violence Protection (Information Sharing and Risk Management) Regulations 2018 (Vic) (FV Information Sharing Regulations) establish a statutory information sharing regime, called the Family Violence Information Sharing Scheme (FVIS Scheme).

The FVIS Scheme prioritises the sharing of information to keep perpetrators of family violence in view and to promote the safety of victim survivors of family violence, over the privacy and confidentiality of perpetrators/alleged perpetrators. It also prioritises the safety of child victim survivors over the privacy and confidentiality of any adult.

The FVIS Scheme and the Child Information Sharing Scheme (CIS Scheme) complement each other. Under both Schemes, certain organisations and services are prescribed as “information sharing entities” (ISEs), which are similar for both Schemes. Non-government schools are an ISE under both Schemes.

Despite laws prohibiting or restricting the disclosure of personal information, under the FVIS Scheme ISEs must share confidential information about a victim survivor, perpetrator/alleged perpetrator of family violence or a linked person, that is relevant to assessing or managing a family violence risk, (FV Information) with other ISEs:

- when requested to do so by the ISE that is a Risk Assessment Entity (RAE), for family violence assessment purposes
- when requested to do so by another ISE, for family violence protection purposes under Part 5A of the FVP Act.

Part 5A of the FVP Act also permits ISEs to voluntarily disclose to other ISEs FV Information about a victim survivor, perpetrator/alleged perpetrator or linked person, for the same purposes.

It also permits ISEs to disclose a perpetrator’s FV Information to a victim survivor (or, if the victim survivor is a child, to their parent provided they are not a perpetrator) for the purpose of managing a risk to the victim survivor’s safety. The FVIS Scheme does not affect reporting obligations created under other legislation, such as Mandatory Reporting. It also does not prevent or limit the School from using or disclosing FV Information if it is required or permitted to do so by or under any other Act or law.

The Family Violence Information Sharing Ministerial Guidelines (FV Ministerial Guidelines) and this policy set out how Staff must handle FV Information and how the School must apply the legislative principles of the FVIS Scheme.

In the School context, sharing FV Information under the FVIS Scheme is likely to mostly come up in situations where:

- a student is the victim of family violence, including by being exposed to family violence between other family members or by being subjected to family violence by a person (including another student) with whom the student is or was in an intimate personal relationship
- a student is believed or suspected to be a perpetrator of family violence, whether against a family member or against a person (including another student) with whom they are or were in an intimate personal relationship
- the School is concerned that giving a person access to their own personal FV Information would increase a risk to a student’s safety or that of their family members from family violence.

## **17.2 Source of Obligation**

The School, as a non-government school, is a prescribed ISE under regulation 5 and Schedule 1 of the FV Information Sharing Regulations.

## **17.3 Mandatory Information Sharing with ISEs**

Under section 144KB of the FVP Act, an ISE that is prescribed as an RAE may make a request for FV Information about a victim survivor, a perpetrator, an alleged perpetrator or a linked person to the School for a family violence assessment purpose.

Under section 144KC of the FVP Act, the School must disclose the requested FV Information if:

- the FV Information is not Excluded Information
- sharing the FV Information does not contravene another law; and
- relevant consent requirements are met.



Under section 144LB of the FVP Act, an ISE may make a request for FV Information about a victim survivor, a perpetrator or a linked person to the School, or the School may make such a request to another ISE, for a family violence protection purpose.

Under section 144LC of the FVP Act, the School, or the other ISE to whom the request was made by the School, must disclose the requested FV Information if:

- the School/other ISE reasonably believes that the disclosure of the relevant FV Information is necessary for a family violence protection purpose
- the FV Information is not Excluded Information
- sharing the FV Information does not contravene another law; and
- relevant consent requirements are met.

For more information about consent requirements, refer to Consent Thresholds for Information Sharing Under the FVIS Scheme.

#### **17.4 Voluntary Information Sharing with ISEs**

Under sections 144KA and 144LA of the FVP Act, the School may, on its own initiative, voluntarily share FV Information with an RAE or another ISE if:

- the FV Information is not Excluded Information
- sharing the FV Information does not contravene another law; and
- relevant consent requirements are met
- and either
  - in the case of disclosing FV Information to an RAE, the disclosure is for a family violence assessment purpose; or
  - in the case of disclosing FV Information to an ISE that is not an RAE, the disclosure is for a family violence protection purpose.

#### **17.5 Information Sharing with Victim Survivors**

Under section 144M of the FVP Act, the School may disclose the FV Information of a perpetrator (other than Excluded Information or where sharing the FV Information would contravene another law) to a victim survivor (or to the parent of a child victim survivor) for a family violence protection purpose.

The person to whom the FV Information has been disclosed must not use or disclose that FV Information except for the purpose of managing the risk to the victim survivor of being subjected to family violence.

For more information about sharing FV Information with students and parents/carers, refer to Communication with Parents/Carers and our Privacy Program.

#### **17.6 Restrictions on Sharing Information with Perpetrators and Alleged Perpetrators**

Under privacy law, any person may seek access to their own personal information (including FV Information covered by this policy) from Bacchus Marsh Grammar. In the usual circumstances, the School is required to give that person access to their own FV Information.

However, under section 144QA of the FVP Act, the School may refuse to give a person access to their FV Information if it believes on reasonable grounds that giving the person access to the FV Information would increase a risk to a victim survivor's safety from family violence.

Under the FV Ministerial Guidelines, the School also must take steps to ensure that it does not inadvertently disclose FV Information to a perpetrator/alleged perpetrator. See page 40 of the FV Ministerial Guidelines.

This obligation means that the School must verify the identity of a person who is requesting FV Information from the School on behalf of an ISE. The School must also ensure that any staff, Volunteers or contractors who have a conflict of interest (because they are related to or have a personal relationship with a victim survivor and/or a perpetrator/alleged perpetrator) are not able to access FV Information about the relevant victim survivor or perpetrator/alleged perpetrator. For more information, refer to the Conflicts of Interest policy.

## 17.7 Interaction of the FVIS Scheme and the Child Information Sharing Scheme

The FVIS Scheme and the CIS Scheme were designed to complement each other. Both Schemes enable certain organisations and services to share information to respond to the range of needs and risks facing children and families. Both Schemes prioritise the sharing of information to promote a child's safety over the privacy of any person.

As an ISE under both Schemes, the School must comply with both the FVIS Scheme and the CIS Scheme.

While the purposes for which information may be shared differ between the Schemes, when a child is affected by family violence there will be substantial overlap between the FVIS Scheme and the CIS Scheme. In these cases, it may be that the School will be sharing information with some ISEs under the CIS Scheme and with different ISEs under the FVIS Scheme, or it could be that the School will be sharing different information with a single ISE under each Scheme. Overlap between the Schemes is particularly likely when:

- a student who is aged under 18 is the victim of family violence (including by being exposed to family violence between other family members) (called a "child victim survivor" in the FV Ministerial Guidelines)
- a student who is aged under 18 is believed or suspected to be a perpetrator of family violence, whether against a family member or against a person (including another student) with whom they are or were in an intimate personal relationship (called an "adolescent who uses violence" in the FV Ministerial Guidelines).

For more information, refer to Information Sharing Under Part 6A of the Child Wellbeing and Safety Act 2005 (Vic) and Chapters 5 and 6 of the FV Ministerial Guidelines.

## 17.8 FVIS Scheme Principles

The legislative principles that guide the sharing of FV Information under the FVIS Scheme are set out in section 144J of the FVP Act. They are that ISEs should:

1. work collaboratively to coordinate services in a manner that respects the functions and expertise of each ISE
2. give precedence to the right to be safe from family violence over the right to privacy
3. only collect, use or disclose a person's confidential FV Information to the extent necessary to:
  - a. assess or manage risk to the safety of a person from family violence
  - b. hold perpetrators of family violence accountable for their actions
4. collect, use or disclose the confidential FV Information of a person who identifies as Aboriginal or Torres Strait Islander in a manner that:
  - a. promotes the right to self-determination and is culturally sensitive
  - b. considers the person's familial and community connections
5. have regard to and be respectful of a person's cultural, sexual and gender identity and religious faith.

In addition, when collecting, using and disclosing FV Information relating to a child (a person aged under 18), ISEs should:

1. promote the agency of the child and other family members at risk of family violence by ensuring their wishes are taken into account (having regard to the appropriateness of doing so and the child's age and maturity)
2. if the collection, use and disclosure of the FV Information includes the confidential information of other family members at risk of family violence, take all reasonable steps to ensure that the FV Information is collected, used and disclosed in a way that:
  - a. plans for the safety of those family members
  - b. recognises the desirability of preserving and promoting positive relationships between those family members and the child.

## 17.9 Key Definitions

### FV Information/Confidential Information

The FVIS Scheme permits the sharing of "confidential information" that is relevant to assessing or managing a family violence risk.

Section 144A of the FVP Act defines "confidential information" as:

- health information (which is defined in the Health Records Act 2001 (Vic)); or



- personal information, including sensitive information (which are defined in the Privacy and Data Protection Act 2014 (Vic)); or
- unique identifiers (which is defined in the Privacy and Data Protection Act 2014 (Vic)); or
- identifiers (which is defined in the Health Records Act 2001 (Vic)).

For the purposes of this policy, we refer to confidential information about a victim survivor, perpetrator/alleged perpetrator of family violence or a linked person, that is relevant to assessing or managing a family violence risk as “FV Information”.

### **Excluded Information**

Under section 144C of the FVP Act, and as described in the FV Ministerial Guidelines, FV Information is “excluded information” if it is prescribed as such by the FV Information Sharing Regulations, or if the collection, use or disclosure of the FV Information could be reasonably expected to do any of the following:

- endanger a person’s life or result in physical injury. For example, if sharing the address of a victim survivor with a particular ISE could alert a person, who is known to pose a threat, to the victim survivor’s whereabouts, then this FV Information should not be shared
- prejudice the investigation of a breach or possible breach of the law or prejudice the enforcement or proper administration of the law. For example, FV Information that could reveal details of a police investigation
- prejudice a coronial inquest or inquiry. For example, FV Information that could unduly influence a witness expected to give evidence before a coronial inquest
- prejudice the fair trial of a person or the impartial adjudication of a particular case. For example, FV Information that was cited in evidence during a closed session of court
- disclose the contents of a document, or a communication, that is of such a nature that the contents of the document, or the communication, would be privileged from production in legal proceedings on the ground of legal professional privilege or client legal privilege
- disclose or enable a person to ascertain the identity of a confidential source of information in relation to the enforcement or administration of the law. For example, where certain FV Information is known only to a particular person, their identity as a confidential source could be ascertained if that FV Information was shared
- contravene a court order or a provision made by or under the FVP Act or any other Act that prohibits or restricts the publication or other disclosure of information for or in connection with any proceeding, or requires or authorises a court or tribunal to close any proceeding to the public. For example, FV Information about proceedings that took place in a closed court
- be contrary to the public interest. For example, FV Information that could reveal covert investigative techniques.

For the purposes of this policy, we refer to FV Information that must not be shared by an ISE, whether in response to a request from another ISE or on its own initiative without a request, as Excluded Information.

### **Family Violence**

Under section 5 of the FVP Act, family violence is defined as behaviour by a person towards a family member of that person that:

- is physically or sexually abusive
- is emotionally or psychologically abusive
- is threatening
- is coercive
- in any way, controls or dominates the family member and causes the family member to feel fear for their safety or wellbeing or that of another person
- causes a child to hear or witness or otherwise be exposed to the effects of any of the above behaviours.

A family member is defined in section 8 of the FVP Act as a person who:

- is or has been the perpetrator’s spouse or partner
- is or has been in an intimate personal relationship with the perpetrator
- is or has been a relative of the perpetrator
- is a child who normally or regularly resides with the perpetrator or who has previously resided with the perpetrator on a normal or regular basis

- is a child of a person who has or has had an intimate personal relationship with the perpetrator.

For more information, refer to Definitions and Key Risk Indicators of Abuse.

### **Family Violence Assessment Purpose**

Under the FVIS Scheme, an ISE that is prescribed as an RAE may seek from another ISE, or be voluntarily provided by another ISE with, FV Information about victim survivors, perpetrators, alleged perpetrators or linked persons for family violence assessment purposes.

A family violence assessment purpose is defined in section 144A of the FVP Act as the purpose of establishing or assessing the risk of:

- a person committing family violence; or
- a person being subjected to family violence.

This includes establishing who is the person committing the family violence and/or who is being subjected to family violence and assessing the risk of family violence being committed.

### **Family Violence Protection Purpose**

Under the FVIS Scheme, an ISE may seek from another ISE, or be voluntarily provided by another ISE with, FV Information about victim survivors, perpetrators and linked persons for family violence protection purposes.

ISEs may also share a perpetrator's FV Information with a victim survivor (or a parent of a child victim survivor) for a family violence protection purpose.

A family violence protection purpose is defined in section 144A of the FVP Act as the purpose of managing a risk of:

- a person committing family violence, as well as an ongoing assessment of the risk of the person committing family violence
- a person being subjected to family violence, as well as an ongoing assessment of the risk of the person being subjected to family violence.

### **Linked Person**

Under the FVIS Scheme, ISEs may share the FV Information not only of victim survivors, perpetrators and alleged perpetrators, but also of linked persons.

A linked person is defined in section 144A as any person whose confidential information is relevant to a family violence assessment purpose or a family violence protection person but who is not otherwise a victim survivor, a perpetrator or an alleged perpetrator.

Linked persons could include previous partners, friends, acquaintances, neighbours or associates of a victim survivor, perpetrator or alleged perpetrator.

### **Perpetrator/Alleged Perpetrator**

It is important to understand the difference between perpetrators and alleged perpetrators, because ISEs may only share an alleged perpetrator's FV Information with an RAE and only for a family violence assessment purpose. ISEs may share a perpetrator's FV Information, on the other hand, with RAEs for family violence assessment purposes as well as with other ISEs for family violence protection purposes. A perpetrator's FV Information may also be shared with a victim survivor (or the parent of a child victim survivor) for family violence protection purposes.

The FV Ministerial Guidelines define a perpetrator as a person whom an ISE reasonably believes may commit family violence. This reasonable belief should be identified by undertaking a MARAM Framework risk assessment. In the FVP Act, a perpetrator is called a "person of concern".

The FV Ministerial Guidelines say that a person may be an alleged perpetrator if an ISE has limited information but there is a suspicion that the person poses a risk of committing family violence. This includes, but is not limited to, the following situations:

- where a victim survivor has physical injuries consistent with, but does not disclose that they are a result of, family violence



- where a victim survivor discloses family violence but does not identify the perpetrator
- where the Police apply for a family violence intervention order, even though the victim survivor wishes to revoke it and states that there is no family violence
- where an ISE suspects that a client (or, in the case of the School, a student or a family member of a student) is perpetrating family violence but the client/student/family member denies the use of violence
- where a person is acting in a controlling and aggressive manner towards a family member
- where some MARAM Framework risk factors have been identified but more information is needed
- where a child expresses fear of one or both of their parents, without providing further information.

In the FVP Act, an alleged perpetrator is called a “person who is alleged to pose a risk of family violence”.

### 17.10 Complying with the FVIS Scheme – the School’s Policy

It is the School’s policy to comply with all Part 5A requests for FV Information (other than Excluded Information) by RAEs for a family violence assessment purpose, unless a relevant consent is required and has not been given. See Consent Thresholds for Information Sharing Under the FVIS Scheme.

It is the School’s policy to comply with all Part 5A requests for FV Information (other than Excluded Information) by other ISEs for a family violence protection purpose, unless:

- the School reasonably believes that the disclosure of the relevant FV Information is not necessary for a family violence protection purpose. See Grounds for Sharing Information between ISEs
- a relevant consent is required and has not been given. See Consent Thresholds for Information Sharing Under the FVIS Scheme.

It is the School’s policy to voluntarily share FV Information (other than Excluded Information) with other ISEs under Part 5A, regardless of whether the other ISE has requested the FV Information, whenever the School considers that doing so is necessary for a family violence protection purpose and has been given any required consents. See Grounds for Information Sharing Between ISEs.

It is the School’s policy to share FV Information about a perpetrator (other than Excluded Information) with a victim survivor (or the parent of a child victim survivor) whenever the School considers that doing so is necessary to manage a risk of the victim survivor being subjected to family violence.

It is the School policy to refuse to disclose FV Information to a person (including a staff member, Volunteer, Contractor, student or a student’s parent/carer) whenever the School reasonably believes that giving the person access to the FV Information would increase a risk to a victim survivor’s safety from family violence. See our Privacy Program.

It is the School’s policy to follow the FV Ministerial Guidelines and the FVIS Scheme Principles, whenever Information is to be shared under this policy.

### 17.11 Who is Authorised to Share Information Under the FVIS Scheme?

The Principal is the School’s authorised representative/s for the purposes of sharing FV Information with, or requesting FV Information from, other ISEs on behalf of the School.

Where the FV Information relates to the Principal, the **Senior Deputy Principal** is the School’s authorised representative and is responsible for recording, investigating and managing requests for, or proposals to share, FV Information under this policy. Therefore any such requests or proposals should be directed to them. References to the Principal in this policy therefore include the \*client to insert\* when managing the sharing of FV Information in relation to the Principal.

### 17.12 Who is an ISE and Who is an RAE under the FVIS Scheme?

The list of ISEs prescribed under regulation 5 and Schedule 1 of the FV Information Sharing Regulations is extensive.



It includes services that work with children, young people and families, such as government and non-government schools, family violence services, alcohol and other drug services, sexual assault services, homelessness services, mental health services, community health centres, registered general medical practitioners/nurses and out of home care services.

It also includes government agencies and regulatory bodies such as Child Protection, Child FIRST/the Orange Door, Department of Housing, Youth Justice, Maternal and Child Health, Victoria Police, the Commission for Children and Young People, and the Disability Services Commissioner.

A subset of ISEs are prescribed as RAEs. An RAE is an organisation or service that, as part of its functions, establishes or assesses the risk of a person committing family violence or a person being subjected to family violence.

RAEs include:

- state-funded specialist family violence services (such as refuges, Men's Behaviour Change Programs, family violence counselling and therapeutic programs)
- members of Risk Assessment and Management Panels
- state-funded sexual assault services
- Child Protection
- Child FIRST/the Orange Door
- Victoria Police
- the Victims Support Agency.

All ISEs can access an online ISE list which is a database that can be used to identify other ISEs. For information on how to use the online ISE list refer to the ISE List User Guide.

For more information about ISEs and RAEs, see Chapter 2 of the FV Ministerial Guidelines.

### **17.13 Grounds for Sharing Information Under the FVIS Scheme**

Only FV Information that is relevant to assessing and/or managing a risk of family violence may be shared under the FVIS Scheme.

The MARAM Framework and Chapter 3 of the FV Ministerial Guidelines can assist in determining what FV Information may be relevant to assessing and/or managing a family violence risk.

### **17.14 Information Sharing with an RAE for a Family Violence Assessment Purpose**

For the School to share FV Information with an RAE for a family violence assessment purpose, the following additional requirements must be met, regardless of whether the FV Information is being shared pursuant to a request or voluntarily:

- the FV Information must not be Excluded Information; and
- any relevant consents must have been given.

When disclosing FV Information to an RAE voluntarily, the School must also consider that disclosing the FV Information is for a family violence assessment purpose.

### **17.15 Information Sharing with an ISE for a Family Violence Protection Purpose**

#### **If an ISE Has Made a Request for the FV Information**

For the School to share FV Information with an ISE that has requested the FV Information for a family violence protection purpose, the following additional requirements must be met:

- the School must have a reasonable belief that disclosure of the requested FV Information is necessary for a family violence protection purpose
- the FV Information must not be Excluded Information; and



- any relevant consents must have been given.

#### **If Sharing Voluntarily (Without a Request)**

For the School to voluntarily share FV Information with an ISE (without a request), the following additional requirements must be met:

- the School must consider that disclosing the FV Information is for a family violence protection purpose
- the FV Information must not be Excluded Information; and
- any relevant consents must have been given.

### **17.16 Information Sharing with a Victim Survivor for a Family Violence Protection Purpose**

For the School to share a perpetrator's FV Information with a victim survivor (or the parent of a child victim survivor), the following additional requirements must be met:

- the School must consider that disclosing the FV Information is for a family violence protection purpose; and
- the FV Information must not be Excluded Information.

### **17.17 Consent Thresholds for Information Sharing under the FVIS Scheme**

Whether or not the consent of the person whose FV Information is being shared is required depends on whose FV Information is being shared and whether or not the family violence risk relates to a child.

The Consent Flowchart on page 62 of the FV Ministerial Guidelines provides a useful overview of how to apply the consent thresholds when sharing FV Information under the FVIS Scheme.

### **17.18 Sharing Information About Perpetrators and Alleged Perpetrators**

Consent is not required from a perpetrator or an alleged perpetrator to share FV Information about them: with an ISE, whether for a family violence assessment purpose or a family violence protection purpose, or with a victim survivor (or the parent of a child victim survivor) to manage a risk of them being subjected to family violence.

### **17.19 Sharing Information About an Adolescent Who Uses Violence**

As a perpetrator/alleged perpetrator, consent is not required from a student aged under 18 who uses, or is suspected to be using, violence (whether against a family member or against a person, including another student, with whom they are, or were, in an intimate relationship) to share FV Information about them:

- with an ISE, whether for a family violence assessment purpose or a family violence protection purpose; or
- with a victim survivor to manage a risk of them being subjected to family violence.

**However, if the victim survivor of the adolescent's violence is an adult, that adult's consent may be required** before sharing FV Information about them, as set out below.

### **17.20 Sharing Information About an Adult Victim Survivor**

**The consent of an adult victim survivor is usually required** to share FV Information about them with an ISE, whether for a family violence assessment purpose or a family violence protection purpose.

However, under section 144NA of the FVP Act, the School may share FV Information about an adult victim survivor **without their consent if it reasonably believes that sharing the FV Information is necessary to lessen or prevent a serious risk to an individual's life, health, safety or welfare**. For more information about the serious threat exception, refer to Chapter 4 of the FV Ministerial Guidelines.

The School may also share FV Information about an adult victim survivor without their consent if the FV Information is relevant to assessing or managing family violence risks to a child, as set out below.



Most, but possibly not all, of the School's involvement in sharing FV Information about adult victim survivors under the FVIS Scheme will fall into this exception to the consent requirements.

### 17.21 Sharing Information About or Relevant to a Child Victim Survivor

**Consent is not required from any person when the FV Information being shared is relevant to assessing or managing family violence risks to a child** (including a risk of being exposed to family violence between other family members). Therefore, FV Information about adult victim survivors who are family members of the child may be shared without their consent.

However, it is the School's policy that:

- where the FV Information is about the child and/or other family members at risk of being subjected to family violence, the School will seek informed consent to the proposed information sharing from the child and/or the relevant family member provided that it is safe, reasonable and appropriate to do so
- where it is not possible to obtain informed consent, the child's and/or the family members' views will be sought prior to the proposed information sharing, provided that it is safe, reasonable and appropriate to do so
- at enrolment, parents/carers are informed that FV Information about students may be, or is, provided to other organisations.

It is the School's policy to follow Chapter 9 of the FV Ministerial Guidelines when seeking the informed consent, or otherwise seeking the views, of a child or family member about information sharing under the FVIS Scheme.

### 17.22 Sharing Information About a Linked Person

**The consent of a linked person is usually required** to share FV Information about them with an ISE, whether for a family violence assessment purpose or a family violence protection purpose.

However, under section 144NB of the FVP Act, the School may share FV Information about a linked person without their consent if it reasonably believes that sharing the FV Information is necessary to lessen or prevent a serious risk to an individual's life, health, safety or welfare. For more information about when this may occur, refer to Chapter 4 of the FV Ministerial Guidelines.

The School may also share FV Information about a linked person without their consent if the FV Information is relevant to assessing or managing family violence risks to a child, as set out above.

### 17.23 Information that Must Not be Shared

ISEs must not, under the FVIS Scheme, disclose Excluded Information to another ISE or to a victim survivor (or the parent of a child victim survivor).

ISEs also must not, under the FVIS Scheme, share FV Information that is known to be restricted under another law. Note, however, that the FVIS Scheme overrides some of the privacy and confidentiality provisions of other laws. Refer to Chapter 11 of the FV Ministerial Guidelines for information about which legislative privacy and confidentiality provisions have been overridden by the FVIS Scheme and which continue to apply.

### 17.24 Procedure for Making a Request for Information to an ISE

Where a staff member wishes to request FV Information from another ISE under section 144LB of the FVP Act, the request must be made to the Principal, who will consider whether or not to make the request for FV Information to the other ISE.

The Principal must determine whether:

- the FV Information being requested is relevant to, and being sought for, a family violence protection purpose



- the FV Information being requested is Excluded Information or is otherwise restricted from sharing by another law
- the informed consent of the relevant student, a family member (other than a person who is the perpetrator) or a linked person is required for the School to obtain the FV Information and:
  - if so, whether it has been given
  - if not, whether the views of the relevant student or of a family member (other than a person who is the perpetrator) should be sought and if so, what their views are.

If the Principal decides to request the FV Information from the other ISE then, before making the request, they should first try to contact the ISE by phone to discuss the ISE's information needs and ensure that the request is well targeted. Then, the Principal should request, in writing, that the FV Information be provided to the School. The written request must contain sufficient information to enable the ISE to consider whether sharing the FV Information with the School is necessary for a family violence protection purpose.

The request for FV Information must be recorded. See Record Keeping About Information Sharing Under the Child Information Sharing Scheme and the Family Violence Information Sharing Scheme.

### **17.25 Procedure for Responding to an Information Request from an RAE/ISE**

When a request for FV Information is received by the School from another ISE, the request must be forwarded to the Principal (or to the **Senior Deputy Principal** if the requested FV Information relates to the Principal).

The Principal must:

1. verify that the requesting entity is an ISE (and, if the request is for a family violence assessment purpose, that it is also an RAE) and:
  - if it is not, consider whether the FV Information should be shared under other applicable laws (for more information, refer to pages 40-41 of the FV Ministerial Guidelines)
2. verify the identity of the person making the request on behalf of the RAE/ISE
3. determine whether:
  - the FV Information being sought is relevant to assessing or managing a risk of family violence
  - they reasonably believe that disclosure of the FV Information is necessary for a family violence protection purpose, if the request for FV Information was made by the ISE for a family violence protection purpose
  - the FV Information being sought is Excluded Information or is otherwise restricted from sharing by another law
  - the informed consent of the relevant student, a family member (other than a person who is the perpetrator) or a linked person is required (noting that consent is not required if the FV Information is relevant to assessing or managing a family violence risk to a child); and:
    - if so, the Principal must either seek the relevant person's informed consent or determine whether the FV Information should be provided under the serious threat exception
    - if not, whether the views of the relevant student or of a family member (other than a perpetrator/alleged perpetrator) should be sought, and if so, the Principal must seek the relevant student or family member's views.

If the requesting ISE is a RAE and is seeking the FV Information for a family violence assessment purpose, the Principal must comply with the request and must provide the FV Information to the RAE unless:

- the FV Information is Excluded Information or otherwise restricted from disclosure by another law; or
- a relevant consent has not been given.

If the requesting ISE is seeking the FV Information for a family violence protection purpose, the Principal must comply with the request and must provide the FV Information to the ISE unless:

- they reasonably believe that disclosure of the FV Information is not necessary for a family violence protection purpose
- the FV Information is Excluded Information or otherwise restricted from disclosure by another law; or
- a relevant consent has not been given.

If the Principal declines to provide the FV Information, they must record the request and why it was refused, and they must provide these reasons to the requesting RAE/ISE in writing.



If the Principal determines that the FV Information must be shared, the FV Information may be shared verbally or in writing. The sharing of the FV Information must be recorded.

### **17.26 Procedure for Providing Information to an ISE without a Request**

If a staff member proposes that FV Information should be shared with an RAE/ISE without a request having been made, this proposal must be put to the Principal for their consideration and action.

The Principal must:

1. verify that the proposed receiving entity is an ISE (and, if the proposal is to share FV Information for a family violence assessment purpose, that it is also an RAE) and:
  - if it is not, consider whether the FV Information should be shared under other applicable laws (for more information, refer to pages 40-41 of the FV Ministerial Guidelines)
2. determine whether:
  - the FV Information proposed to be shared is relevant to assessing or managing a risk of family violence
  - the FV Information proposed to be shared is Excluded Information or is otherwise restricted from sharing by another law
  - the informed consent of the relevant student, a family member (other than a person who is the perpetrator) or a linked person is required (noting that consent is not required if the FV Information is relevant to assessing or managing a family violence risk to a child); and:
    - if so, the Principal must either seek the relevant person's informed consent or determine whether the FV Information should be provided under the serious threat exception
    - if not, whether the views of the relevant student or of a family member (other than a perpetrator/alleged perpetrator) should be sought, and if so, the Principal must seek the relevant student or family member's views.
3. verify the identity of the person at the RAE/ISE to whom the FV Information should be provided.

If the grounds for information sharing are met, it is the School's policy that the Principal must share the FV Information unless the FV Information is Excluded Information or otherwise restricted from disclosure by another law. The FV Information may be shared verbally or in writing.

The sharing of the FV Information must be recorded. See Record Keeping About Information Sharing Under the Child Information Sharing Scheme and the Family Violence Information Sharing Scheme.

### **17.27 Procedure for Providing Information About a Perpetrator to a Student or Their Parent**

If the Principal reasonably believes that disclosing FV Information to a victim survivor (or to the parent of a child victim survivor) is necessary to manage a risk to the victim survivor's safety from family violence, it is the School's policy that the Principal must share the FV Information unless the FV Information is Excluded Information or otherwise restricted from disclosure by another law.

The FV Information may be shared verbally or in writing.

The sharing of the FV Information must be recorded. See Record Keeping About Information Sharing Under the Child Information Sharing Scheme and the Family Violence Information Sharing Scheme.

### **17.28 Procedure for Responding to a Request from an Individual for Their Own FV Information**

Requests by a person (including a staff member, Volunteer, contractor, student or a student's parent/carer) to access their own personal information are usually managed by the School's Privacy Officer. For more information, refer to our Privacy Program.

However, where a person requests access to personal information that is FV Information covered by this policy, the request to access the FV Information must be referred to the Principal (or if the request is made by the Principal, to



the **Senior Deputy Principal** for a decision about whether or not the FV Information should be disclosed to the individual.

If the Principal reasonably believes that giving a person access to their own FV Information would increase a risk to a victim survivor's safety from family violence, it is the School's policy that the Principal must refuse to disclose the FV Information to the person. For more information, refer to our Privacy Program.

If the Principal declines to give a person access to their own FV Information, they must record the request and why it was refused. See Record Keeping About Information Sharing Under the Child Information Sharing Scheme and the Family Violence Information Sharing Scheme.

### **17.29 Record Keeping Requirements under the FVIS Scheme**

Section 144PB of the FVP Act requires that the School keeps records of requests for and disclosures of FV Information under the FVIS Scheme. Part 3 of the FV Information Sharing Regulations prescribe the specific information that must be recorded.

The School must take reasonable steps to protect these records against loss, misuse and unauthorised access, modification or disclosure. The School must also ensure that FV Information is managed securely to avoid the risk of intentional or unintentional privacy breaches. For more information, refer to Confidentiality and Privacy.

Further guidance about information sharing record keeping is in Chapter 10 of the FV Ministerial Guidelines and Record Keeping About Information Sharing Under the Child Information Sharing Scheme and the Family Violence Information Sharing Scheme.

### **17.30 Complaints under the FVIS Scheme**

An ISE may make a complaint to another ISE about how the other ISE has undertaken any activities under the FVIS Scheme, including where a request for FV Information has not been fulfilled.

Complaints from an ISE about the School's performance of its information sharing functions under the FVP Act are managed pursuant to our Complaints Handling Program.

If such a complaint is made to the School, the School must record:

- the date the complaint was made and received
- the nature of the complaint
- any action that was taken to resolve the complaint
- any necessary action that has been taken to prevent, or lessen, the risk of further similar complaints by addressing the reasons for the complaint
- the time taken to resolve the complaint
- if the School was unable to resolve the complaint, what (if any) further action was taken by the School.

For more information about how the School manages and records complaints (including complaints about its information sharing functions under the FVP Act), refer to our Complaints Handling Program.

### **17.31 Protection from Liability**

If any person who is authorised to share FV Information under Part 5A of the FVP Act, acting in good faith and with reasonable care, shares FV Information in accordance with Part 5A of the FVP Act, that person is not liable to any civil or criminal action, or any disciplinary action, for providing such FV Information. The person cannot be in breach of any code of professional etiquette or ethics or be considered to have departed from any accepted standards of professional conduct.

Generally, a person may be considered to have acted in good faith and reasonable care when they can demonstrate that they:



- shared the FV Information in accordance with their obligations, functions and authorisations
- intended for the FV Information to be shared for a family violence assessment purpose or a family violence protection purpose and not for another purpose
- did not act maliciously, recklessly or negligently when exercising their power to share FV Information.

### **17.32 Restriction on Use of Information**

If any FV Information is provided to the School under Part 5A of the FVP Act, the School must not, except as otherwise required or permitted by any law, use or disclose the FV Information for any purpose that is not associated with a family violence protection purpose.

### **17.33 Offences**

Offences and penalties may apply if FV Information is shared in ways that are not permitted under Part 5A of the FVP Act:

1. The offence of unauthorised use or disclosure of confidential information includes a significant fine for a person or body corporate (section 144R). It is a defence if the person used or disclosed the FV Information in good faith and with reasonable care (section 144R(2)).
2. The offence of intentional or reckless unauthorised use or disclosure includes penalties of imprisonment of up to five years and/or a significant fine for an individual or a body corporate (section 144RA).

These two offences do not apply in the following circumstances:

- use or disclosure is made with the consent of the person to whom the FV Information relates or, if the person is a child, with the consent of the child's parent (other than a parent who is the perpetrator/alleged perpetrator)
- disclosure made to a court or tribunal in the course of legal proceedings or made pursuant to an order of a court or tribunal
- a use or disclosure made to the extent reasonably required to enable the investigation or the enforcement of law
- disclosure made to an Australian legal practitioner for the purposes of obtaining legal advice or representation; or
- use or disclosure made as required or authorised by the FVP Act or any another Act.

## **18 Disciplinary Procedures**

Where a staff member, volunteer or any contractor breaches any obligation, duty or responsibility within this Program, the School may take disciplinary action, including in the case of serious breaches, summary dismissal or the termination of the person and/or responsible entity's engagement.

Where any other member of the School community breaches any obligation, duty or responsibility within this Program, the School may take appropriate action.

## **19 Continuous Review and Improvement**

The School is committed to continuous improvement in all its operations including this Child Protection Program.

It is the responsibility of the Principal to regularly review our Child Protection Program to ensure that it is working in practice and that the School is meeting its legal and regulatory obligations relating to child protection.

## **20 Additional Resources**

The following resources provide further information on Child Protection matters.

### **20.1 Child Safe Standards Toolkit**



A copy of the Child Safe Standards Toolkit is available through any of the School's Child Safety Officers or the School's website.

## 20.2 The Victorian Child Safe Standards

Commission for Children and Young People, The Child Safe Standards, 2018

Minister for Education, Child Safe Standards – Managing the Risk of Child Abuse in Schools, Ministerial Order No. 870, 2016

## 20.3 Mandatory Reporting

Department of Education and Training, Your Reporting and Legal Obligations, 2018

Department of Health and Human Services, Reporting child abuse, 2018

## 20.4 Responding to Child Protection Incidents

Department of Education and Training and Department of Health and Human Services Child Protection, Protect: Identifying and Responding to All Forms of Abuse in Victorian Schools, 2018

Department of Education and Training and Department of Health and Human Services Child Protection, Four Critical Actions for Schools: Responding to Incidents, Disclosures or Suspicions of Child Abuse, 2018

Department of Education and Training and Department of Health and Human Services Child Protection, Responding to Suspected Child Abuse: A Template for all Victorian Schools, 2018

Department of Education and Training and Department of Health and Human Services Child Protection, Responding to Student Sexual Offending

Department of Education and Training and Department of Health and Human Services Child Protection, Responding to Suspected Student Sexual Offending: Template for all Victorian Schools

## 20.5 Working with Children Checks

Department of Justice and Regulation, Working with Children Check website

## 20.6 Reportable Conduct Scheme

Commission for Children and Young People, Reportable Conduct Scheme, 2018

## 20.7 General Obligation to Report

Department of Justice and Regulation, Failure to Disclose Offence Fact Sheet, 2018

## 20.8 Duty to Protect Students from Abuse

Department of Justice and Regulation, Failure to protect: a new criminal offence to protect children from sexual abuse, 2018

## 20.9 Child Related HR Practices

Commission for Children and Young People, Standard 4: human resource practices, 2018

Department of Education and Training, HR Practices for a Child Safe Environment, 2018

## 21 Authorisation

<b>Board Document Name</b>	<b>Child Protection Program Handbook version 310</b>	
<b>Approval Authority</b>	Chairperson BMG Board	
<b>Administrator</b>	Secretary to BMG Board	



<b>Approval Date</b>	28 May 2021	Initial approval by the Principal
<b>Effective Date</b> [Current version if different from amended date]	28 May 2021	
<b>Amendment History</b>	<p>Amended on 28/02/2018 Amended on 18/01/2019</p> <p>Amended on 29 July 2019</p> <p>Amended on 17 February 2020 Amended on 22 June 2020</p> <p>Amended on 10 September 2020</p> <p>Amended on 28 May 2021</p> <p>Amended on 27 October 2021</p>	<p>Version 3.4</p> <p>Version 3.5 (updated Senior Child Safety Officer and changed reference to Child Protection Officer to Child Safety Officer)</p> <p>Version 3.6 (required updates from Complispace)</p> <p>Version 3.7 updates to staff and titles</p> <p>Version 3.8 updates to the Child Safety Officers and VIT record keeping</p> <p>Version 3.9 new section on Student Sexual Offending and review by external consultant</p> <p>Updated references from DHHS to Child Protection, negative notice to exclusion and a reference has been added to the Child Information Sharing Scheme.</p> <p>Added sections</p>
<b>Date of Next Review</b>	27 October 2022	To be reviewed annually

## 22 Appendices

### Appendix 1

Standard	Short Description	How Bacchus Marsh Grammar Applies this Standard
1	Organisational culture of child safety, including through effective leadership arrangements	<p>Bacchus Marsh Grammar complies with this Standard in a number of ways including:</p> <ul style="list-style-type: none"> <li>the development of this Child Protection Program, our <a href="#">Child Safe Policy</a> and <a href="#">Child Safe Code Of Conduct</a>;</li> <li>the appointment of senior staff members as the School's <a href="#">Child Safety Officers</a> who act as "Child Protection Champions" and are tasked with the overall responsibility for embedding an organisational culture of child protection in the School;</li> <li>each Board member, staff member and Direct Contact Volunteer having to complete <a href="#">Child Protection Training</a> which provides information with respect to key risk indicators of child abuse and reporting procedures;</li> <li>establishing <a href="#">clear guidelines for reporting</a> child abuse concerns; and</li> <li>creating an environment supportive of children from <a href="#">culturally diverse backgrounds</a> and <a href="#">children with disabilities</a>.</li> </ul>
2	A child safe policy or statement of commitment to child safety	<p>Bacchus Marsh Grammar has developed and implemented a <a href="#">Child Safe Policy</a> that describes the key elements of our approach to child protection as well as an overarching set of principles guiding the development of policies and procedures to protect children from child abuse.</p> <p>Our Child Protection and Safety Policy is published through various mediums including our public website.</p>
3	A code of conduct that establishes clear expectations for appropriate behaviour with children	Bacchus Marsh Grammar has created a plain English <a href="#">Child Safe Code of Conduct</a> which specifies appropriate standards of behaviour for adults towards students in all School environments, including outside of school hours.
4	Screening, supervision, training and other human resources practices that reduce the risk of child abuse by new and existing personnel	<p>Bacchus Marsh Grammar has created child safe human resources practices including those relating to:</p> <ul style="list-style-type: none"> <li>•Recruitment, Selection &amp; Screening</li> <li>•Our Working with Children Checks Policy</li> <li>•Child Protection Training</li> <li>•Cultural Awareness of Child Protection Issues</li> </ul>
5	Procedures for responding to and reporting allegations suspected child abuse	<p>Bacchus Marsh Grammar has established simple and accessible procedures for anyone to report a child abuse concern internally to one of the School's <b>Child Protection Officers</b>.</p> <p>Bacchus Marsh Grammar has developed and implemented procedures for Board *members, staff and Direct Contact Volunteers for responding to allegations and disclosures of child abuse, or suspected child abuse, including procedures for support following a disclosure by a student. Refer to our <a href="#">Procedures for Responding to and Reporting Allegations of Child Abuse</a>.</p> <p>Reporting procedures for third party contractors, external education providers, indirect contact volunteers, parents/carers and other community members are included in our <a href="#">Child Safe Policy</a> which is available on our public website.</p> <p>Age appropriate reporting procedures for students are developed through our <a href="#">pastoral care program</a>.</p>
6	Strategies to identify and reduce or remove the risk of abuse	<p>The School has adopted a risk management approach to child safety. <a href="#">Key risk indicators of child abuse</a> are documented in our Child Protection Program and also included in our <a href="#">Child Protection Training</a>.</p> <p>The School has developed a number of strategies, policies and procedures to create a risk-based approach to child safety and protection. Refer to <a href="#">Child Protection Risk Management</a>.</p>



7	Strategies to promote the participation and empowerment of children	Bacchus Marsh Grammar has developed strategies to promote the participation and empowerment of children including policies and procedures related to age appropriate <a href="#">pastoral care</a> and supporting <a href="#">children with disabilities</a> and <a href="#">children from culturally diverse backgrounds</a> .
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