

Purpose

This procedure defines the roles and responsibilities of Hester Hornbrook Academy (HHA) staff in protecting the safety and wellbeing of children and young people, and enables staff to:

- Identify indicators that a child or young person may be in need of protection.
- Make a report about a child or young person who may be in need of protection.
- Comply with reporting obligations under child protection law and criminal law and fulfil their duty of care

Scope

Policy this Procedure falls under: Hester Hornbrook Academy Child Safe Policy

HHA is committed to supporting the wellbeing of its students and protecting them from abuse.

All members of the HHA community share a responsibility to ensure the welfare of all students at all times.

1. All HHA staff must understand their obligations in relation to mandatory reporting, the failure to disclose offence and the failure to protect offence, as outlined in this procedure.
 - 1.1. If they have not already done so, all HHA staff will complete the Victorian Department of Education's Protecting Children e-learning module, available at <http://www.elearn.com.au/det/protectingchildren/>
 - 1.2. These obligations will be reiterated to all HHA staff during their induction, and at least once every year during their employment.
 - 1.3. The failure to disclose offence is outlined in 2.12 below and in detail in Appendix 2, based on the Victorian Department of Justice's factsheet.
 - 1.4. The failure to protect offence is outlined in 2.16 below and in detail in Appendix 3, based on the Victorian Department of Justice's factsheet.

Procedure/Framework

1. Mandatory Reporting

In line with s. 184 of the CYFA, mandatory reporters who believe on reasonable grounds that a child or young person is in need of protection from physical injury or sexual abuse must report their concerns to Department of Health and Human Services (DHHS) Child Protection.

- 1.1. Mandatory reporters must make a report to DHHS Child Protection on each occasion that they form a reasonable belief that a child or young person is in need of protection from physical injury or sexual abuse.
- 1.2. Mandatory reporters must make their reports under 2.5.1 as soon as practicable.
2. All HHA Staff who are not mandatory reporters are strongly encouraged to make a report to DHHS Child Protection if they form a reasonable belief that a child is in need of protection from physical injury or sexual abuse.
3. All other school staff members who form a belief on reasonable grounds that a child or young person:
 - 3.1. Is in need of protection, will report their concerns to DHHS Child Protection or Victoria Police.
 - 3.2. Is displaying sexually abusive behaviours and is in need of therapeutic treatment will report their concerns to DHHS Child Protection.
4. The process by which reports will be made to DHHS Child Protection is based on Victorian Department of Education & Training guidelines, and is outlined in 2.28 and in detail in Appendix 1. This process must be followed by mandatory reporters when making a report under 2.5:
 - 4.1. Mandatory reporters and all HHA staff are encouraged to make a referral to Child FIRST when they have significant concern for a child or young person's wellbeing but do not believe that the child or young person needs protection.
 - 4.2. In cases where staff have concerns about a child or young person, they should also discuss their concerns with the Principal or a member of the school leadership team.
5. HHA acknowledges that some students who are under the age of 17 will be enrolled in Registered Training Organisation (RTO) courses with Melbourne City Mission and other RTOs.
 - 5.1. As part of its agreements with these providers, HHA will maintain an ethical and moral obligation on RTO staff for reporting instances of suspected child abuse to those students who are aged 17 years or younger and where mandatory reporting would be required in a school based context.
 - 5.2. In these instances of suspected child abuse, RTO staff are obligated to report the matter according to the step-by-step guide in Appendix 1.
6. A mandatory reporter's obligations on the occasion where two or more mandated reporters have formed a belief about the same child on the same occasion and one person reports the belief to the DHHS Child Protection office, the other is obliged to ensure the report has been made and that all the grounds for their belief were included in the report made by the other person.
7. A mandatory reporter's obligations where a person directs a mandated professional not to make a report, and that mandated professional continues to hold a belief that a child

is in need of protection, then that mandated professional is legally obliged to make a report to the DHHS Child Protection office.

8. Failure to Disclose Offence

Any HHA staff member who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child under 16 must disclose that information to the police by calling Triple Zero (000). Failure to disclose the information to the police is a criminal offence, except in limited circumstances as outlined in Appendix 2.

9. This offence applies to **all adults** in Victoria, not just professionals who work with children.
10. When a reasonable belief formed is formed as outlined in 2.12, an adult must call the Victorian Police on Triple Zero (000) as soon as practicable.
11. A 'reasonable belief' in this context is defined in 2.22 below.
12. Further information on the failure to disclose offence is outlined in Appendix 2, based on the Victorian Department of Justice's factsheet.

13. Duty of care

School staff have a duty of care to protect the safety, health and wellbeing of children and young people in their care. If a staff member has concerns about the safety, health and wellbeing of children in their care they should take immediate action.

14. In the case of a child who may be in need of protection or therapeutic treatment, or where there are significant concerns about the wellbeing of a child, school staff can discharge this duty of care by taking action which includes the following:
 - 14.1. Reporting their concerns to DHHS Child Protection or Child FIRST.
 - 14.2. Notifying the Principal or a member of the school leadership team of their concerns and the reasons for those concerns.

15. Failure to Protect Offence

Any staff member in a position of authority, who becomes aware that an adult associated with their organisation (such as an employee, contractor, volunteer or visitor) poses a risk of sexual abuse to a child under the care, authority or supervision of the organisation, must take all reasonable steps to remove or reduce that risk. This may include, for example, removing the adult from child-related work pending investigation. If a staff member in a position of authority fails to take reasonable steps in these circumstances, this may amount to a criminal offence.

16. This offence applies only to **adults in a position of authority** within an organisation, including Principals, Board members, senior school staff and other senior managers.
17. The actions that should be taken by adults in a position of authority to avoid the risks of sexual abuse occurring are outlined in Appendix 3 below, based on the Victorian Department of Justice's factsheet.

18. Forming a 'reasonable belief'

19. A 'reasonable belief' or a 'belief on reasonable grounds' is not the same as having proof but is more than mere rumour or speculation. A 'reasonable belief' is formed if a reasonable person in the same position would have formed the belief on the same grounds.

For example, a 'reasonable belief' might be formed if:

- a child states that they have been physically or sexually abused
- a child states that they know someone who has been physically or sexually abused (sometimes the child may be talking about themselves)
- someone who knows a child states that the child has been physically or sexually abused
- professional observations of the child's behaviour or development leads a professional to form a belief that the child has been physically or sexually abused or is likely to be abused
- signs of abuse lead to a belief that the child has been physically or sexually abused.

20. Types of child abuse and indicators of harm

Child abuse can have a significant effect on a child's physical or emotional health, development and wellbeing.

Types of child abuse include:

- physical abuse
- sexual abuse
- emotional abuse
- neglect
- medical neglect
- family violence
- human trafficking (including forced marriage)
- sexual exploitation (including pornography and prostitution).

21. A report should be made to DHHS Child Protection in circumstances where, for example:

- the child is engaging in risk-taking behaviour
- female genital mutilation has occurred, or there is a risk of it occurring
- there is a risk to an unborn child
- a child or young person is exhibiting sexually-abusive behaviours
- there are indications that a child is being groomed.
 - The grooming offence is outlined in detail in Appendix 4.

22. There are many indicators of child abuse and neglect. The presence of a single indicator, or even several indicators, does not prove that abuse or neglect has occurred. However, the repeated occurrence of an indicator, or the occurrence of several indicators together, should alert teachers to the possibility of child abuse and neglect.

23. For full definitions for all of the types of child abuse and a comprehensive list of the indicators of harm, see Appendix 2 in the Victorian Government Protocol Protecting the

safety and wellbeing of children and young people, located at:
http://www.education.vic.gov.au/school/Principals/spag/safety/Documents/protectionofchildren.PDF?_sm_au_=iVVLFk0VwHwNP7M5

24. When to Report

The following table sets out when to report a concern that a child or a young person has been abused, or is in need of protection.

Type of Reporting	By Whom	To Whom
<p>Mandatory Reporting - DHHS Child Protection Mandatory reporters must make a report as soon as practicable if, in the course of practising their profession or carrying out their duties, they form a belief on reasonable grounds that a child or young person is in need of protection, as a result of physical injury or sexual abuse, and the child's parents are unable or unwilling to protect the child.</p>	Mandatory reporters	DHHS Child Protection
<p>Child in need of protection Any person may make a report if they believe on reasonable grounds that a child is in need of protection for any of the following reasons:</p> <ul style="list-style-type: none"> • The child has been abandoned and there is no other suitable person who is willing and able to care for the child. • The child's parents are dead or incapacitated and there is no other suitable person who is willing and able to care for the child. • The child has suffered or is likely to suffer significant harm as a result of physical injury and the parents are unable or unwilling to protect the child. • The child has suffered or is likely to suffer significant harm as a result of sexual abuse and their parents are unable or unwilling to protect the child. • The child has suffered or is likely to suffer emotional or psychological harm and the parents are unable or unwilling to protect the child. • The child's physical development or health has been, or is likely to be significantly harmed and the parents are unable or unwilling to provide basic care, or effective medical or other remedial care. 	Any person	DHHS Child Protection Victoria Police
<p>Child displaying sexually abusive behaviours and in need of therapeutic treatment Any person may make a report if they believe on reasonable grounds that a child who is 10 years of age or over, but under 15</p>	Any person	DHHS Child Protection

years of age, is in need of therapeutic treatment because he or she has exhibited sexually-abusive behaviours.		
<p>Significant concerns about wellbeing of a child</p> <p>Any person may make a report if they have significant concerns for the wellbeing of a child.</p>	Any person	DHHS Child Protection Child FIRST
<p>Reasonable belief that a sexual offence has been committed by an adult against a child under 16.</p> <p>Any adult who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child under 16 must report that information to police. It is a criminal offence not to make a report, except in the following circumstances:</p> <ul style="list-style-type: none"> The victim is 16 years of age or older and does not have an intellectual disability that limits his/her capacity to make an informed decision; and he/she does not want the information reported to the police The victim has disclosed the information in confidence in the course of a therapeutic relationship with you as a registered medical practitioner or counsellor. The victim turned 16 years of age before 27 October 2014. <p>Reasonable excuses for failing to comply with the requirement include:</p> <ul style="list-style-type: none"> a reasonable belief that the information has already been reported to police or DHHS Child Protection disclosing all of the information a reasonable fear that the disclosure will place someone (other than the alleged perpetrator) at risk of harm 	Any person aged 18 or over	Victoria Police

25. Making a Report

This table describes the required actions to report child abuse or child protection concerns.

Step	Description
1	<p>In case of emergency or if a child is in immediate danger contact Triple Zero (000) or the local police station.</p> <p>Alternatively, to report concerns about the immediate safety of a child within their family unit to DHHS Child Protection, call the Child Protection Crisis Line on 13 12 78 (24 hours 7 days, toll free)</p>
2	Keep comprehensive notes that are dated and include the following information:

	<ul style="list-style-type: none"> information that has led to concerns about the child's safety (e.g. physical injuries, student behaviour) the source of this information (e.g. observation of behaviour, report from child or another person) the actions taken as a result of the concerns (e.g. consultation with Principal, report to DHHS Child Protection etc.).
3	Discuss any concerns about the safety and wellbeing of students with the Principal or a member of the school leadership team. The individual staff member should then make their own assessment about whether they should make a report about the child or young person and to whom the report should be made.
4	<p>Gather the relevant information necessary to make the report. This should include the following information:</p> <ul style="list-style-type: none"> full name, date of birth, and residential address of the child or young person the details of the concerns and the reasons for those concerns the individual staff member's involvement with the child and young person details of any other agencies who may be involved with the child or young person, if known.
5	<p><u>Make a report to the relevant agency.</u></p> <p>To report concerns that are life threatening phone 000 or the local police station. To find the nearest Victoria Police Sexual Offences and Child Abuse Investigation Team contact your local police station or click here)</p> <p>To report concerns about the immediate safety of a child within their family unit to DHS Child Protection, call the Child Protection Crisis Line on 13 12 78 (24 hrs 7 days, toll free)</p> <p>To report concerns to DHHS Child Protection, contact your local child protection office.</p>
6	<p>Make a written record of the report which includes the following information:</p> <ul style="list-style-type: none"> the date and time of the report and a summary of what was reported the name and position of the person who made the report and the person who received the report.
7	Notify relevant school staff of a report to DHHS Child Protection or Child FIRST.

26. Potential consequences of making a report

This table describes the potential consequences of making a report.

- 26.1. Sensitive to the diversity characteristics of the school community;
- 26.2. Made publicly available; and
- 26.3. Accessible to children, school staff, and the wider community.

Potential consequence	Description
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<p>Confidentiality</p>	<p>The identity of a reporter must remain confidential unless:</p> <ul style="list-style-type: none"> • the reporter chooses to inform the child, young person or parent of the report. • the reporter consents in writing to their identity being disclosed. • a Court or Tribunal decides that it necessary for the identity of the reporter to be disclosed to ensure the safety and wellbeing of the child. • a Court or Tribunal decides that, in the interests of justice, the reporter is required to provide evidence.
<p>Professional Protection</p>	<p>If a report is made in good faith:</p> <ul style="list-style-type: none"> • it does not constitute unprofessional conduct or a breach of professional ethics on the part of the reporter. • the reporter cannot be held legally liable in respect of the report.
<p>Interviews</p>	<p>DHHS Child Protection and/or Victoria Police may conduct interviews of children and young people at the school without the parent’s knowledge or consent.</p> <p>Interviewing children and young people at school should only occur in exceptional circumstances and if it is in the best interests of the child to proceed in this manner.</p> <p>DHHS Child Protection and/or Victoria Police will notify the Principal or a member of the leadership team of their intention to interview the child or young person on the school premises.</p> <p>When officers from DHHS Child Protection or Victoria Police come to the school premises, the Principal or a member of the leadership team should request to see identification before permitting them to have access to the child or young person.</p> <p>When a child or young person is being interviewed by DHHS Child Protection and/or Victoria Police, school staff must arrange to have a supportive adult present with the child or young person.</p>
<p>Support for the child or young person</p>	<p>The roles and responsibilities of staff members in supporting children who are involved with DHHS Child Protection may include the following:</p> <ul style="list-style-type: none"> • acting as a support person for the child or young person • attending DHHS Child Protection case planning meetings • observing and monitoring the child’s behaviour • liaising with professionals.

Requests for Information	<p>DHHS Child Protection and/or Child FIRST and/or Victoria Police may request information about the child or family for the purpose of investigating a report and assessing the risk to the child or young person.</p> <p>In certain circumstances, DHHS Child Protection can also direct school staff and Department staff to provide information or documents about the protection or development of the child. Such directions should be in writing and only be made by authorised persons within DHHS Child Protection.</p>
Witness Summons	<p>If DHHS Child Protection makes a Protection Application in the Children's Court of Victoria, any party to the application may issue a Witness Summons to produce documents and/or to give evidence in the proceedings.</p>

27. The HHA Board must ensure that the Mandatory Reporting Procedure is:
- 27.1. Cover all forms of 'child abuse' as defined in the ETR Act;
 - 27.2. Apply to allegations or disclosures of child abuse made by or in relation to a child, school staff, visitors, or other persons while connected to a school environment;
 - 27.3. Identify the positions of the person or people who are responsible for:
 - 27.4. Promptly managing the school's response to an allegation or disclosure of child abuse, and ensuring that the allegation or disclosure is taken seriously;
 - 27.5. Responding appropriately to a child who makes or is affected by an allegation of child abuse;
 - 27.6. Monitoring overall school compliance with this procedure; and
 - 27.7. Managing an alternative procedure for responding to an allegation or disclosure if the person allocated responsibility under Clause 11(3)(c)(i) cannot perform his or her role.
28. Include a statement that 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
29. Clearly describe the actions the school will take to respond to an allegation of child abuse, including actions to:
- 29.1. Inform appropriate authorities about the allegation (including but not limited to mandatory reporting);
 - 29.2. Protect any child connected to the alleged child abuse until the allegation is resolved; and
 - 29.3. Make, secure, and retain records of the allegation of child abuse and the school's response to it.
30. The HHA Mandatory Reporting Procedure must not:
- 30.1. Prohibit or discourage school staff from reporting an allegation of child abuse to a person external to the school;
 - 30.2. State or imply that it is the victim's responsibility to inform the police or other authorities of the allegation;

- 30.3. Require staff to make a judgment about the truth of the allegation of child abuse;
or
- 30.4. Prohibit staff from making records in relation to an allegation or disclosure of child abuse.

Accountability

Hester Hornbrook Academy Child Safe Policy
Hester Hornbrook Academy Student Welfare Policy
Hester Hornbrook Academy Bullying & Harassment Procedure
Hester Hornbrook Academy Communications Policy

Legislative context

Education and Training Reform Act 2006 (Vic)
Australian Education Act 2013 (Cth)
Children, Youth and Families Act 2005 (Vic)
Child Wellbeing and Safety Act 2005 (Vic)
Crimes Act 1958 (Vic)
Victorian Institute of Teaching Act 2001 (Vic)
Victorian School Policy Advisory Guide – Child Protection
Victorian Department of Justice Factsheet – Failure to disclose offence
Victorian Department of Justice Factsheet – Failure to protect offence
Victorian Department of Justice Factsheet – Grooming offence
Victorian Government Protocol Protecting the safety and wellbeing of children and young people
VRQA Independent School Application Form – C.4.1.xi

Definitions

The following definitions apply to this document:

'child' has the same meaning it does under the *Children, Youth and Families Act 2005* (Vic) (CYFA) – in general, this means a person aged under 18.

'child abuse' has the same meaning it does under the *Child Wellbeing and Safety Act 2005* (Vic), which includes:

- (a) any act committed against a child involving –
 - (i) a sexual offence; or
 - (ii) an offence under section 49B(2) of the Crimes Act 1958 (grooming); and
- (b) the infliction, on a child, of –
 - (i) physical violence; or
 - (ii) serious emotional or psychological harm; and
- (c) serious neglect of a child.

'mandatory reporter' means a person defined as a mandatory reporter under s. 182 of the CYFA. In the context of HHA, this is particularly related to teachers, youth workers, all HHA Management and the HHA Principal. .

Supporting Material

Document number	Document title
	Appendix 1 - 4
See Accountabilities	HHA Policies and Procedures
Endorsed Copy	Available from the HHA Administration upon request

Development and Review

Owner:	Principal, Hester Hornbrook Academy
Author:	Principal, Hester Hornbrook Academy
Approval Date:	January 2019
Review Date:	January 2022

Mandatory Reporting Procedure

Appendix 1:

A step-by-step guide to making a report to Child Protection or Child FIRST

Protective concerns

You are concerned about a child because you have:

- received a disclosure from a child about abuse or neglect
- observed indicators of abuse or neglect
- been made aware of possible harm via your involvement in the community external to your professional role.

At all times remember to:

- record your observations
- follow appropriate protocols
- consult notes and records
- consult with appropriate colleagues if necessary
- consult with other support agencies if necessary

STEP 1	RESPONDING TO CONCERNS	STEP 2	FORMING A BELIEF ON REASONABLE GROUNDS	STEP 3	MAKING A REFERRAL TO Child FIRST	STEP 4	MAKE A REPORT TO CHILD PROTECTION
	<ol style="list-style-type: none"> 1. If your concerns relate to a child in need of immediate protection; or you have formed a belief that a child is at significant risk of harm*. Go to Step 4 2. If you have significant concerns that a child and their family need a referral to Child FIRST for family services. Go to Step 3 3. In all other situations Go to Step 2. <p>* Refer to Appendix 2: Definitions of child abuse and indicators of harm in the Protocol – <i>Protecting the safety and wellbeing of children and young people</i></p>		<ol style="list-style-type: none"> 1. Consider the level of immediate danger to the child. Ask yourself: <ol style="list-style-type: none"> a) Have I formed a belief that the child has suffered or is at risk of suffering significant harm? YES / NO and b) Am I in doubt about the child's safety and the parent's ability to protect the child? YES / NO 2. If you answered yes to a) or b) Go to Step 4 3. If you have significant concerns that a child and their family need a referral to Child FIRST for family services. Go to Step 3 		<p>Child Wellbeing Referral</p> <ol style="list-style-type: none"> 1. Contact your local Child FIRST provider. <ul style="list-style-type: none"> • See over for contact list for local Child FIRST phone numbers. 2. Have notes ready with your observations and child and family details. 		<p>Mandatory/Protective Report*</p> <ol style="list-style-type: none"> 1. Contact your local Child Protection Intake provider immediately. <ul style="list-style-type: none"> • See over for contact list for local Child Protection phone numbers. • For After Hours Child Protection Emergency Services, call 131 278. 2. Have notes ready with your observations and child and family details. <p>* <i>Non-mandated staff members who believe on reasonable grounds that a child is in need of protection are able to report their concerns to Child Protection</i></p>

For further information refer to *Protecting the safety and wellbeing of children and young people – A joint protocol of the Department of Human Services Child Protection, Department of Education and Early Childhood Development, Licensed Children's Services and Victorian Schools*

Mandatory Reporting Procedure

Contact Numbers

Department of Education and Early Childhood Development

METROPOLITAN REGIONS	
Eastern	(03) 9265 2400
Northern	(03) 9488 9488
Western	(03) 9291 6500
Southern	(03) 9794 3555
RURAL REGIONS	
Barwon South Western	5225 1000
Gippsland	5127 0400
Grampians	5337 8444
Hume	5761 2100
Loddon Mallee	5440 3111

Office for Children and Licensed Children's Services:

METROPOLITAN REGIONS	
Eastern	(03) 9265 2400
Northern	(03) 9412 5333
Western	(03) 9275 7000
Southern	(03) 9096 9555
RURAL REGIONS	
Barwon South Western	5225 1000
Gippsland	5127 0400
Grampians	5337 8444
Hume	5761 2100
Loddon Mallee	5440 3111

Important information for government schools

Principals of Victorian Government schools must report all incidents to the Emergency and Security Management Unit on **03 9589 6266**.

Victorian Government schools should contact the Student Critical Incident Advisory Unit (SCIAU), Student Wellbeing Division, for advice and support when responding to allegations of student sexual assault or inappropriate sexual behaviours.

The SCIAU can be contacted on **03 9637 2934** or **03 9637 2487**.

Victorian Government School Principals should refer to the flowchart – *Responding to Allegations of Student Sexual Assault Compulsory Actions for Principals* at:

<http://www.education.vic.gov.au/healthwellbeing/safety/childprotection/childprotection.htm>

Department of Human Services Child Protection

METROPOLITAN REGIONS		METROPOLITAN REGIONS	
Intake Unit		Regional Office	
Eastern	1300 360 391	Box Hill	(03) 9843 6000
North and West	1300 664 977	Preston	1300 664 977
		Footscray	1300 360 462
Southern	1300 655 795	Dandenong	(03) 9213 2111

RURAL REGIONS			
Intake Unit		Regional Office	
Barwon South Western			
	1800 075 599	Geelong	(03) 5226 4540
Gippsland	1800 020 202	Traralgon	(03) 5177 2500
Grampians	1800 000 551	Ballarat	(03) 5333 6530
Hume	1800 650 227	Wangaratta	(03) 5722 0555
		Wodonga	(02) 6055 7777
Loddon Mallee	1800 675 598	Bendigo	(03) 5434 5555

After hours Child Protection Emergency Services (AHCPEs)

Statewide number for all emergency child protection matters outside of normal business hours (24 hours, 7 days a week): **131 278**

Victoria Police **000**

Catholic Education Offices

Catholic Education Office, Melbourne	(03) 9267 0228
Catholic Education Office, Ballarat Diocese	5337 7135
Catholic Education Office, Sale Diocese	5622 6600
Catholic Education Office, Sandhurst Diocese	5443 2377

Independent Schools Victoria (03) 9825 7200

Other

Victorian Aboriginal Education Association, Inc.	(03) 9481 0800
Victoria Police Sexual Offences and Child Abuse Unit	(03) 9247 6666
Centre Against Sexual Assault	1800 806 292
Gatehouse Centre, Royal Children's Hospital (for specialist counselling and medical assistance)	(03) 9345 6391
Child Safety Commissioner	(03) 8601 5884
Victorian Aboriginal Child Care Agency	(03) 8388 1855

CHILD FIRST

Local Catchment Area	Contact
Barwon South Western	Greater Geelong, Queenscliff, Surf Coast 1300 551 948
Western	Colac – Otway, Corangamite 5232 5500
	Warrnambool, Moyne, Glenelg, Southern Grampians 1300 889 713
Gippsland	East Gippsland 5152 0052
	Wellington 5144 7777
	La Trobe, Baw Baw 1800 339 100
	South Gippsland, Bass Coast 5662 5150
Grampians	Northern Grampians, West Wimmera, Hindmarsh, Yarrambat, Horsham 1800 195 114
	Ararat, Pyrenees, Hepburn, Ballarat, Golden Plains, Moorabool 1300 783 341
Hume	Wodonga, Towong, Indigo 1800 705 211
	Alpine, Benalla, Mansfield, Wangaratta 1800 705 211
	Greater Shepparton, Strathbogie, Moira 1300 854 944
	Mitchell, Murrindindi 1800 663 107
Loddon Mallee	Greater Bendigo, Campaspe, Central Goldfields, Loddon, Macedon Ranges, Mount Alexander 1800 260 338
	Buloke, Goonawarra, Swan Hill, Mildura 1800 625 533 1800 MALLEE
Eastern Metropolitan	Yarra Ranges, Knox, Maroondah 1300 369 146
	Monash, Whitehorse, Manningham, Booroondarra 1300 762 125
North and West Metropolitan	Nilumbik, Whittlesea, Banyule, Yarra and Darebin (03) 9450 0955
	Brimbank, Melton 1300 138 180
	Hume, Moreland 1300 786 433
	Hobson's Bay, Maribyrnong, Melbourne, Moonee Valley and Wyndham 1300 775 160
Southern Metropolitan	Casey, Cardinia, Greater Dandenong (03) 9705 3939
	Aboriginal children and families (Casey, Cardinia and Great Dandenong) (03) 9794 5973
	Frankston, Mornington Peninsula 1300 721 383
	Kingston, Bayside, Glen Eira, Stonnington, Port Phillip 1300 367 441

Appendix 2:

Victorian Department of Justice Factsheet, available at:

<http://www.justice.vic.gov.au/home/safer+communities/protecting+children+and+families/failure+to+disclose+offence>

Factsheet: Failure to Disclose Offence

Reporting child sexual abuse is a community-wide responsibility. Accordingly, a new criminal offence has been created in Victoria that imposes a clear legal duty upon all adults to report information about child sexual abuse to police.

Any adult who forms a reasonable belief that a sexual offence has been committed by an adult against a child under 16 has an obligation to report that information to police. Failure to disclose the information to police is a criminal offence.

1. What is a 'reasonable belief'?

A 'reasonable belief' is not the same as having proof. A 'reasonable belief' is formed if a reasonable person in the same position would have formed the belief on the same grounds.

For example, 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 a child states that the child has been sexually abused
- professional observations of the child's behaviour or development leads a professional to form a
- belief that the child has been sexually abused
- signs of sexual abuse leads to a belief that the child has been sexually abused.

2. Are there any excuses for not reporting child sexual abuse to police?

A person will not be guilty of the offence if he or she has a reasonable excuse for not disclosing the information. A reasonable excuse includes:

- fear for safety
- where the information has already been disclosed.

Fear for safety

A reasonable excuse exists in cases where a person has a reasonable fear for their own safety or the safety of another person (such as a child or another family member) and they do not report to police due to those circumstances.

This defence may apply, for example, if a mother decides not to disclose information about her partner sexually abusing her child due to fear of violence to her or her child.

The person's fear must be subjectively reasonable, that is, it must be reasonable from the perspective of that person in those circumstances. This recognises that the person in question is best placed to judge whether their safety is in danger.

The court or jury will consider whether it was reasonable for the person not to report in the circumstances.

Where the information has already been disclosed

It is a reasonable excuse to not disclose where a person believes on reasonable grounds that the information has already been disclosed to police and they have no further information to add.

An important example of this exception is where the person has already made a report under the mandatory reporting obligation specified in the Children, Youth and Families Act 2005. This obligation requires teachers, doctors and other professionals to report concerns about child welfare to child protection authorities within the Department of Health and Human Services (DHHS).

Under the existing mandatory reporting system, DHHS already passes on all allegations of child sexual abuse to police, so it will be a reasonable excuse for not reporting to police if a person has made a report to DHHS or reasonably believes a report has been made to DHHS. This ensures that people are not required to make multiple reports to different agencies.

3. What is not a reasonable excuse?

A person does not have a reasonable excuse for failing to disclose sexual abuse if they are only concerned for the perceived interests of the perpetrator or any organisation. 'Perceived interests' includes reputation, legal liability or financial status.

For example, a Principal's concern for the reputation of a school, or a clergyman's concern for the reputation of a church where the abuse happened will not be regarded as a reasonable excuse.

4. Are there any other exemptions to the offence?

There are a number of other exemptions, which include:

- the victim requests confidentiality
- the person is a child when they formed a reasonable belief
- the information would be privileged
- the information is confidential communication
- the information is in the public domain
- where police officers are acting in the course of their duty.

The victim requests confidentiality

The new offence respects the position of a victim who does not want the offending disclosed and who is sufficiently mature to make that judgment. The obligation to report therefore does not apply where the information comes from a person aged 16 or over and this person requests that the offence not be reported.

The law recognises that a child under 16 is not able to make this kind of decision and sometimes lacks the capacity to fully understand the effects of sexual abuse.

A person will still be required to disclose information to police if:

- the victim who requested confidentiality has an intellectual disability, and

- the victim does not have the capacity to make an informed decision about a disclosure, and
- the person who received the information is aware or should be reasonably aware of those facts.

The person is a child when they formed a reasonable belief

If a person was under the age of 18 when they formed a reasonable belief, they will not be obliged to make a disclosure when they turn 18. This protects children from the burden of knowing that they will have to disclose to police when they turn 18.

The information would be privileged

People will not be required to disclose where the information would be privileged. This includes:

- client legal privilege
- journalist privilege
- religious confessions.

For example, if a priest obtains information made in good faith through a rite of confession (as long as the admission is not given for a criminal purpose), the priest is exempt from disclosing.

The information is confidential communication

A registered medical practitioner or counsellor is not required to disclose information to police if the information is obtained from a child whilst providing treatment and assistance to that child in relation to sexual abuse. However, under the mandatory reporting obligations, a registered medical practitioner would still be required to report to DHHS if they form a reasonable belief that a child has been sexually abused and is in need of protection. This exemption is not designed to prevent the reporting of child sexual abuse, but rather to protect the registered medical practitioner or counsellor from criminal liability.

If an adult provides information to a medical practitioner or counsellor regarding the sexual abuse of a child, the medical practitioner or counsellor would be required to disclose that information to police unless another exemption applies.

The information is in the public domain

A person does not have to disclose to police if they get the information through the public domain, or form the belief solely from information in the public domain such as television or radio reports.

Where police officers are acting in the course of their duties

A police officer acting in the course of their duty in respect of a victim of child sexual abuse is exempt from the offence.

5. If it is going to be compulsory for everyone to report child sexual abuse, why are there exemptions?

We need to ensure that in creating this legal obligation, we do not put children and their families at even greater risk of harm, especially those who may be experiencing family violence.

6. Won't child sexual abuse continue to occur if exemptions are allowed?

There is currently no requirement for people to report child sexual abuse to police, so introducing this new legal obligation is a big step towards preventing child sexual abuse in our community and ensuring people understand that it is a community-wide responsibility.

Certain exemptions are required to avoid any unintended consequences of this new obligation. It is not intended, for example, that this offence criminalise victims of family violence who don't report due to fear for their own or someone else's safety.

For example, women in family violence situations may have a reasonable fear for the safety of their child or another family member, especially in cases where threats have already been made. They may fear that making a report to police will escalate the situation, putting their child or another family member at even greater risk of harm – or even death.

Preventing the sexual abuse of children is a community responsibility. Other people connected with the child will still be required to make a report, unless they have a reasonable excuse not to do so.

7. Won't this offence discourage people from seeking help where they have experienced child sexual abuse?

The law will not require a medical practitioner or counsellor to disclose information to police when it has been obtained from a victim during treatment for sexual abuse.

Disclosures for the purpose of obtaining legal advice will also be protected by client legal privilege. There are also other exemptions which have been listed above.

8. The offence requires 'any adult' to report suspected child sexual abuse. Isn't this too broad? Won't it lead to people reporting unfounded suspicions?

The offence requires a person to report to police where they have information that leads them to form a 'reasonable belief' that a sexual offence has been committed against a child under 16. Under the offence, people will not be expected to disclose unfounded suspicions as a suspicion does not constitute a 'reasonable belief'.

The failure to disclose offence is a big step towards preventing child sexual abuse in our community and ensuring people understand that protecting children and preventing sexual abuse is a community-wide responsibility.

9. How will I be protected if I make a disclosure to police?

Your identity will remain confidential unless:

- you disclose it yourself or you consent in writing to your identity being disclosed
- a court or tribunal decides that it is necessary in the interests of justice for your identity to be disclosed.

10. Will any person who knows of child sexual abuse happening in the past be required to report?

A person who knows of child sexual abuse having occurred in the past will not have to report to police unless the victim is still a child when the offence comes into effect.

11. What is the penalty for failing to disclose child sexual abuse?

The maximum penalty is three years imprisonment.

12. When did the failure to disclose offence take effect? 27 October 2014.

13. How do I contact Victoria Police to make a report?

If you want to report a child in immediate risk or danger of sexual abuse please call Triple Zero (000). Alternatively, you can contact your local police station.

Mandatory Reporting Procedure

If you or someone you know has experienced child sexual abuse in an institutional context, we encourage you to contact Victoria Police's Sano Taskforce via email at sanotaskforce@police.vic.gov.au

Appendix 3:

Victorian Department of Justice Factsheet, available at:

<http://www.justice.vic.gov.au/home/safer+communities/protecting+children+and+families/failure+to+protect+offence>

Factsheet: Failure to Protect Offence

In response to the [Betrayal of Trust](#) report the Victorian Government is strengthening laws to protect our children from sexual abuse and exposure to sexual offenders. This is in recognition of the shared community responsibility to protect children from abuse and to provide a safe environment for children to develop, learn and play.

A new criminal offence for failing to protect a child under the age of 16 from a risk of sexual abuse will commence on 1 July 2015.

The offence will apply where there is a substantial risk that a child under the age of 16 under the care, supervision or authority of a relevant organisation will become a victim of a sexual offence committed by an adult associated with that organisation. A person in a position of authority in the organisation will commit the offence if they know of the risk of abuse and have the power or responsibility to reduce or remove the risk, but negligently fail to do so.

This offence will encourage organisations to actively manage the risks of sexual offences being committed against children in their care and further protect them from harm.

1. What is the offence of failing to protect a child from a sexual offence?

The new offence provides that a person who:

- a) by reason of the position he or she occupies within a relevant organisation, has the power or responsibility to reduce or remove a substantial risk that a relevant child 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 relevant organisation; and
- b) knows that there is a substantial risk that the person will commit a sexual offence against a relevant child –

must not negligently fail to reduce or remove that risk.

2. What is a 'relevant organisation'?

The offence applies to people in authority within a *relevant organisation*. A relevant organisation is one that exercises care, supervision or authority over children, whether as part of its primary function or otherwise.

Relevant organisations include, but are not limited to:

- churches
- religious bodies
- education and care services (such as childcare centres, family day care services, kindergartens and outside school hours care services)
- licensed children's services such as occasional care services

- schools and other educational institutions
- organisations that provide accommodation to children and young people, such as boarding schools and student hostels
- out-of-home care services
- community service organisations providing services for children
- hospitals and other health services
- government agencies or departments providing services for children
- municipal councils (for example those that deliver Maternal and Child Health services)
- sporting groups
- youth organisations
- charities and benevolent organisations providing services for children.

3. Who is a person in authority in an organisation?

A person in authority is someone who, by reason of their position within a relevant organisation, has the power or responsibility to reduce or remove a substantial risk that a child under the age of 16 years, who is under their care, supervision or authority, may become the victim of sexual abuse committed by an adult associated with the organisation.

Whether someone is considered to be a person in authority will depend on the degree of supervision, power or responsibility the person has to remove or reduce the substantial risk posed by an adult associated with the organisation. People in authority will usually have the ability to make management level decisions, such as assigning and directing work, ensuring compliance with the organisation's volunteer policy and other operational arrangements.

Examples of people in authority may include residential house supervisors, CEOs, board, council or committee members, school Principals, service managers and religious leaders. It may also apply to people with less formal involvement in an organisation. For example, a volunteer parent coach responsible for the supervision of a junior sports team may be a person in authority, even if their role is informal or limited.

4. Who is a relevant child?

A person in authority will be guilty of an offence if he or she negligently fails to reduce or remove a substantial risk to a relevant child. A 'relevant' child is a child under the age of 16 who is, or may come, under the care, supervision or authority of a relevant organisation.

The child does not need to be identified. This means that the risk is not that a particular child will become the victim of sexual abuse. Instead, the substantial risk could be posed to any child who is, or who may be in the future, under the organisation's care, supervision or authority.

5. Who is a 'person associated with' an organisation?

The offence requires a person in authority to act if they know that a *person associated with their organisation* poses a substantial risk to a relevant child. This may include a person who is an officer, office holder, employee, manager, owner, volunteer, contractor or agent of the organisation. This definition does not include a person who solely receives services from the organisation.

For example, a parent living in the community who is involved with child protection services or who has a child in out-of-home care, and who may pose a risk of sexual abuse to a child, would *not* be considered to be 'associated with' the Department of Health & Human Services under the offence. Similarly, parents of children attending a school or service will generally only be 'associated with the organisation' if they are also engaged as a volunteer, for example to assist in the classroom or attend an excursion or camp.

The offence relates to risk of sexual abuse by adults. Children under the age of 18 who pose a risk of sexually abusing other children are not covered by this offence.

6. What is a 'substantial risk'?

The offence requires a person in authority to reduce or remove a known 'substantial' risk that an adult associated with the organisation may commit a sexual offence against a relevant child. It does not make it a criminal offence to fail to address every possible risk that a sexual offence may be committed against a child.

There are a number of factors that may assist in determining whether a risk is a substantial risk. These include:

- 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 a 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.

When determining whether a risk is substantial, the courts will consider a variety of factors, which may include those listed above. The courts will consider all the facts and circumstances of the case objectively, and will consider whether a reasonable person would have judged the risk of a sexual offence being committed against the child abuse as substantial. It is not necessary to prove that a sexual offence, such as indecent assault or rape, was committed.

7. When does a person 'know' there is a risk of child sexual abuse?

This offence requires a person in authority to act if they *know* that there is a substantial risk that a child may become the victim of a sexual offence. A person is generally taken to have knowledge of a circumstance if he or she is aware that it exists or will exist in the ordinary course of events. This requires a higher level of awareness than merely holding a tentative belief or suspicion.

However, it is expected that a person in authority will take steps to follow up on a suspicion or belief that children in their organisation were at risk of harm.

8. When does a person negligently fail to reduce or remove a substantial risk?

Under the offence, a person is taken to have *negligently failed* to reduce or remove a substantial risk if that failure involves a great falling short of the standard of care that a reasonable person would exercise in the same circumstances. The offence does not require a person in authority to eliminate all possible risks of child sexual abuse.

For example, a person in authority who knows that an adult associated with the organisation poses a substantial risk to children, and moves that adult from one location in an organisation to another location where they still have contact with children, is likely to be committing the offence. Another example is where a person in

authority employs someone in a role that involves contact with children, when the person in authority knows the employee left their last job because of allegations of sexually inappropriate behaviour involving children.

9. Will this criminalise mistakes made by adults who are caring for or working to protect children?

This law is aimed at protecting children and compelling those in authority to remove or reduce known substantial risks that children may become victims of sexual abuse.

As previously noted, the offence applies to a person in authority whose failure to protect a child from sexual abuse involves a great falling short of the standard of care that a reasonable person would exercise in the same circumstances.

The offence is unlikely to be committed where a person takes reasonable steps to protect a child from the risk of sexual abuse, for example, where an allegation is reported to appropriate authorities and the individual is removed from any role involving unsupervised contact with children pending an investigation.

10. What should a person in authority do to reduce or remove the risk of child sexual abuse posed by an adult associated with their organisation?

A person in authority in an organisation must take reasonable steps to reduce or remove a known substantial risk that an adult associated with their organisation will commit a sexual offence against a child.

For example:

- A current employee who is known to pose a risk of sexual abuse to children in the organisation should be immediately removed from contact with children and reported to appropriate authorities and investigated.
- A community member who is known to pose a risk of sexual abuse to children should not be allowed to volunteer in a role that involves direct contact with children at the organisation.
- 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.

If you want to report a child in **immediate** risk or danger of a sexual offence please call Triple Zero (000).

11. How can you improve child safety in your organisation, and remove or reduce the risk of harm?

There are a range of measures that organisations can adopt to improve child safety and reduce the risk of harm to children. New Victorian child-safe standards are expected to be introduced from January 2016, and will provide a framework to assist in ensuring child safety in the organisation. Under the standards, organisations will be expected to have policies, procedures and systems in place to protect children from abuse, including appropriate pre-employment screening arrangements and systems for reporting and responding to allegations of abuse.

In the meantime, organisations are encouraged to create and implement risk management strategies suitable to their environment to reduce the risk of harm to children. These may include:

- Adopting a child safety policy that outlines a commitment to child safety and provides guidance on how to create a child safe environment.
- Enforcing a code of conduct that sets clear expectations about appropriate behaviour towards children and obligations for reporting a breach of the code.
- Ensuring all new staff and volunteers are appropriately screened, including reference checks, before commencing employment with the organisation (in addition to Working with Children Checks or Victorian Institute of Teaching registration).

- Providing training to staff in prevention, identification and response to child safety risks, including reporting requirements and procedures.

Organisations should review existing policies and practices to identify potential risks and ensure that risk management strategies and action plans are effective. To learn more about creating child-safe organisational environments, the *Guide to Creating a Child-safe Environment* produced by the Commission for Children and Young People provides practical information for organisations seeking to improve child safety and reduce the risk of harm.

Organisations operated, funded and/or regulated by Government can reduce the risk of child harm to children by continuing to comply with departmental standards, screening requirements, program requirements and policies on preventing, reporting and responding to child sexual abuse, for example:

- [Protecting the safety and wellbeing of children and young people: A joint protocol of the Department of Human Services Child Protection, Department of Education and Early Childhood Development, Licensed Children's Services and Victorian Schools \(Joint Protocol\)](#)
- [DHHS's Critical Client Incident Management Instruction; and the Instruction on Responding to Allegations of Physical or Sexual Assault \(RAPSA\)](#)
- [Schools Policy and Advisory Guide](#) (SPAG) for Victorian government schools

Sports and recreation organisations can also refer to the [Victorian Code of Conduct for Community Sport](#) and [VicSport 'Safeguarding Children'](#) websites for resources about creating child-safe organisations.

12. Will the offence criminalise members of the public who fail to protect a child from a risk of sexual abuse?

No — the failure to protect offence applies to people in authority within an organisation that exercises care, supervision or authority over children. It does not apply to parents or other individuals not connected to these organisations. However, as noted above, a parent who volunteers in an organisation (for example as a sporting coach) may be in a position of authority and subject to the offence.

A separate '[failure to disclose](#)' offence applies to any adult who fails to report a reasonable belief to Victoria Police that a sexual offence has been committed against a child under the age of 16, unless there is a reasonable excuse for not doing so.

13. How does the failure to protect offence interact with mandatory reporting obligations?

This offence is in addition to existing mandatory reporting obligations for specified staff under the *Children, Youth and Families Act 2005*. It applies to any person in authority within a relevant organisation, not just mandatory reporters.

14. What is the penalty for failing to protect a child?

The maximum penalty is five years' imprisonment.

15. When will the offence take effect?

The offence will commence on 1 July 2015.

16. How do I contact Victoria Police?

If you want to report a child in **immediate** risk or danger of a sexual offence please call Triple Zero (000).

If the report is not in relation to an immediate risk, contact your [local police station](#) or call Crime Stoppers on 1800 333 000.

Appendix 4:

Victorian Department of Justice Factsheet, available at:

<http://www.justice.vic.gov.au/home/safer+communities/protecting+children+and+families/grooming+offence>

Factsheet: Grooming Offence

The *Crimes Amendment (Grooming) Act 2014*, which commenced in Victoria on 9 April 2014, introduces the offence of Grooming for sexual conduct with a child under the age of 16 years. This offence targets predatory conduct designed to facilitate later sexual activity with a child.

The Betrayal of Trust report recommended the grooming offence, given the way in which many sex offenders target their victims. Grooming can be conducted in person or online, for example via interaction through social media, web forums and emails.

Many perpetrators of sexual offences against children purposely create relationships with victims, their families or carers in order to create a situation where abuse could occur. For this reason, parents, carers or other family members who have been targeted by perpetrators in order to gain access to a child are also victims.

The *Victim's Charter Act 2006* was amended to expressly provide that a child and a family member of that child are victims of a grooming offence and are entitled to provide a victim impact statement to a court.

1. What is grooming?

- The offence of grooming concerns predatory conduct undertaken to prepare a child for sexual activity at a later time.
- The offence applies where an adult communicates, by words or conduct, with a child under the age of 16 years or with a person who has care, supervision or authority for the child with the intention of facilitating the child's involvement in sexual conduct, either with the groomer or another adult.
- Grooming does not necessarily involve any sexual activity or even discussion of sexual activity – for example, it may only involve establishing a relationship with the child, parent or carer for the purpose of facilitating sexual activity at a later time.
- The sexual conduct must constitute an indictable sexual offence. This includes offences such as sexual penetration of a child, indecent assault and indecent act in the presence of a child. It does not include summary offences, such as upskirting and indecent behaviour in public.

2. Who can commit the offence?

The offence can be committed by any person aged 18 years or over. It does not apply to communication between people who are both under 18 years of age.

What age are the children who are protected by the offence?

The offence applies to communication with children under 16 years, but not communication with 16 and 17 year old children. This distinction between children aged below 16 and those aged 16 or 17 reflects the general age of consent (16 years) recognised by the criminal law in relation to sexual offences.

3. What are the key differences between the Victorian grooming offence and the grooming offences that have been implemented in New South Wales and by the Commonwealth?

The New South Wales grooming offence is confined to circumstances in which an adult engages in conduct that exposes a child to indecent material or provides the child with an intoxicating substance with the intention of making it easier to procure the child for sexual activity. The Victorian offence is broader than this and prohibits an adult from engaging in any form of communication with the intention of facilitating sexual conduct. This is not limited to exposing the child to indecent material or providing them with an intoxicating substance and may include such acts as inappropriately giving them gifts or favours with the intention of engaging in later sexual activity.

The offence is similar to the Commonwealth grooming offence. The key distinction is that the Commonwealth offence is limited to grooming via a communication transmitted through a carriage service. The Victorian offence applies to any form of communication between the adult and child, including communication that occurs in person.

4. What is the purpose of amending the *Victim's Charter Act 2006*?

Amending the *Victim's Charter Act 2006* to expressly include a family member of the child as a victim of a grooming offence (eg. the child's parents) entitles the parents, or another family member, to provide a victim impact statement to the court.

5. What is the penalty for grooming?

The maximum penalty is 10 years imprisonment.