

## Purpose

This policy outlines how the Hester Hornbrook Academy (HHA) will manage the legal duty of care owed by HHA to its students.

## Application

This policy applies to all HHA staff, all MCM staff, volunteers or other professionals who work from a HHA campus.

## Scope

HHA will adhere to all of its legal duty of care requirements in relation to its students. All HHA staff understand that they have a duty of care to take reasonable steps to protect students in their care from risks of harm or injury (physical or psychological) that are reasonably foreseeable. The reasonable steps that HHA may decide to take in response to a potential risk or hazard will depend on the circumstances of the risk.

## Policy

HHA notes the legal background of their duty of care:

- “Duty of care” is an element of the tort of negligence. In broad terms, the law of negligence provides that if a person suffers injury as the result of the negligence of another, they should be compensated for the loss and damage which arises from the negligent act or omission.

HHA will take all reasonable steps to reduce the risk of harm or injury to students, including:

- Following PROTECT and the Four Critical Actions for Schools, (see Appendix 1)
- Acting on concerns about child safety and wellbeing as soon as practicable,
- Meeting all reporting obligations,
- Sharing information with HHA Leadership team who are responsible for monitoring and providing ongoing support to at-risk student,
- Monitoring specific students where there are known behavioural risks,
- Providing suitable and safe premises, facilities and equipment,
- Providing an adequate system of supervision in the school or on school activities and events,
- Educating students about their own physical and psychological safety (e.g., providing cyber-safety training),
- Giving students proper instructions about the use of equipment and machinery,
- Responding to accidents and incidents and taking appropriate follow up measures,
- Ensuring that medical assistance is provided to a sick or injured student,
- Seeking advice and consulting with professionals (both internal and external) as required,

- Undertaking risk assessments for school activities, events, camps and excursions,
- Raising awareness with staff, parents/carers and students about risks and communicating HHA's duty of care policy and procedures,
- Ensuring that HHA complies with Ministerial Order No. 1359 (when it commences)
- Ensuring all safety screening is completed for all contractors, volunteers and visitors to each campus of HHA
- Managing employee recruitment, conduct and performance.

The above list is not exhaustive.

## Guiding Principles

- HHA recognises that it owes a duty to take reasonable steps to prevent the abuse of a child by an individual associated with HHA/MCM while the child is under the care, supervision or authority of the organisation.
- HHA recognises that its duty of care is non-delegable, meaning that it cannot be assigned to another person or entity.
- HHA recognises that it owes a duty to take reasonable care that any student on their premises will not be injured or damaged by reason of the state of the premises or of things done or omitted to be done in relation to the state of their premises.
- HHA recognises that HHA staff have a special duty of care whenever a staff-student relationship exists. This means that HHA staff will take reasonable measures to protect a student in their care from risks of injury that the staff member should reasonably have foreseen.
- HHA recognises that greater measures may need to be taken under this policy students with disabilities, those who are vulnerable, from CALD backgrounds, from lower socio-economic backgrounds or those who have substance abuse issues. Duty of care will be dependent on each student and their particular needed. .
- HHA recognises that its duty of care to HHA students may extend to outside school hours and premises.
- HHA recognises that staff are frequently called upon to advise students, and when doing so HHA staff should:
  - Limit their advice to students to areas within their own professional competence and given in situations arising from a role specified for them by the Principal.
  - Ensure that the advice they give is correct and in line with current best practice.
  - Keep contemporaneous notes of advice given to individuals.
  - Avoid giving advice in areas unrelated to their role or where they may lack expertise.
  - [Suggestion] – Make referrals to appropriate individuals, organisations and/or agencies
- All HHA staff are aware that if they do not comply they may be subject of litigation and/or disciplinary hearings - internally or externally though VIT for example.

## Roles and responsibilities

The HHA Board is responsible for:

1. Determining this policy and reviewing it on an annual basis  
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The Principal is responsible for:

1. Ensuring that this policy is communicated to staff and the school community
2. Providing training for staff on the duty of care and retaining a record of that training
3. Ensuring that all staff HHA and MCM adhere to their duty of care in our school setting.

Staff (HHA & MCM) are responsible for:

1. Understanding this policy and procedures, and
2. Undertaking training  
Enacting all components of their duty of care

## Communication

This policy will be available to the HHA school community through our HHA website. It will be readily accessible to all staff via the Policy Centre and included in staff induction processes.

The Principal is responsible for the communication of this policy.

### Accountability

All HHA Staff

### Legislative context

Children, Youth and Families Act 2005 (Vic)

Child Wellbeing and Safety Act 2005 (Vic)

Crimes Act 1958 (Vic)

Education and Training Reform Act 2006 (Vic)

Australian Education Act 2013 (Cth)

Australian Education Regulation 2013 (Cth)

Ministerial Order No. 870: meeting the child safe standards

<https://www.vrqa.vic.gov.au/childsafe/Pages/documents/Min%20Order%20870%20Child%20Safe%20Standards.pdf>

## Supporting Material

Document number	Document title
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# HHA Duty of Care Policy

	HHA Child Safe Policy
	HHA Behaviour Management Policy
	HHA Behaviour Management Procedure
	HHA Student Learning & Wellbeing Strategy
	HHA Student Welfare Policy
	HHA Mature Minors Policy

## Development and Review

Owner: Principal, Hester Hornbrook Academy  
Author: Principal, Hester Hornbrook Academy  
Approval Date: February 2022  
Review Date: February 2024

## Appendix One:

### Child Protection and Child Safe Standards (PROTECT)

Information and advice on how to protect children, create a child safe environment, identify and report signs of abuse.



The [Victorian Budget 2020/21](#) invests \$5 million for the transition of the education and training sector to the new National Principles for Child Safe Organisations. The Victorian Registration and Qualifications Authority will also receive funding to support its expanded remit to regulate boarding school facilities.

#### Understanding the Child Safe Standards

An overview of the standards and the Royal Commission into institutional responses to child sexual abuse, as well as downloadable guidance

#### Identify child abuse

As a school staff member, it is critical to be able to recognise the physical or behavioural signs of child abuse. In many circumstances they may be the only indication that a child is subject to abuse

#### Your reporting and legal obligations

Guidance on mandatory and other reporting obligations where there is concern that a child or young person has been, is being, or is at risk of being abused

#### Report child abuse: the four critical actions

The four critical actions you must take and the guidance for schools to meet their obligations under Child Safe Standard 5: procedures for responding to and reporting suspected child abuse

#### Child Safe Standards: Creating a safe environment

To create and maintain a child safe organisation, all Victorian schools must comply with Ministerial Order No. 870 – Child Safe Standards, which came into effect 1 August 2016

#### Identify and respond to student sexual offending

Guidance for all Victorian school staff on what action to take if you suspect, or are witness to student sexual offending

#### Respond to child sexual exploitation and grooming

Guidance for school staff on how to spot the signs of sexual exploitation and how to respond.

#### Privacy and information sharing

As a school staff member you are permitted to share certain information about a child who has been impacted by abuse. This page provides guidance on the specific information sharing requirements

#### Responding to other concerns about the wellbeing of a child

This section will support you to determine how to respond to concerns about the wellbeing of a child which do not appear to be the result of child abuse

#### Online learning for schools

Find out about the Department's Mandatory Reporting and Other Obligations eLearning module for Government and Non-Government schools

#### Child protection in early childhood

Supporting staff employed in Victorian early childhood services to take action if they suspect, or are witness to any form of child abuse



# HHA Duty of Care Policy

## FOUR CRITICAL ACTIONS FOR SCHOOLS

### Responding to Incidents, Disclosures and Suspicions of Child Abuse

#### YOU MUST TAKE ACTION

As a school staff member, you play a **critical role** in protecting children in your care.

- You **must** act, by following the Four Critical Actions, as soon as you witness an incident, receive a disclosure or form a reasonable belief\* that a child has, or is at risk of being abused.
- You **must** act if you form a suspicion/ reasonable belief, even if you are unsure and have not directly observed child abuse (e.g. if the victim or another person tells you about the abuse).
- It is strongly recommended that you use the **Responding to Suspected Child Abuse template** to keep clear and comprehensive notes, even if you make a decision not to report.

\* A reasonable belief is a deliberately low threshold. This enables authorities to investigate and take action.

#### 1 RESPONDING TO AN EMERGENCY

If there is no risk of immediate harm go to **Action 2**.

If a child is at immediate risk of harm you **must** ensure their safety by:

- separating alleged victims and others involved
- administering first aid
- calling **000 for urgent medical and/or police assistance** to respond to immediate health or safety concerns
- identifying a contact person at the school for future liaison with Police.

Where necessary you may also need to maintain the integrity of the potential crime scene and preserve evidence.

#### 2 REPORTING TO AUTHORITIES / REFERRING TO SERVICES

As soon as immediate health and safety concerns are addressed you **must** report all incidents, suspicions and disclosures of child abuse as soon as possible. Failure to report physical and sexual child abuse may amount to a criminal offence.

Q: Where does the source of suspected abuse come from?

##### WITHIN THE SCHOOL

**VICTORIA POLICE**  
You **must** report all instances of suspected child abuse involving a school staff member, contractor, volunteer or visitor to Victoria Police.

You **must also** report **Internally** to:

- GOVERNMENT SCHOOLS**
  - School principal and/or leadership team
  - Employee Conduct Branch
  - DET Incident Support and Operations Centre
- CATHOLIC SCHOOLS**
  - School principal and/or leadership team
  - Diocesan education office.
- INDEPENDENT SCHOOLS**
  - School principal and/or school chairperson
  - Commission for Children and Young People on **1300 782 978**.

All allegations of 'reportable conduct' **must** be reported as soon as possible to:

- GOVERNMENT SCHOOLS**
  - Employee Conduct Branch
- CATHOLIC SCHOOLS**
  - Diocesan education office
- INDEPENDENT SCHOOLS**
  - Commission for Children and Young People on **1300 782 978**.

##### WITHIN THE FAMILY OR COMMUNITY

**DHHS CHILD PROTECTION**  
You **must** report to DHHS Child Protection if a child is considered to be:

- in need of protection from child abuse
- at risk of being harmed (or has been harmed) and the harm has had, or is likely to have, a serious impact on the child's safety, stability or development.

##### VICTORIA POLICE

You **must also** report all instances of suspected sexual abuse (including grooming) to Victoria Police.

You **must also** report **Internally** to:

- GOVERNMENT SCHOOLS**
  - School principal and/or leadership team
  - DET Incident Support and Operations Centre
- CATHOLIC SCHOOLS**
  - School principal and/or leadership team
  - Diocesan education office.
- INDEPENDENT SCHOOLS**
  - School principal and/or chairperson.

##### OTHER CONCERNS

If you believe that a child is not subject to abuse, but you still hold **significant concerns** for their wellbeing you **must** still act. This may include making a referral or seeking advice from:

- Child FIRST/The Orange Door (in circumstances where the family are open to receiving support)
- DHHS Child Protection
- Victoria Police.

#### CONTACT

##### DHHS CHILD PROTECTION

**AREA**  
North Division **1300 664 977**  
South Division **1300 655 795**  
East Division **1300 360 391**  
West Division (Rural) **1800 075 599**  
West Division (Metrol) **1300 664 977**

**AFTER HOURS**  
After hours, weekends, public holidays **13 1278**.

**CHILD FIRST**  
<https://services.dhhs.vic.gov.au/referral-and-support-teams>

**ORANGE DOOR**  
<https://www.vic.gov.au/familyviolence/the-orange-door.html>

##### VICTORIA POLICE

**000** or your local police station

**DET INCIDENT SUPPORT AND OPERATIONS CENTRE**  
**1800 126 126**

**INCIDENT MANAGEMENT AND SUPPORT UNIT**  
**1800 126 126**

**EMPLOYEE CONDUCT BRANCH**  
**(03) 9637 2595**

**DIOCESAN OFFICE**  
Melbourne **(03) 9267 0228**  
Ballarat **(03) 5337 7135**  
Sale **(03) 5622 6600**  
Sandhurst **(03) 5443 2377**

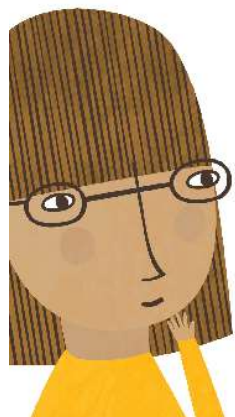
##### INDEPENDENT SCHOOLS VICTORIA

**(03) 9825 7200**

##### THE LOOKOUT

The LOOKOUT has a service directory, information, and evidence based guidance to help you respond to family violence: <http://www.lookout.org.au>

Family violence victims/survivors can be referred to **1800 Respect** for counselling, information and a referral service: **1800 737 732**.



Source: <https://www.education.vic.gov.au/school/teachers/health/childprotection/Pages/default.aspx>

## Four Critical Actions

### FOUR CRITICAL ACTIONS

**1** RESPONDING TO AN EMERGENCY PAGE 37

**2** REPORTING TO AUTHORITIES PAGE 38

**3** CONTACTING PARENTS/CARERS PAGE 42

**4** PROVIDING ONGOING SUPPORT PAGE 45

## Reporting Grooming and Abuse



### Internal (Principal)

All incidents, accidents, allegations, suspicions and concerns.

Follow school policy.



### DFFH Child Protection / Orange Door

A child has suffered, or is likely to suffer, significant harm, as a result of abuse, AND

The child's parents have not protected the child or are unable or unwilling to protect the child from harm.



### Victoria Police

Allegations of physical and sexual abuse.

Alleged perpetrator is a person within the school.

Where any person's immediate safety is compromised.

Illegal behaviour.

Child is engaging in any risk-taking activity that is illegal and extreme.



### CCYP

"Reportable conduct" by an adult associated with the school (employee, volunteer, contractor, religious leader).

Sexual misconduct/offences, physical violence, significant neglect and behaviour that causes significant emotional or psychological harm.