



CPS04 Child Safety Mandatory Reporting

RATIONALE	Trinity Lutheran College is a Christian school under the auspices of the Lutheran Church of Australia, and as such endeavours to create a climate of acceptance, care, love, dignity, courtesy, respect, and support for each member of the College community. The College is committed to providing and maintaining a safe, supportive, and ethical school environment for all learners, sensitive to the diversity characteristics of the school community.
SCOPE	<p>This policy applies to all members of the College community for all issues of suspected/known child abuse to learners.</p> <p>Fulfilling the roles and responsibilities contained in the policy does not displace or discharge any other obligations that arise if a person reasonably believes that a child is at risk of child abuse.</p>
PURPOSE	<p>To define the roles and responsibilities of College staff in protecting the safety and wellbeing of children and to enable staff to:</p> <ol style="list-style-type: none">1. Identify the indicators of a child who may be in need of protection;2. Make a report of a child who may be in need of protection;3. Comply with reporting obligations under child protection law and criminal law.
RESPONSIBILITY	The Principal has overall responsibility for this policy, which is administered by with assistance from the Wellbeing Coordinator.
DEFINITIONS	<p>Child: In Victoria, under the Children Youth and Families Act 2005 a child or young person is a person under eighteen years of age in relation to a person who is alleged to have committed an offence. In any other case a child is a person who is under 17 years of age. In relation to Failure to Protect or Failure to Disclose a child is defined as being under 16 years of age.</p> <p>Child Abuse: is defined in the Education and Training Reform Act 2006 as including :</p> <ul style="list-style-type: none">• any act committed against a child involving a sexual offence or a grooming offence listed in the Crimes Act 1958 (Vic)• the infliction of physical violence, serious emotional or psychological harm; and• the serious neglect of a child. <p>Adult: An adult is any person aged 18 years or over.</p> <p>Emotional Abuse: Emotional abuse occurs when a child's parent or caregiver repeatedly rejects the child or uses threats to frighten the child. This may involve name calling, put downs or continual coldness from the parent or caregiver, to the extent that it significantly damages the child's physical, social, intellectual or emotional development.</p> <p>Failure to Disclose Offence: A new criminal offence came into effect on 27 October 2014 for adults who fail to disclose child sexual abuse to police, under Section 327 of the <i>Crimes Act 1958 (Vic)</i>. The new offence applies to all adults, not just professionals who work with children. Any adult who holds a reasonable belief that a <i>sexual offence</i> has been committed by an adult against a child in Victoria must report that belief to police, unless they have a reasonable excuse for not reporting.</p> <p>Failure to Protect Offence: A new criminal offence came into effect on 1 July 2015 for failing to protect a child under the age of 16 from a risk of sexual abuse, under Section 49C of the <i>Crimes Act 1958 (Vic)</i>.</p>



POLICY_CPS04_Child Safety Mandatory Reporting

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.

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.

Mandatory Reporter: Under section 182 of the *Children, Youth and Families Act (CYFA) 2005*, a person registered under the *Education Training and Reform Act 2006, updated in February 2020*, or who has been granted permission to teach under that Act, is designated as a mandatory reporter: that is, a person who holds Victorian Institute of Teaching registration.

In addition, professionals who are legally required to report include registered medical practitioners, nurses, midwives, school counsellors, police officers, out of home care workers (excluding voluntary foster and kinship carers), early childhood workers, youth justice workers, registered psychologists and people in religious ministry.

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

Neglect: Neglect is the failure to provide the child with the basic necessities of life, such as food, clothing, shelter, medical attention or supervision, to the extent that the child's health and development is, or is likely to be, significantly harmed.

Non-mandated Staff: Non-teaching staff including administration, canteen staff or maintenance staff; social workers; speech pathologists; and aides.

Physical Abuse: Physical abuse occurs when a child suffers or is likely to suffer significant harm from an injury inflicted by a child's parent or caregiver. The injury may be inflicted intentionally or may be the inadvertent consequence of physical punishment or physically aggressive treatment of a child. The injury may take the form of bruises, cuts, burns or fractures.

Reasonable Excuse: If you fail to disclose a sexual offence against a child to the Police, you will not be held liable where your reason for not reporting is that:

- you fear on reasonable grounds for the safety of any person (other than the offender), and failure to report is reasonable;
- the victim told you about the sexual offence (directly or indirectly), the victim was over 16 years old when he or she told you 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); or
- you believe on reasonable grounds that the information has already been disclosed to the Police by another person (such as to DFFS as part of mandatory reporting) and you have no further information.

Unacceptable reasons for not reporting include if you are concerned with the interests (including reputation, legal liability or financial status) of the person involved in the sexual offence or any organisations (such as the College).

Reasonable Grounds: There must be reasonable grounds for forming the belief that the child



POLICY

has suffered, or is likely to suffer, harm. This means that the adult does not have to be absolutely certain, but genuinely believe, on the basis of the evidence, that the child might have been abused.

Sexual Abuse: Sexual abuse occurs when a person uses power or authority over a child to involve the child in sexual activity and the child's parent or caregiver has not protected the child. Physical force is sometimes involved. Child sexual abuse involves a wide range of sexual activity. It includes fondling of the child's genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger or other object, or exposure of the child to pornography.

A reasonable belief can be formed on different types of evidence. That evidence could be a dramatic change in the behaviour of a student, a drop in grades, withdrawing from social contact, and signs of physical abuse.

Trinity Lutheran College will report to and co-operate with all relevant State Authorities, under this policy and the law.

1. Mandatory Reporting of Child Protection Concerns

- 1.1 Mandatory reporters (as defined above), who believe on reasonable grounds that a child is in need of protection from physical and / or sexual abuse, must report their concerns to Department of Families, Fairness and Housing (DFFH) Child Protection as soon as practicable after forming the belief and after each occasion on which he or she becomes aware of any further reasonable grounds for the belief.
- 1.2 All other school staff who are not registered teachers with Victorian Institute of Teaching (VIT) (*non-mandated staff*) who believe on reasonable grounds that a child:
 - 1.2.1 Is in need of protection, are encouraged to report their concerns to DFFH Child Protection or Victoria Police (with the exception of sexual abuse, as per *Failure to Disclose Offence* below).
 - 1.2.2 Is displaying sexually abusive behaviours and is in need of therapeutic treatment, are encouraged to report their concerns to DFFH Child Protection.
- 1.3 Whilst non-mandated staff are not required to make a report to DFFH Child Protection or Victoria Police (with the exception of sexual abuse, as per *Failure to Disclose Offence* below), they should, however, discuss any concerns with the Principal.
- 1.4 All staff members are required to notify the Principal of the lodgement of any report, using the *Trinity Lutheran College Incident Report: Child Safety Form*. This will ensure all reports are recorded on the Trinity Lutheran College Mandatory Reporting Log, kept by the Principal.
- 1.5 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.

2. Reportable Conduct Scheme

Principals must notify the Employee Conduct Branch as soon as possible after becoming aware of an allegation of reportable conduct against a current or former department or school council staff member, contractor or volunteer. This applies regardless of whether the alleged victim is or was a student at the school.



There is an allegation of reportable conduct where a person has a reasonable belief that there has been:

- a sexual offence, sexual misconduct or physical violence committed against, with or in the presence of a child
- behaviour causing significant emotional or psychological harm to a child
- significant neglect of a child or
- misconduct involving any of the above.

All allegations of reportable conduct must be reported to the CCYP within three days of the head of the organisation becoming aware of a reportable allegation. The report is to be made using the CCYP webform.

Principals must still contact Victoria Police if they suspect a criminal offence involving a child has occurred.

The Scheme does not change a principal's mandatory reporting or other reporting responsibilities.

3. Failure to Disclose Offence – Reporting Sexual Abuse

Where there is a reasonable belief that a sexual offence has been committed by an adult against a child in Victoria, that belief must be reported to Victoria Police as soon as it is practicable to do so (unless the person has a reasonable excuse for not doing so) on 000 or the local Police Station on 03 5018 5300.

3.1 Any adult (including mandatory reporters and non-mandated staff) 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 police. Failure to disclose the information to police is a criminal offence: "Failure to Disclose offence".

3.2 How does this differ from mandatory reporting?

This offence differs from mandatory reporting under the Children, Youth and Families Act because:

- 3.2.1 it applies to all adults, not just certain professionals who work with children;
- 3.2.2 it is limited to the reporting of sexual abuse. Mandatory reporters are required to report suspected physical and sexual abuse;
- 3.2.3 it requires the person to report a suspected crime to police, rather than reporting a concern about a child needing protection to DFFH (Child Protection); and
- 3.2.4 the suspected sexual offence must be reported even if the child's parents are acting to protect the child.

Staff should notify the Principal of the lodgement of any report. This will ensure all reports are recorded on the Trinity Lutheran College Child Safety Mandatory Reporting Log.

4. Grooming Offence

4.1 This offence differs from mandatory reporting under the Children, Youth and Families Act because:

- 4.1.1 it applies to all adults, not just certain professionals who work with children;
- 4.1.2 it is limited to the reporting of sexual abuse. Mandatory reporters are required to report suspected physical and sexual abuse;
- 4.1.3 it requires the person to report a suspected crime to police, rather than reporting a concern about a child needing protection to DFFH (Child Protection);
- 4.1.4 the suspected sexual offence must be reported even if the child's parents are acting to protect the child.



- 4.2 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.
- 4.3 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.

Where there is a reasonable belief that grooming behaviour is being committed by an adult against a child in Victoria, that belief must be reported to Victoria Police.

5. Failure to Protect Offence

- 5.1 Section 49C of the *Crimes Act 1958 (Vic)* makes it a criminal offence in Victoria for a person in authority to fail to protect a child under the age of 16 from criminal sexual abuse. This applies where there is substantial risk that a child under the care, supervision or authority of an organisation (including schools) will become a victim of a sexual offence by an adult associated with the school.
- 5.2 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:
 - 5.2.1 the likelihood or probability that the child will become the victim of a sexual offence
 - 5.2.2 the nature of the relationship between a child and the adult who may pose a risk to the child
 - 5.2.3 the background of the adult who may pose a risk to the child, including any past or alleged misconduct
 - 5.2.4 any vulnerabilities particular to a child which may increase the likelihood that they may become the victim of a sexual offence
 - 5.2.5 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.

- 5.3 The person in a position of authority may be guilty of an 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.
- 5.4 If a person associated with the College, who by reason of their position has the power or responsibility to reduce or remove a substantial risk that a child will become a victim of a sexual offence committed by an adult associated with the College, they must not negligently fail to reduce or remove the risk. That is, as soon as a person in authority becomes aware of a risk of child sexual abuse, they will be under a duty to take steps to remove or reduce that risk.
- 5.5 A person who has the power or responsibility to reduce or remove a risk will include the Principal, governing body members and senior staff, as well as teachers by virtue of



PROTOCOLS

their responsibilities.

- 5.6 When aware of a substantial risk of criminal sexual abuse to a child in the school from an adult aged 18 or over associated with the College, the Principal and/or Governing Body will act to reduce or remove the risk. The person will be removed from any child-related role pending an investigation.

For the avoidance of doubt, any member of staff or person associated with the College who knows of a substantial risk that a child will become a victim of a sexual offence should notify the Principal as soon as is reasonably practicable.

1. Forming a reasonable Belief

- 1.1 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:
 - 1.1.1 a child states that they have been physically or sexually abused;
 - 1.1.2 a child states that they know someone who has been physically or sexually abused (sometimes the child may be talking about themselves);
 - 1.1.3 someone who knows a child states that the child has been physically or sexually abused;
 - 1.1.4 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;
 - 1.1.5 signs of abuse lead to a belief that the child has been physically or sexually abused.

2. Where there is substantial / immediate risk

- 2.1 Whenever there are concerns that a child is in immediate danger the Police should be called first on 000.
- 2.2 Once the Police have been notified you should also notify the Principal or a College Child Safety Officer of the details of the report if they have not already been involved in the process.

3. Child Abuse and Indicators of Harm

- 3.1 Child abuse can have a significant effect on a child's physical or emotional health, development and wellbeing. The younger a child the more vulnerable he/she is and the more serious the consequences are likely to be.
- 3.2 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.

4. Diversity Characteristics of our School Community

- 4.1 Arrange culturally appropriate support if the child is of Aboriginal or Torres Strait Islander background or from a language background other than English.
- 4.2 Contact Independent Schools Victoria on 03 9825 7200 for assistance with providing the appropriate support.

5. Training

- 5.1 All College staff are required to participate in *Valuing Safe Communities* training as mandated by Lutheran Education Australia.
- 5.2 In addition, mandated staff are required to complete the Department of Education & Training Mandatory Reporting eLearning module.



RELATED DOCUMENTS

5.3 All College staff are required to participate in an annual Child Safety briefing.

Where a staff member breaches the Policy, Trinity may take disciplinary action, including in the case of serious breaches summary dismissal. In some cases outside agencies and or the Police may need to be informed.

- Trinity Lutheran College Child Safety policies and procedures
- Lutheran Church of Australia: Safe Place Policy and Procedures
- Lutheran Church of Australia: Valuing Safe Communities Program
- Victorian Department of Education and Training: Child Protection - Reporting Obligations: <http://www.education.vic.gov.au/school/principals/spag/safety/Pages/childprotection.aspx>

Both Federal and State Legislation is relevant to the concepts discussed in this policy. The Legislation includes:

- *Children, Youth and Families Act 2005*
- *Crimes Act 1958*
- *Crimes Amendment (Protection of Children) Act 2014*
- *Crimes Amendment (Grooming) Act 2014*
- *Education and Training Reform Act 2006, updated in February 2020*
- *Victorian Institute of Teaching Act 2001*
- *Child Wellbeing and Safety Act 2005, updated in 2014, 2017*
- *Ministerial Order 1359*
- *Reportable Conduct Scheme, Victoria*

RECORD OF IMPLEMENTATION

Contact officer	Eloise Beveridge (Principal)
Approved by	Executive Leadership
Ratified by	Trinity Lutheran College Board
Authorization	Trinity Lutheran College Board authorizes this policy for publication and implementation having considered relevant legislation and/or operational requirement of users. 26/07/2021 Updated 28/03/2022 Updated 14/11/2023 Updated
Ratified	November 2023
Review Date	This policy will be reviewed every five years, or as required by legislation