

# Reportable Conduct Scheme Policy

## 1. Introduction

Djerriwarrh Community College (the College) is an independent specialist senior secondary school based in Melton. The College delivers the Victorian Certificate of Applied Learning (VCAL) at Foundation, Intermediate and Senior levels for students aged 15-19 years. It provides a safe and inclusive learning environment for young people who may have been disengaged or are at risk of disengaging from education. The College is committed to supporting students to reach their personal, social and educational potential by providing the tools and skills to reflect, set goals and plan.

Djerriwarrh Community College (the College) is committed to creating and maintaining a school in which all Students are safe from harm and to providing a safe and inclusive environment for all young people from all cultures and linguistically diverse backgrounds and those with a disability.

Under the Reportable Conduct Scheme, the Principal will notify the Commission for Children and Young People (Commission) of all allegations of reportable conduct by employees, volunteers and contractors.

## 2. Purpose

The purpose of this policy is to ensure that all staff understand the various legal and other reporting obligations required under the Reportable Conduct Scheme.

## 3. Scope

The policy applies to all College staff, volunteers, contractors and School Council members.

## 4. Definitions

<b>Child</b>	Means a child enrolled as a student at the school
<b>Child abuse</b>	Includes: <ul style="list-style-type: none"> <li>any act committed against a child involving a sexual offence or an offence under section 498(2) of the Crimes Act 1958 (grooming);</li> <li>the infliction, on a child, of physical violence or serious emotional or psychological harm;</li> <li>serious neglect of a child.</li> </ul>
<b>Child safety</b>	Encompasses matters related to protecting all children from child abuse, managing the risk of child abuse, providing support to a child at risk of child abuse, and responding to incidents or allegations of child abuse.
<b>College</b>	Djerriwarrh Community College, 235 Station Road, Melton, 3337
<b>Contractors</b>	Include, but not limited, to: maintenance and building personnel, consultants, casual teachers, tutors, sports coaches and cleaners.
<b>Parent/guardian</b>	Includes parents, guardians, step-parents and/or carers as listed in the Enrolment Application Form.

## 5. Responsibilities

The Principal has a responsibility to:

- Report allegations to the Commission for Children and Young People (Commission) within three business days of becoming aware of the allegation.
- Notify the Commission of all allegations of conduct that may involve reportable conduct by employees, contractors and volunteers.
- Report all reportable allegations within the workplace or external to the workplace.
- Provide the Commission with detailed information about the reportable allegation and any action taken within 30 calendar days.

It is a criminal offence for the Principal not to report to the Commission a reportable allegation within the required timeframes outlined above.

## 6. Communication

This Reportable Conduct Scheme Policy is available on the College website, the school management system, Compass and hard copies can be obtained from College Reception.

## 7. Policy

### 7.1 Reportable Conduct Scheme

The Reportable Conduct Scheme has been designed to ensure that the Commission for Children and Young People will be aware of every allegation of certain types of misconduct involving children in relevant organisations that exercise care, supervision and authority over children.

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; OR
- behaviour causing significant emotional or psychological harm to a child; OR
- significant neglect of a child; OR
- misconduct involving any of the above.

The scope of 'reportable conduct' is wide, and includes:

- information about something that is alleged to have occurred outside the course of the person's employment or engagement with the school
- sexual offences, sexual misconduct or physical violence committed in the presence of a child (which may include family violence committed by a school staff member in front of their own child).

Student-to-student abuse is not covered by the Scheme (refer to Child Safety Responding and Reporting Procedure).

The Principal must notify the Commission of any reportable conduct allegations involving current or former teachers, support staff, contractors, volunteers (including parents) and School Council members.

If school staff become aware of reportable conduct by any person in the above positions, they should notify the Principal immediately. If the allegation relates to the Principal, they should notify the School Council Chair.

The Reportable Conduct Scheme does not change a person's mandatory reporting or other reporting obligations. For example, school staff must still contact Victoria Police if they suspect a criminal offence involving a child has occurred, in addition to following the notification steps required by the Reportable Conduct Scheme.

For more information about Mandatory Reporting, refer to the Mandatory Reporting Policy.

## **7.2 Who the scheme applies to**

The scheme applies to adults (18 years and older) who are:

- employed by the organisation;
- engaged by the organisation (contractors, volunteers, School Council members);
- religious workers from a religious body;
- certain foster or kinship carers.

The scheme applies to all workers and volunteers in the organisation, even if their work does not directly relate to children and applies to conduct both inside and outside the workplace

## **7.3 Relationship to other reporting requirements**

The Scheme does not replace existing reporting requirements for the protection of children.

Reports must still be made wherever required by regulations, agreements or law to:

- Victoria Police where conduct has been committed that is criminal or suspected to be criminal;
- Child Protection if a child is in need of care and protection;
- Funding Bodies if a part of any service or funding agreement.

## **7.4 Criminal offences**

### **Failure to disclose**

The failure to disclose child sexual abuse offence requires that any adult (aged 18 and over) who holds a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child (aged under 16) disclose that information to police (unless they have a reasonable excuse).

For more information about the failure to disclose offence, refer to the Mandatory Reporting Policy.

## **Failure to protect**

The failure to protect offence requires a person in a position of authority to reduce or remove the risk of sexual abuse of a child by an adult associated with their organisation.

At Djerriwarrh Community College, the person in a position of authority is deemed to be the Principal.

If the Principal becomes aware that an adult associated with the College (such as an employee, contractor, volunteer or visitor) poses a risk of sexual abuse to a student under the age of 16 under their care, authority or supervision, must take all reasonable precautions to remove or reduce that risk.

This may include removing the adult (i.e. persons aged 18 years and over) from working with students pending an investigation and reporting concerns to Victoria Police.

If the Principal fails to take reasonable precautions in these circumstances, this may amount to a criminal offence.

What is meant by 'reasonable precautions' will depend on the circumstances and is not defined in legislation.

The courts have previously considered the following examples to be reasonable precautions taken by organisations in the context of organisational child abuse. This list includes examples of how the Child Safe Standards would assist in taking these precautions:

- Employment screening and reference checking (Child Safe Standard 4);
- Supervision and training (Child Safe Standard 3, 4 and 5);
- Implementing systems to provide early warning of possible offences (Child Safe Standard 1);
- Random and unannounced inspections to deter misconduct (Supervisory requirements/risk mitigation are part of Child Safe Standard 6);
- Prohibiting adults from being alone with a child (Supervisory requirements/risk mitigation are part of Child Safe Standard 6), and
- Encouraging children and adults to notify authorities or parents about any signs of unusual or aberrant behaviour (Child Safe Standard 5 and 7).

## **7.5 Types of reportable conduct**

There are five types of 'reportable conduct' listed in the *Child Wellbeing and Safety Act 2005*.

A person does not need to be charged with, or found guilty of, a sexual offence for their behaviour to be reportable conduct.

- sexual offences (against, with or in the presence of, a child);
- sexual misconduct;
- physical violence;
- emotional or psychological harm to a child;
- neglect.

Refer to Appendix A for more information on each type of reportable conduct.

## **7.6 Responsibilities of the Principal**

The Reportable Conduct Scheme imposes obligations on heads of organisations that are within the scheme. At Djerriwarrh Community College, the head of the organisation is the Principal.

The Principal has an obligation to:

- respond to a reportable allegation made against a College employee, volunteer (including School Council members) or contractor by ensuring that allegations are appropriately investigated;
- report allegations which may involve criminal conduct to the police;
- notify the Commission of allegations within three business days after becoming aware of the allegation;
- ensure the allegations are investigated;
- give the Commission certain detailed information about the allegation within 30 days after becoming aware of the allegation;
- after the investigation has concluded, give the Commission certain information a report on the outcomes of the investigation and actions taken.

The Principal has a responsibility to ensure that systems are in place to:

- prevent reportable conduct from being committed by a staff member within the course of their employment;
- prevent reportable conduct from being committed by a person engaged by the College (volunteer, contractor or School Council member) within the course of their engagement;
- enable any person to notify the Principal of a reportable allegation;
- enable any person to notify the Commission of a reportable allegation involving the Principal;
- investigate and respond to a reportable allegation against an employee or person engaged by the College.

### **Important notes:**

- It is an offence for the Principal to fail to notify the Commission.
- The alleged reportable conduct or misconduct need not occur within the workplace.
- The Principal does not need to agree with or share the belief that the alleged conduct has occurred.
- An allegation may refer to reportable conduct or misconduct that is historical.

## **7.7 Requirements of employees, volunteers and contractors**

All employees, volunteers, contractors and School Council members over the age of 18 employed or engaged by the College are covered by the Scheme.

The Scheme applies to conduct both within the College and external to it and applies:

- regardless of the length of time they are employed or engaged – including part-time, full-time, casual or sessional roles;
- even if they do not have direct contact with students as part of their role (i.e finance manager).

If an employee, volunteer or contractor forms a reasonable belief that a person covered by the Scheme has committed reportable conduct, or misconduct that may involve reportable conduct, either within or outside of the organisation, then they must report this to the Principal.

If the allegation relates to the Principal, they should notify the School Council Chair.

The Principal or School Council Chair must report the allegation to the Commission. Additionally, workers, volunteers or parents can also report it to the Commission.

The Reportable Conduct Scheme does not replace the need to report allegations of child abuse, including criminal conduct and family violence to Victoria Police.

## 7.8 Notifying the Commission

The Commission must be notified when the Principal has any information that leads a person to form a reasonable belief that:

- An employee has committed reportable conduct; or
- An employee has committed misconduct which may include reportable conduct.

When the Principal becomes aware of a reportable allegation against an employee, volunteer or contractor, they must notify the Commission within **three business days**.

Within **30 calendar days** after becoming aware of a reportable allegation, the Principal must provide the Commission with detailed information about the allegation, disciplinary or other actions undertaken, and the response of the employee, volunteer or contractor to the allegation.

Refer to the Reportable Conduct Scheme Procedure for details on the process of notifying the Commission.

## 7.9 Investigating an allegation

The allegation must be investigated as soon as practicable after the Principal becomes aware of it. The investigation may be conducted by the College, or an independent investigator. The Principal must inform the Commission of who will conduct the investigation.

At the conclusion of an investigation into a reportable allegation, a final investigation report must be prepared. The final investigation report should set out the findings, reasons for the findings and recommendations made at the conclusion of the investigation. A copy of the final investigation report should be provided to the Commission as soon as practicable.

It is a criminal offence for a head of an organisation to fail to comply with the three-day and 30-day notification obligations without a reasonable excuse.

Refer to the Reportable Conduct Scheme Procedure for details on the investigating allegations.

## 7.10 Reporting crimes to Victoria Police

Any suspected criminal behaviour should be reported to police.

If a reportable allegation involves suspected criminal behaviour, both Victoria Police and the Commission must be notified.

A police investigation into any matter takes priority over a reportable conduct investigation, and may require the College's investigation to be put on hold until the police investigation is complete.

The Principal should consult with Victoria Police before beginning an investigation to gain their advice and find out if police are, or will be, conducting an investigation.

## 8. Review

This policy is regularly reviewed for overall effectiveness and to ensure compliance with all child protection related laws, regulations and standards.

## 9. Associated documents and legislation

<b>Associated policies and procedures</b>	Reportable Conduct Scheme Procedure Child Safety Policy Mandatory Reporting Policy
<b>Other associated documents Internal</b>	Child Safe Report Template
<b>Relevant legislation</b>	<i>Child Wellbeing and Safety Amendment (Child Safe Standards) Act 2015 (Vic)</i> <i>Child Wellbeing and Safety Act 2005 (Vic)</i> <i>Child Wellbeing and Safety Regulations 2017 (Vic)</i> <i>Children, Youth and Families Act 2005 (Vic)</i> <i>Crimes Act 1958 (amended 2014) (Vic)</i> <i>Education and Training Reform Act 2006 (Vic)</i> <i>Education and Training Reform Regulations 2017 (Vic)</i> <i>Equal Opportunity Act 2010 (Vic)</i> <i>Working With Children Act 2005 (Vic)</i> <i>Working with Children Regulations 2006 (Vic)</i> <i>Ministerial Order No. 870: Child Safe Standards - Managing the risk of child abuse in schools</i>
<b>Other associated documents External</b>	PROTECT Four Critical Actions for Schools: Responding to Incidents, Disclosures and Suspicions of Child Abuse poster (located in staff offices and copies provide upon request) VRQA Guidelines to the Minimum Standards and Requirements for School Registration

## Appendix A

### Types of reportable conduct

There are five types of 'reportable conduct' listed in the Child Wellbeing and Safety Act 2005.

#### Sexual offences (against, with or in the presence of, a child)

In Victoria, it is an offence to engage in certain sexual behaviours against, with or in front of, a child. Many of these behaviours are reportable conduct under the Reportable Conduct Scheme.

This includes:

- Sexual assault
- Indecent acts
- Possession of child abuse material
- 'Grooming' a child in order to commit a sexual offence.

A full list of the relevant sexual offences is set out in clause 1 of Schedule 1 to the Sentencing Act 1991.

A person does not need to be charged with, or found guilty of, a sexual offence for their behaviour to be reportable conduct.

#### Sexual Misconduct

'Sexual misconduct' captures a broader range of inappropriate behaviours of a sexual nature that are not necessarily criminal.

Examples of sexual misconduct include:

- developing an intimate relationship with a child, for example, through regular contact with the child without the knowledge or approval of the organisation's management
- inappropriately discussing sex and sexuality with a child
- other overtly sexual acts that could lead an organisation to take disciplinary or other action.

#### Physical Violence

Physical violence includes an act that causes physical injury or pain.

- Examples of physical violence can include:
- Hitting/kicking/punching
- Pushing/shoving/grabbing/throwing/shaking
- Using an object to hit or strike
- Using inappropriate restraint/excessive force

Physical violence does not include lawful behaviour. For example:

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

Threats of physical violence that do not cause physical injury or pain may be covered by the Reportable Conduct Scheme as behaviour that causes significant emotional or psychological harm (see below).

### **Emotional or psychological harm to a child**

For behaviour to be reportable under this category, a child must have suffered significant emotional or psychological harm, and there must be a clear link between the alleged conduct and the harm suffered.

The behaviour must cause emotional or psychological harm that is 'significant'. This is discussed below. Signs that a child may have been emotionally or psychologically harmed may include:

- patterns of out-of-character behaviour
- regression in behaviour
- distress and anxious behaviours
- other physical symptoms, such as self-harm.

Emotional or psychological harm may also occur where an existing mental health disorder has been exacerbated or aggravated.

A professional psychological or medical assessment of the child may assist to determine whether a child has suffered emotional or psychological harm.

However, a clinical diagnosis will not be required in every case - if, for example:

- the alleged conduct is so serious and/or occurred over such a sustained period, that it can be reasonably inferred that the child has been harmed; and/or:
- requiring a child to be assessed may unreasonably re-traumatise or otherwise further harm the child.

It is also important to stress that there must be a clear link between the emotional or psychological harm and the alleged conduct. In deciding if there is a clear link, organisations should consider the likelihood that the child would have been harmed, if the alleged conduct had not occurred.

Examples of emotional or psychological harm may include:

- exposure to violence or threats of violence
- self-destructive behaviour
- antisocial behaviour
- persistent hostility/rejection
- humiliation/belittling
- scapegoating.

It will not be reportable conduct if:

- a person takes reasonable steps to protect a child from immediate harm
- a person with responsibility for discipline takes lawful and reasonable disciplinary action, such as sending a child to sit in 'time out' for a period of time, in line with organisational policy
- an appropriately qualified person gives medical treatment in good faith, such as a senior first aid officer administering first aid.

## **Neglect**

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

The neglect must be more than minor and insignificant

The neglect does not need to have a lasting or permanent effect

The neglect may be an ongoing situation or a one off incident, as long as it is not minor in nature

Examples of different types of neglect include:

### **Supervisory neglect**

The absence or inattention of a person which places the child at risk of physical harm or injury, sexual abuse or allows other criminal behaviour towards the child

### **Physical neglect**

The failure to provide basic physical necessities for a child, such as adequate food, clothing and housing

### **Medical neglect**

The failure to provide for appropriate medical care for a child, including a failure to acknowledge the seriousness of an illness or condition, or deliberately withholding appropriate care

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