

# CHILD SAFE STANDARD 5

## REPORTABLE CONDUCT SCHEME VICTORIA



*Charles La Trobe P-12 College takes a zero-tolerance approach to child abuse and is fully committed to ensuring that its strategies, policies, procedures and practices meet all **Child Safety Standards as specified in Ministerial Order No. 870 (2015)***

### CONTEXT

As of 1 July 2017, all Victorian school principals are required to bring allegations of reportable conduct by employees to the Commission for Children and Young People (CCYP). The Reportable Conduct Scheme complements the Child Safe standards and other existing child safety measures. School Principals will be required to:

- report any allegations of misconduct that may include reportable conduct to the CCYP within three days of becoming aware of the allegation
- notify the CCYP of all allegations of conduct that may involve reportable conduct by employees, contractors, volunteers, allied health staff and school council employees.

The Reportable Conduct Scheme does not change a principal's mandatory reporting and other reporting obligations. Principals must contact Victoria Police if they suspect a criminal offence has occurred involving a child. Principals' responsibilities to manage employee misconduct will not change.

The Reportable Conduct Scheme will require schools and other organisations to respond to allegations of child-related misconduct made against their workers and volunteers and report those allegations to the Commission for Children and Young People.

The Commission for Children and Young People will have the power to:

- receive allegations and findings of reportable conduct
- assess an organisation's systems to prevent, notify and investigate reportable conduct
- provide oversight of workplace investigations
- investigate allegations in some circumstances
- refer findings to professional registration bodies and the Working with Children Check Unit
- build the capacity of organisations to respond to allegations of abuse
- report to parliament on performance of the scheme and trends.

The Reportable Conduct Scheme builds on existing requirements including Victorian and national professional registration, employee misconduct and reporting obligations. The reportable conduct scheme will not interfere with reporting obligations to police or with police investigations.

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Importantly, the Reportable Conduct Scheme facilitates information sharing between organisations, their regulators, Victoria Police, the Department of Justice and Regulation's Working with Children Check Unit and the Commission for Children and Young People.

### Government schools:

Government school principals do not need to make a report directly to the CCYP. When an allegation is reported, the Employee Conduct Branch will provide advice and support to principals on how to manage the matter and will report the allegation to the CCYP (if appropriate).

### What types of conduct are reportable?

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

1. Sexual offences (against, with or in the presence of, a child).
2. Sexual misconduct (against, with or in the presence of, a child).
3. Physical violence (against, with or in the presence of, a child).
4. Behaviour that is likely to cause significant emotional or psychological harm.
5. Significant neglect.

#### 1. *What are sexual offences?*

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. These include:

- 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.

#### 2. *What is sexual misconduct?*

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

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- 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

#### 3. *What is physical violence?*

Physical violence includes acts that causes physical injury or pain. These 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 e.g.

- 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.

#### 4. *What is behaviour that causes 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
- 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'. 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

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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 e.g.

- 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
- requiring a child to be assessed may unreasonably re-traumatise or otherwise further harm the child.

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 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.

#### 5. *What is 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
- does not need to have a lasting or permanent effect
- may be an ongoing situation or a one-off incident, as long as it is not minor in nature

Examples of neglect may include:

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- supervisory neglect, which is 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, which is the failure to provide basic physical necessities for a child, such as adequate food, clothing and housing
- medical neglect, which is 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

### What does 'significant' mean?

The Reportable Conduct Scheme is concerned with significant allegations about worker behaviour or actions towards a child. Accordingly, allegations can only be made about emotional or psychological harm or neglect that is significant.

Allegations may be made about serious forms of harm or behaviours that have a lasting or permanent effect, however, this does not always need to be the case. It is enough that the alleged conduct is more than trivial or insignificant to fall within the definition of significant under the Reportable Conduct Scheme.

Organisations are encouraged to consult with the Commission for Children and Young People if they need assistance to determine if the alleged conduct meets the level required to make a reportable allegation report.

### What is a reasonable belief?

A reportable allegation is made where a person makes an allegation, based on a reasonable belief, that a worker or volunteer has committed reportable conduct or misconduct that may involve reportable conduct. This includes where a reportable allegation is made against the head of the organisation.

A reasonable belief is more than suspicion. There must be some objective basis for the belief. However, it is not the same as having proof and does not require certainty. A person is likely to have a reasonable belief if they:

- observed the conduct themselves
- heard directly from a child that the conduct occurred
- received information from another credible source (including another person who witnessed the reportable conduct or misconduct).

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Heads of organisations do not need to agree with or share the belief that the alleged conduct has occurred. However, they do not need to notify the Commission about the allegation if it is plainly wrong or had no basis at all in reality.

### Where to get help:

Organisations covered by the Reportable Conduct Scheme should contact the Commission for clarification and guidance, and to talk through any issues of concern.

Telephone: 8601 5281

Email: [childsafestandards@ccyp.vic.gov.au](mailto:childsafestandards@ccyp.vic.gov.au)

Further information is also available on the Commission for Children and Young People's website at [www.ccyp.vic.gov.au](http://www.ccyp.vic.gov.au)

### Child protection information and services:

- [Reporting child abuse \(Department of Health and Human Services\)](#)  
Information and contacts to report child abuse or neglect, including emergency contacts.
- [Child and family information, referral and support teams \(Child FIRST\)](#)  
Child FIRST ensures that vulnerable children, young people and their families are linked effectively into relevant services.
- [Child protection contact numbers](#)  
Contact numbers for child protection services across Victoria, interstate, and after hours emergency numbers.

### Complaints and concerns:

- [Feedback and complaints - Department of Health and Human Services](#)  
Contact numbers for complaints about the services delivered by the Department of Human Services.
- [Victorian Ombudsman](#)  
When you make a complaint to the Ombudsman about a government action or decision, she can look into it, tell you what occurred, and whether it was reasonable or unreasonable.
- [Concerns about your child care - Department of Education and Training](#)  
Information about where to raise concerns about the health, safety or wellbeing of children in kindergarten, long day care, family day care and out-of-school-hours care.
- [Parent complaints - government schools](#)  
Information about how to raise complaints about government schools in Victoria.

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- [Which agency investigates my complaint?](#)  
Information from the Victorian Registration and Qualification Authority (VRQA) about where to make complaints about independent schools, training providers, Catholic schools and others.

### Working with Children Check:

#### [Working with children check - Department of Justice and Regulation](#)

Get information about the check, apply for or renew your working with children check.

### For parents:

- [Australian Child & Adolescent Trauma, Loss & Grief Network \(ACATLGN\) - Australian National University](#)  
Resources for parents and professionals to understand the complex needs of children and young people.
- [Parentline - Department of Education and Training](#)  
Counselling, information and referral service for parents and carers with children from birth to eighteen years old.
- [Safety Centre - Royal Children's Hospital](#)  
Information on ways to prevent unintentional injury, including: car and road safety, poisoning, burns and scalds, falls, water safety, choking prevention and home safety.
- [Toy and nursery safety line - Consumer Affairs Victoria](#)  
Questions about toys and nursery equipment, including information about unsafe products.

### For children and young people:

- [Create Foundation](#)  
Peak body representing the voices of children and young people with an out-of-home care experience.
- [Youthlaw](#)  
Free and confidential legal advice for children and young people.
- [Kids Helpline](#)  
Free, private and confidential phone and online counselling.

### Aboriginal services and resources:

- [Victorian Aboriginal Child Care Agency \(VACCA\)](#)  
Lead Aboriginal child and family welfare organisation in Victoria, protecting and promoting the rights of Aboriginal children and young people.

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- [Victorian Aboriginal Children & Young People's Alliance](#)  
The Alliance consists of 13 Aboriginal Community Controlled Organisations (ACCOs) involved in providing out-of-home-care services for Koori kids.
- [Aboriginal Children's Summit and ongoing forums - Department of Health and Human Services](#)  
The Aboriginal Children's Forum has been established to drive the safety and wellbeing of Aboriginal children and young people in, or at risk of entering, out-of-home care.
- [Koorie Youth Council](#)  
The Koorie Youth Council is a state-wide network of volunteer Indigenous young people between 12 and 25 years who provide a voice to government and community on issues of importance to them.
- [Victorian Aboriginal Legal Service](#)  
Legal advice and representation for the Koori community in Victoria, including criminal law, civil law and family law.
- [Secretariat of National Aboriginal and Islander Child Care \(SNAICC\)](#)  
National non-government peak body for Aboriginal and/or Torres Strait Islander children.
- [Victorian Aboriginal Education Association Incorporated](#)  
Peak Koori community organisation for education and training in Victoria, working to build success in education and training in the community.

#### Family violence:

- [Safe Steps Family Violence Response Centre](#)  
Confidential support and information with a 24/7 state-wide family violence response service.
- [No To Violence/Men's Referral Service](#)  
Male family violence telephone counselling, information and referral service for men taking responsibility for their violent behaviour, and support and referrals for victims of family violence.
- [1800RESPECT](#)  
National sexual assault, domestic and family violence counselling service for people living in Australia - 1800 737 732.
- [Aboriginal Family Violence Prevention and Legal Service \(FVPLS\)](#)  
Aboriginal community-run organisation providing assistance to Aboriginal and Torres Strait Islander victim survivors of family violence and sexual assault.

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- [InTouch: Multicultural Centre against Family Violence](#)  
Services, programs and responses to family violence in migrant and refugee communities in Victoria.
- [Ending Family Violence: Victoria's Plan for Change](#)  
Information about the Victorian Government's plan to deliver the Royal Commission into Family Violence recommendations, ensure victim survivor safety and build a future where Victorians live free from family violence.

#### Sexual abuse:

- [Centres Against Sexual Assault](#)  
Peak body of the 15 Centres Against Sexual Assault, and the Victorian Sexual Assault Crisis Line (after hours).

#### Peak bodies:

- [Centre for Excellence in Child and Family Welfare](#)  
The Centre for Excellence in Child and Family Welfare is the peak body for nearly 100 child and family services in Victoria.
- [Youth Affairs Council Victoria](#)  
The Youth Affairs Council of Victoria Inc. (YACVic) is the peak body and leading policy advocate on young people's issues in Victoria.

#### EVALUATION

*This policy will be reviewed as part of the school's three-year review cycle, following an incident if it occurs or if guidelines change.*

#### RATIFICATION

This policy was ratified by the College Council on 12<sup>th</sup> December, 2017.

This policy was re-ratified by the College Council on 15<sup>th</sup> February 2018.

This policy was re-ratified on 15<sup>th</sup> August 2019.