

# **MANDATORY REPORTING AND CHILD PROTECTION POLICY**

This can be a confusing area, due in part to the number of government departments involved, and the array of conditions, requirements and regulations, many of which are comparatively recent. To put the situation as practised at Alice Miller and Candlebark Schools as succinctly as possible, any adult “employed” by the school in either a paid or voluntary capacity who forms a belief that a child may have been abused or may be currently suffering abuse or may be in danger of abuse or is at risk of significant harm should urgently take action. An appropriate starting point is consultation with the Principal or Head of Campus, but if the adult believes that the responses of either or both of those people are not adequate, he or she should then take further steps, by contacting suitable authorities as described in the following material.

Doing nothing is absolutely not an option, unless the situation accords with one of the exemptions described below (which is unlikely for most staff members and most situations).

During its lifespan so far (as of May 2018) the school has, like most schools, had to make contact with DHHS or the police on a number of occasions over issues involving the safety of children. Almost without exception the responses from DHHS have been completely inadequate – it has been very difficult to get any response, or for us as a school to successfully follow-up with DHHS on any matters, despite numerous phone calls. Responses from the police have varied from “uninterested and evasive” to “quite good”. On one occasion the police response was excellent. Although the documentation about mandatory reporting, the offence of failing to disclose, the offence of failing to protect etc. which follows makes everything sound organised and efficient, staff members should be prepared for unsatisfactory and even chaotic responses from “officialdom”.

The following information is largely an edited version of the Dept. of Education’s child protection guide for government schools, last updated in March 2018.

## **Purpose of this policy**

To ensure school staff are aware of their roles and responsibilities in protecting the safety and wellbeing of children and young people and are able to:

- understand their various legal obligations to report and take other reasonable steps to discharge the duty of care that may be owed to the child or young person
- identify indicators that a child or young person has been, is being, or is at risk of being abused
- make a report about a child or young person who has been, is being, or is at risk of being abused.

For information on how to make a report, see: [Child Protection - Making a Report](#) This website address is recommended, as it is a practical and straightforward guide. Although it is written for Department of Education staff, it is equally useful for those of us who are teaching in non-government schools like Alice Miller.

## Reporting obligations

The following table summarises the mandatory and other reporting obligations where there is a concern that a young person has been, is being, or is at risk of being abused.

Type of reporting	Obligation
<p><b><i>Mandatory reporting</i></b></p> <p><i>Note: the following professionals are among those considered mandatory reporters</i></p> <ul style="list-style-type: none"><li>• <i>Teachers registered to teach or who have permission to teach</i></li><li>• <i>Principals of schools</i></li></ul>	<p>Mandatory reporters must make a report to the Department of Health and Human Services (DHHS) (Child Protection) as soon as practicable if, in the course of practising their profession or carrying out their duties, they form reasonable belief that a child or young person is in need of protection, as a result of physical injury or sexual abuse, or other concerns as described in more detail below, and the child’s parents are unable or unwilling to protect the child from that abuse.</p> <p>A mandatory reporter who fails to comply with these reporting obligations may be committing a criminal offence.</p>
<p><b>Failure to disclose</b></p>	<p>All adults, not just professionals who work with children, have a legal obligation to report to Victoria Police where they form a reasonable belief that a sexual offence has been committed by an adult against a child under the age of 16. Failure to disclose the information may amount to a criminal offence unless you have a “reasonable excuse” or have an “exemption” from doing so.</p> <p>To read more information about the ‘failure to disclose’ offence, see: <a href="#">Department of Justice and Regulation – Failure to disclose offence</a> or see Appendix 1 below, which is an edited version of the information at the Department of Justice website.</p>

## **Failure to Protect**

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.

The offence applies only to adults in a position of authority within an organisation. In a school context, this may include Principals and Heads of Campuses. To read more information about the 'failure to protect offence', see: [Department of Justice and Regulations – Failure to protect offence](#), or see Appendix 2 below, which is an edited version of the Department of Justice information.

The table below describes other reporting obligations.

### **Type of reporting**

### **Obligation**

#### **Child in need of protection**

Any person can make a report to DHHS Child Protection if they believe on reasonable grounds that a child is in need of protection for any of the following reasons:

- the child has suffered or is likely to suffer significant harm as a result of:
  - physical injury and their parents are unable or unwilling to protect the child
  - sexual abuse and their parents are unable or unwilling to protect the child
  - emotional or psychological harm and their parents are unable or unwilling to protect the child.
- the child has been abandoned and there is no other suitable person willing and able to care for the child.
- the child's parents are dead or incapacitated and there is no other suitable person willing and able to care for 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.

All staff who form a belief on reasonable grounds that a child or young person is in need of protection must report their concerns to DHHS Child Protection or Victoria Police. In the case of school staff, they

must also discuss their concerns with the Principal or Head of Campus. At Candlebark, if the Principal is unavailable, they must discuss their concerns with Andrew Moffat. At Alice Miller, if the Head of Campus is unavailable, they must discuss their concerns with John Marsden.

**Child in need of therapeutic treatment**

Any person who believes on reasonable grounds that a child over 10 but under 15 years of age has been exhibiting sexually abusive behaviours and may be in need of therapeutic treatment should make a report to DHHS Child Protection.

Sexually abusive behaviours can be exhibited when a child uses their power, authority or status to engage another person in sexual activity that is unwanted, or where the other party is incapable of giving informed consent (such as other children who are younger or who have cognitive impairments).

In the case of student sexual offending, staff must also report to the Victoria Police. They must also discuss their concerns with the Principal or Head of Campus. At Candlebark, if the Principal is unavailable, they must discuss their concerns with Andrew Moffat. At Alice Miller, if the Head of Campus is unavailable, they must discuss their concerns with John Marsden.

**Significant concerns for the wellbeing of a child**

Any person who has a significant concern for the wellbeing of a child should report these concerns to DHHS Child Protection, or refer the child and their family to Child FIRST.

A significant concern for the wellbeing of a child may arise, for instance, where any of the following factors may have a significant adverse impact on a child's care, welfare or development:

- significant parenting problems
- family conflict or family breakdown
- pressure due to a family member's physical/mental illness, substance abuse, or disability
- vulnerability due to youth, isolation or lack of support
- significant social or economic disadvantage. In the case of school staff, they must also discuss their concerns with the Principal or Head of Campus. At Candlebark, if the Principal is unavailable, they must discuss concerns with Andrew Moffat. At Alice Miller, if the Head of Campus is unavailable, they must discuss concerns with John Marsden.

For more information, see PROTECT - [Responding to other concerns about the wellbeing of a child](#) This website is also recommended, as a practical and succinct guide.

## Additional legal obligations

In addition to the mandatory reporting and other reporting obligations mentioned above, all school staff have duty of care obligations and obligations arising out of the Child Safe Standards. The table below contains information about these obligations.

Obligation	Description
<b>Duty of care</b>	<p>All school staff have a duty of care to take reasonable steps to prevent reasonably foreseeable injury to children and young people under the care. This includes taking reasonable steps to protect their safety, health and wellbeing.</p> <p>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, reasonable steps may include (but are not necessarily limited to):</p> <ul style="list-style-type: none"><li>• acting on concerns and suspicions of abuse as soon as practicable</li><li>• seeking appropriate advice or consulting with other professionals or agencies when the school staff member is unsure of what steps to take</li><li>• reporting the suspected child abuse to appropriate authorities such as Victoria Police and DHHS Child Protection</li><li>• arranging counselling and/or other appropriate welfare support for the child</li><li>• providing ongoing support to the child and young person – this may include attending DHHS Child Protection Case Planning meetings, and convening regular Student Support Group meetings</li><li>• sharing information with other school based staff who will also be responsible for monitoring and providing ongoing support to the child or young person.</li></ul> <p>These steps should always be taken in consultation with the Principal or Head of Campus. For more information on responding to all forms of child abuse, see PROTECT: <a href="#">Four Critical Actions</a></p>
<b>Child Safe Standards</b>	<p>The Child Safe Standards are compulsory minimum standards for all Victorian schools to ensure they are well prepared to protect children from abuse and neglect. The Standards support all schools to embed a</p>

culture of no tolerance for child abuse but, where necessary, to respond appropriately to actual or suspected abuse.

See: School Policy & Advisory Guide - [Child Safe Standards](#)

## Training obligations

School staff play a vital role in protecting children from harm and are well placed to observe signs or behaviours that may indicate risks of child abuse, neglect or exploitation.

The [Protecting Children – Mandatory Reporting and Other Obligations eLearning module](#) (the module) is an essential professional learning resource that assists schools to protect the safety and wellbeing of children and young people.

The module provides detailed information for identifying and responding to child abuse, and includes case studies and practical scenarios to assist staff fulfil their reporting obligations.

## Requirements - school staff

Alice Miller Staff who are:

- mandated reporters must undertake the training once per calendar year
- not mandated reporters are strongly encouraged to undertake the training once per calendar year.

The module takes approximately 30 to 45 minutes to complete. Participants receive a certificate of completion upon successful completion of a short assessment. A 12-month alert is also provided to remind participants to complete the module the following year.

To achieve the best results from training, staff are strongly encouraged to participate in discussions around the content, with a focus on the importance of their role in protecting children and young people.

The Principal or Head of Campus will contact the Wellbeing, Health and Engagement Division to obtain a list of staff who have completed the module, by email to:

[student.engagement@edumail.vic.gov.au](mailto:student.engagement@edumail.vic.gov.au)

### Related policies

- [Duty of care](#)
- [Police and DHS Interviews](#)
- [Responding to Student Sexual Offending](#)
- [Requests for Information about Students](#)
- [Risk Management](#)
- [Subpoenas and Witness Summonses](#)

## Related legislation

- *Children, Youth and Families Act 2005*
- *Crimes Act 1958*
- *Education and Training Reform Act 2006*
- *Victorian Institute of Teaching Act 2001*

## Department resources

- [PROTECT](#)
- [Protecting the safety and wellbeing of children and young people](#)
- [Protecting Children - Mandatory Reporting and Other Obligations](#) - elearning module log-in

## Other resources

- Daniel Morcombe Child Safety Curriculum:
  - Government schools, see: FUSE (eduMail password is required before searching [Daniel Morcombe Child Safety Curriculum](#))
  - Non-government schools, see: [Scootle](#)
  - Parents, see: [Daniel Morcombe Child Safety Curriculum Parent Guides - Queensland Department of Education, Training and Employment](#).
- Department of Health and Human Services:
  - [Child Protection](#)
  - [Child FIRST](#)
- [Victoria Police Sexual Offences and Child Abuse Investigation Teams \(SOCIT\)](#)
- Department of Justice and Regulation:
  - [Failure to disclose offence](#)
  - [Failure to protect offence](#)
  - [Grooming offence](#)

## **Appendix 1: Failure to disclose: a newish criminal offence intended to “impose a clear legal duty upon all adults to report information about child sexual abuse to police”.**

The following information, copied, edited and pasted from the Victorian Government Department of Justice website, was last updated in November 2017. It relates to "a new criminal offence" (it began in 2014) to make more compelling the duty of adults to report possible child sexual abuse to police. Further information can be obtained from the Department of Justice website.

<http://www.justice.vic.gov.au/home/safer+communities/protecting+children+and+families/failure+to+disclose+offence> might be a useful starting point for those wishing to know more.

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.

### **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 mandated 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.

### **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.

## **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.

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 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 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.

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 the victim of sexual abuse is exempt from the offence.

### **If it is compulsory for everyone to report child sexual abuse, why are there exemptions?**

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

### **Won't child sexual abuse continue to occur if exemptions are allowed?**

Certain exemptions are required to avoid any unintended consequences of this reporting 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.

### **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'.

### **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.

### **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 occurring in the past will not have to report to police unless the victim was still a child when the offence came into effect on 27 October 2014.

### **What is the penalty for failing to disclose child sexual abuse?**

The maximum penalty is three years imprisonment.

### **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 000. Alternatively, you can contact your local police station

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 [sanotaskforce@police.vic.gov.au](mailto:sanotaskforce@police.vic.gov.au)

### **Appendix 2: Failure to protect: an even newer criminal offence intended to protect children from sexual abuse**

The following information, copied, edited and pasted from the Victorian Government Department of Justice website, was last updated in December 2017. It relates to "a new criminal offence for failing to protect children from sexual abuse", and concerns, amongst others, adults associated with schools. Further information can be obtained from the Department of Justice website.

<http://www.justice.vic.gov.au/home/safer+communities/protecting+children+and+families/failure+to+protect+offence> might be a useful starting point for those wishing to know more.

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

The offence applies 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 encourages organisations to actively manage the risks of sexual offences being committed against children in their care to protect them from harm.

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

The offence provides that a person who:

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 who 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'?**

Relevant organisations include, but are not limited to schools.

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

A person in authority is someone whose, position within a relevant organisation, means that they have 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 school principals. 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 commit an offence if he or she negligently fails to reduce or remove a substantial risk to a relevant child, or children. 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 receive services from the organisation.

For example, 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 the 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 the 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 know that there is a risk if he or she is aware that it exists or will exist in the ordinary course of events. This is more 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. Does 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. The child-safe standards provide a framework to assist in ensuring child safety in the organisation. Under the standards, organisations are 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.

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

The Reportable Conduct Scheme commenced implementation on 1 July 2017 and requires organisations that have a high level of responsibility for children to report allegations of child abuse and how they have been investigated and managed centrally to the Commission for Children and Young People.

For further information and guidance on how organisations may reduce the risk of harm, refer to Appendix A and Appendix B of this fact sheet.

## **12. Does 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. How do I contact Victoria Police?**

If you want to report a child in immediate risk or danger of a sexual offence call 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.

**FURTHER INFORMATION:** Reportable conduct scheme, Working with Children Checks and organisational duty of care

#### **Reportable conduct scheme**

A Victorian reportable conduct scheme is administered by the Commission for Children and Young People. The scheme requires organisations that have a high level of responsibility for children to report allegations of child abuse and child related misconduct to the Commission for Children and Young People. Certain community service organisations funded by the DHHS are covered by the scheme.

Central oversight of how organisations respond to allegations of reportable conduct are intended to help embed a child-safe culture across all organisations.

Further information about the reportable conduct scheme, including a full list of organisations covered by it, is available on the websites of the Commission for Children and Young People, and the Department of Health and Human Services

#### **Working with Children Checks**

The Working with Children Check is one of the safety measures organisations need to put in place to protect children from sexual and physical harm.

A list of additional resources can be found on the website for Commission for Children and Young People, including tip sheets on what to look for in a child safe organisation and a guide to creating child safe organisations

#### **Organisational duty of care**

A new 'organisational duty of care to prevent child abuse' applies to any organisation that exercises care, supervision or authority over children in Victoria.

This duty of care creates a presumption of liability, such that certain organisations will need to prove that they took "reasonable precautions" to prevent child abuse if they are defending a legal claim.

The duty does not change existing duties that schools and teachers already have, but instead reinforces the importance of ensuring that schools take reasonable precautions to minimise the risk of child abuse.

### **CHILD SAFE STANDARDS RESOURCES**

The child safe standards (the standards) are compulsory minimum requirements to create and maintain a child safe environment and better protect children from the risks of abuse and apply to organisations that provide services for children. The standards aim to drive

cultural change in organisations so that protecting children from abuse is embedded in everyday thinking and practice.

The Commission for Children and Young People is responsible for monitoring organisations' compliance with the standards and has a range of resources to help organisations available on its website.

Further information about the child safe standards for schools and other education providers is available from the websites of the Department of Education and Training and the VRQA.

Fact sheets and other resources to assist approved providers and education and care services to comply with the requirements of the National Quality Framework are also available from the Department of Education and Training.

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