

# 136 Child Safe Reporting Policy (Mandatory and Volunteer)

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## **Purpose**

1. The aim of this policy is to provide the guidelines for all employees of Community College Gippsland to ensure the safety, wellbeing and protection of children and young persons from any form of abuse.
2. In Victoria, under the Children, Youth and Families Act 2005 (Vic.) a child or young person is a person under seventeen years of age.

## **Policy**

3. CCG is will adhere to the Children, Youth and Families Act 2005 CYFA (Vic.) and Child Safe Standards in the prevention and reporting of child abuse and neglect.
4. This policy must be read in conjunction with the Child Safe Policy and Procedures
5. All members of CCG have a moral and social responsibility to report concerns about child abuse in both a mandated or non-mandated capacity.
6. A mandated employee is a person employed with CCG/ECG College as registered Teacher/Head of School.
7. CCG employees are to call the police by calling 000 when it is suspected that a child's safety is at immediate risk.

### **Non Mandated Employees (all CCG employees)**

8. All CCG staff members who believe on reasonable grounds, that a child is in need of protection are legally obligated to report their concerns to the Child Protection and to the CEO or Directors immediately.

### **Non Mandated Employees reporting requirements**

#### Failure to disclose:

9. Any adult who forms a reasonable belief that a sexual offence has been committed by an adult against a child under 17 years of age has an obligation to report that information to police, unless they have a reasonable excuse for not disclosing or exemptions apply. Failure to disclose the information to police is a criminal offence.
10. Failure to disclose obligations applies to adults in Victoria

#### Failure to protect:

11. The failure to protect offence commenced on 1 July 2015 and applies to people within organisations who knew of a risk of child sexual abuse by someone in the organisation and had the authority to reduce or remove the risk, but did not act to protect the child.
12. Failure to protect obligations apply to people in authority within CCG.
13. A relevant organisation is one that exercises care, supervision or authority over children, whether as part of its primary function or otherwise.
14. As long as a report is made in good faith, the report is not unprofessional conduct or a breach of professional ethics and the reporter cannot be held legally liable. Confidentiality is provided for reporters in the Children, Youth and Families Act, and prevents the disclosure of the name or any information likely to lead to the identification of a person who has made a report in accordance with the legislation except in very specific circumstances.

### **Mandated Employees - (CCG/ECG College registered Head of School and teachers)**

15. Mandated employees are mandated to report suspect child abuse if they form a belief, based on reasonable grounds, that a child has suffered, or is likely to suffer significant harm as a result of physical injury or sexual abuse, or if the child's parents or guardians have not protected or are unlikely to protect the child from harm of that type.
16. Mandated notifiers are able to share information, without legal or professional consequences, with Child Protection to help protect vulnerable children.
17. As a mandated notifier:
  - You believe in good faith that a child is in need of protection, then you must make a report to Child Protection without delay. Seeking assistance or advice should not hold-up the reporting process. Furthermore, you should attempt to file the report on the same day as the belief is formed.
  - You have some general concerns for the wellbeing of the child but have assessed that the child is not at immediate risk of harm, you can make a referral to Child FIRST.
  - You are required to notify Department of Health and Human Services each time you become aware of any further reasonable grounds for your belief.
  - You do not have to be able to prove that the child has been abused to notify The Department of Health and Human Services.
  - Mandated staff do not require the permission of parents, carers or guardians to make a report to Child Protection, nor are they required to tell parents, carers or guardians that they have done so. However, often it is going to be good practice and/or necessary to discuss any concerns prior to making a report a referral, and it would be normal to raise the possibility of making a report or referral during such discussions. Consent should not be sought if you believe that it will put you or the child at risk.
  - It is your responsibility to report your belief – it is not the responsibility of your supervisor, Head of School, senior, or boss.
  - If your Head of School does not share your belief that a child or young person is in need of protection, you must still notify The Department of Health and Human Services of your belief. However, it is recommended that you inform your Head of School that you have made a report.
  - You are not legally required to notify Child First or Child Protection if you form a reasonable belief that a child is in need of protection in your private life or when you are working in a capacity that is not directly related to the professional affiliation under which you are mandated, however such reports can be made voluntarily.
  - Details of a mandatory report should remain confidential.
  - Children can only be reported under the age of 17.
18. Under the Children, Youth and Families Act 2005 (Vic.), your identity as a notifier remains confidential unless:
  - you choose to inform the child and/or the child's parents or guardians of the notification yourself
  - you consent in writing to your identity as the notifier being disclosed by family services
  - the court decides that it needs the information provided in your report in order to ensure the safety and wellbeing of the child

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- the court decides that it is satisfied that the interests of justice require that the evidence be given.
19. For courts to order disclosure of a notifier's identity requires exceptional circumstances and is not normal practise.
20. Failure to disclose for mandated reporters who fail to notify their belief, when they have reasonable grounds, is regarded as an offence under the Children, Youth and Families Act 2005 (Vic.) and can lead to criminal prosecution.

### **Privacy**

21. CCG will record any child safety complaints, disclosures or breaches of the Code of Conduct and store the records in accordance with security and privacy requirements. Keep a record of action taken, any internal investigations and any reports made to statutory authorities or professional bodies.
22. To avoid confusion and maintain confidentiality, everyone, including children, will be made aware of the need to report serious matters involving child protection to external authorities. CCG cannot promise confidentiality in these matters; however, CCG will assure privacy in handling the matter and that only those who need to know will be advised.

### **Scope**

23. All employees and students involved with CCG and ECG College.

### **Definitions**

**Child** - means a person below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.

**Child protection** - means any responsibility, measure or activity undertaken to safeguard children from harm.

**Child abuse** - means all forms of physical abuse, emotional ill-treatment, sexual abuse and exploitation, neglect or negligent treatment, commercial (e.g. for financial gain) or other exploitation of a child and includes any actions that results in actual or potential harm to a child.

**Child sexual assault** - is any act which exposes a child to, or involves a child in, sexual processes beyond his or her understanding or contrary to accepted community standards. It includes child grooming, which refers to actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child to lower the child's inhibitions in preparation for sexual activity with the child.

**Reasonable grounds for belief** - is a belief based on reasonable grounds that child abuse has occurred when all known considerations or facts relevant to the formation of a belief are taken into account and these are objectively assessed. Circumstances or considerations may include the source of the allegation and how it was communicated, the nature of and details of the allegation, and whether there are any other related matters known regarding the alleged perpetrator.

A reasonable belief is formed if a reasonable person believes that:

- (a) The child is in need of protection,
- (b) The child has suffered or is likely to suffer "significant harm as a result of physical injury",
- (c) The parents are unable or unwilling to protect the child.

A 'reasonable belief' or a 'belief on reasonable grounds' is not the same as having proof, but is more than mere rumour or speculation.

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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:

- a) A child states that they have been physically or sexually abused;
- b) A child states that they know someone who has been physically or sexually abused (sometimes the child may be talking about themselves);
- c) Someone who knows a child states that the child has been physically or sexually abused;
- d) 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; and/or
- e) Signs of abuse lead to a belief that the child has been physically or sexually abused.

### **Responsibilities**

24. The legislation that requires mandatory reporting in Victoria and relevant to CCG is the Children, Youth and Families Act (2005).

<b>Legislation</b>	<b>Mandated reporters</b>	<b>When must a report be made?</b>	<b>Who is a child?</b>
<i>Crimes Act 1958 (Vic)</i>	Any person 18 years or older	A mandated reporter must make a report if t they form a reasonable belief that a sexual offence has been committed in Victoria against a child by another person of or over the age of 18 years. NB: exceptions may apply.	A person under 16 years old
<i>Children, Youth and Families Act 2005 (Vic)</i>	<ul style="list-style-type: none"> <li>• Registered medical practitioners, midwives and registered nurses</li> <li>• Teachers registered or granted permission to teach under the Education, Training and Reform Act 2006</li> <li>• Principals</li> <li>• Police</li> </ul>	A mandated reporter must make a report if: <ul style="list-style-type: none"> <li>• They form a belief on reasonable grounds that a child is in need of protection from physical injury or sexual abuse;</li> <li>• The parents cannot or will not protect the child; and</li> <li>• The belief is formed in the course of practising his/her position of employment.</li> </ul> NB: exceptions may apply.	A person under 17 years old
<b>Legislation</b>	<b>Voluntary reporters</b>	<b>When must a report be made?</b>	<b>Who is a child?</b>
<i>Children, Youth and Families Act 2005 (VIC)</i>	Any person	A voluntary reporter may make a report if the person has a significant concern for the wellbeing of a child.	A person under 17 years old

### **Relationships**

**Internal** – Child Safety Policy, Child Safety Code of Conduct, Staff and Students Code of Conduct, Bullying Harassment and Discrimination Policy, Risk Management Policy, Risk Management Policy & Procedures, Employment Practices Policy, Legislation Policy, Student Handbook, Employee Handbook, VCAL Parent and Student Handbook

**External** - Education and Training Reform Amendment (Child Safe Schools) Ac, Children, Youth and Families Act 2005 (VIC), Child Safe Standards 2016 MANAGING THE RISK OF CHILD ABUSE IN SCHOOLS Ministerial Order No. 870, Child Protection (Working with Children) Act 2012, Privacy Amendment (Enhancing Privacy Protection) Act 2012, Failure to Disclose and Failure to Protect laws

**Procedures** – 637-1 Mandatory & General Reporting Procedures

**Forms** – Child Safe Incident Report Form