

Child Protection

Reporting of Child Sexual Offences by Non-Mandatory Reporters

Source of Obligation

Under the Crimes Act 1958 (Vic), anyone aged 18 years or over, must make a report to the police if they form a reasonable belief that a sexual offence has been committed against a child under the age of 16 years, by a person aged 18 years or over. Failure to make a report without reasonable excuse is an offence against the Crimes Act and carries a jail term.

If a report is made to Department of Health and Human Services (DHHS) in accordance with mandatory reporting requirements, an additional report to police will not usually be required unless further information is obtained.

St Catherine's Policy

St Catherine's has developed a detailed **Child Protection and Safety Policy** which outlines abuse and neglect risk indicators, key requirements when managing student disclosure, initial notification procedures, the development of a management plan, the provision of ongoing support, record keeping and confidentiality.

This obligation applies to anyone aged 18 years or over, including all non-teaching staff, volunteers, and students aged 18 and over. The legislation also applies to teaching staff if not already covered by the mandatory reporting obligation.

What Must Be Reported?

Any person aged 18 or over who forms a reasonable belief that a sexual offence has been committed by an adult (a person aged 18 years or over) against a child under 16 has an obligation to report that information to police.

The Crimes Act sets out what constitutes a "sexual offence". This includes:

- Rape
- Indecent assault
- Incest
- Sexual penetration
- Grooming a child for sexual conduct

A "sexual offence" includes an attempted sexual offence.

Reasonable Belief

A 'reasonable belief' is formed if a reasonable person in the same position would have formed the belief on the same grounds.

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;
- Signs of sexual abuse leads to a belief that the child has been sexually abused.

Exceptions

A person who failed to disclose sexual offence against a child to police will not be held liable where their reason for not making the report includes the following:

- If you fear on reasonable grounds for the safety of any person (other than the offender), and a failure to report is reasonable;
- If 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);
- If you believe on reasonable grounds that the information has already been disclosed to police by another person (such as DHHS as part of mandatory reporting) and you have no further information.

A reasonable excuse does not include if you are concerned with the interests (including the reputation, legal liability or financial status) of:

- The person involved in the sexual offence; or
- Any organisation (such as the school).

A report made under the Child Youth and Families Act 1958 (Vic) mandatory reporting obligations may constitute a 'reasonable excuse' if you believe that you have no further information to provide to police.

Confidentiality of the Reporter's Identity

The identity of the person who makes a report to police will remain confidential unless:

- The person themselves discloses their identity or they consent in writing to their identity being disclosed;
- A court or tribunal decides that it is necessary in the interests of justice for the person's identity to be disclosed.

Reporting to DHHS by Non-Mandated Staff

Under the Children Youth and Families Act 2005 (Vic) (CYFA), any person who believes on reasonable grounds that a child is at risk of harm should report their concerns to DHHS Child Protection.

School staff, who are not mandatory reporters under the CYFA, and who have concerns that a student may be in need of protection or may have been the victim of abuse, should notify the School Leadership Team as soon as possible to discuss their concerns with the view to making a report to DHHS Child Protection and/or the Police. Refer to our policy on **Child Protection – Abuse, Grooming & Neglect Identification & Initial Notification**.

Non-mandated staff includes cleaners, canteen staff, administration staff, non-teaching staff, speech pathologists, and Education Support Officers.

Implementation

This policy is implemented through a combination of:

- Staff training;
- Effective communication and incident notification procedures;
- Effective record keeping practices; and
- Initiation of corrective actions where necessary.

Discipline for Breach of Policy

Where a staff member breaches this policy, St Catherine's may take disciplinary action, including in the case of serious breaches, summary dismissal. Failure to disclose the suspected child sexual offence to the police under the provisions of the Crimes Act is a criminal offence.

Related Policies

- ***Child Protection – Abuse, Grooming & Neglect Identification & Initial Notification***
- ***Child Protection – Mandatory Reporting***
- ***Child Protection – Misconduct by Staff, Volunteers & Others Policy***
- ***Child Protection – Detecting, Reporting and Addressing Grooming Behaviours***
- ***Child Protection – Working with Children Checks Policy***
- ***Child Protection – Taking Action to Protect Students from Risk of Sexual Offences***
- ***Critical Incident Management (Traumatic Events) Policy***
- ***Counselling Services (Student) Policy***

Key Reference

- Department of Justice ***Failure to Disclose Offence***.

Implementation Date: July 2016

Review Date: June 2021