

## Child Protection

### Taking Action to Protect Students from Risk of Sexual Offences

#### **Purpose**

Where a person in a position of authority in a school becomes aware that a staff member, volunteer, contractor, or other person associated with the school poses a substantial risk of committing a sexual offence against a student or students, the school has a duty to take immediate action to ensure that the student or students are protected from that risk.

#### **Source of Obligation**

The school has a duty of care which entails protecting all students from foreseeable risks while at school or engaging in school activities. In addition, under Section 49C of The Crimes Act 1958 (Vic) (Crimes Act) a person who:

- a) By reason of the position they occupy at the school, has the power or responsibility to reduce or remove a substantial risk that a relevant child (under the age of 16) 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 school; and
- b) 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.

#### **St Catherine's Policy**

St Catherine's has developed a detailed **Child Protection Policy** supported by CEOSale Catholic Schools policies which outline processes to ensure:

- All relevant people have a current Working with Children clearance;
- Staff are trained to be aware of abuse and neglect risk indicators and their reporting responsibilities;
- Student disclosure is managed;
- Initial notification procedures are in place within the school which determine appropriate measures;
- Action is taken to protect students from a substantial risk of sexual offences;
- Mandatory reporting of sexual abuse and physical injury;
- Reporting of sexual offences to police by non-teaching staff;
- Internal investigations of allegations of misconduct; and
- Reporting to VIT where there is misconduct by teachers.

#### **Who is Responsible for Acting to Protect the Student/s?**

The person responsible for taking steps to remove or reduce the risk to the student will depend upon the source of the risk. In a normal school context usually the Principal or a member of the School Leadership Team would have the necessary degree of supervision, power and authority to remove or reduce the risk. On tours, excursions, or camps a teacher or a volunteer coach could have the requisite power and responsibility.

Examples of people in a position of authority include:

- The Parish Priest or Canonical Administrator;
- The Principal;
- Members of the School Leadership Team;
- Teachers; and
- Volunteers where they are in a position of supervision.

### **When Should Action Be Taken?**

A person in a position of authority at St Catherine's is required to act if they know that there is a substantial risk that a student or students may become the victim of a sexual offence, and the risk is caused by a person associated with the school.

*Knowledge* is more than holding a tentative belief or mere suspicion.

If a person in authority has suspicion or belief that students are at risk of harm, they must take steps to follow up on that suspicion or belief, by investigating further.

The duty to act extends to situations where the students at risk or the person in authority is outside of Victoria.

### **What is Substantial Risk?**

A risk will be a substantial risk if a reasonable person would have judged the risk of a sexual offence being committed against the student as being substantial.

It is not necessary to prove that a sexual offence was committed in order for the substantial risk to exist i.e. a person in a position of authority should not wait for a student to be harmed before acting.

A number of factors will contribute to determining if a risk is a substantial risk, including:

- The likelihood or probability that a child become a 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, and
- Any other relevant fact which may indicate a substantial risk of a sexual offence being committed against a child.

### **What is a Sexual Offence?**

Action must be taken where there is a substantial risk of sexual offences occurring, including:

- Rape;
- Indecent assault;
- Incest
- Sexual penetration
- **Grooming** a child for sexual conduct; and
- An attempted sexual offence or an assault with the intent to commit a sexual offence.

Refer to Betrayal of Trust Fact Sheets: **The new “Failure to Protect” offence** and **The new “Failure to Disclose” offence**.

### **Who is “a Person Associated with the School”?**

A person associated with the school is an adult and can be a:

- Member of the School Advisory Board;
- Principal;
- Teacher;
- Employee;
- Volunteer (including parents); and
- Contractor.

A person will not be considered to be associated with the school purely because they receive services from the school.

### **Procedure to Reduce or Remove a Substantial Risk**

Where any staff member, volunteer, or other person in a position of authority at the time, becomes aware of a risk of a sexual offence against a student or students under their care, they should immediately:

- If the child is in immediate risk or danger of being a victim of a sexual offence: call Victoria Police 000
- Take reasonable steps which would remove or reduce the risk to the student or students, which may include immediately removing the person from contact with the student or students

For example:

- A current employee who is known to pose a risk to a student or students should be immediately removed from contact with students and reported to authorities and investigated.
- 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.
- Conduct an investigation unless this relates to a Mandatory Reporting situation;
- Make the appropriate report.

### **Reporting Requirements**

Depending upon the circumstances, the following reporting requirements apply:

- Where risk of immediate harm to the Police 000

For sexual abuse or physical abuse identified by a mandatory reporter, make a report to the Department of Health and Human Services (DHHS) Child Protection. See **Child Protection – Mandatory Reporting**.

- For sexual offences identified by a non-mandatory reporter, to the Police under **Child Protection – Reporting of Child Sexual Offences by Non-Mandatory Reporters**.

- In addition, where the alleged perpetrator is a teacher, to the Victorian Institute of Teaching.  
See **Child Protection – Misconduct by Staff, Volunteers & Others**.

### **Implementation**

This policy is implemented through a program of:

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

### **Related Policies**

- ***Child Protection – Abuse, Grooming & Neglect Identification & Initial Notification***
- ***Child Protection – Mandatory Reporting***
- ***Child Protection – Detecting, Reporting and Addressing Grooming Behaviours***
- ***Child Protection – Misconduct by Staff, Volunteers & Others Policy***
- ***Child Protection – Working with Children Checks Policy***
- ***Critical Incident Management (Traumatic Events) Policy***
- ***Counselling Services (Student) Policy***

### **Key References**

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

**Implementation Date:** July 2016

**Review Date:** June 2021