



# Child Safeguarding (Responding and Reporting)

<b>Last Review:</b> 20 May 2022	<b>Constructed / Reviewed by:</b> Dean of Child Safeguarding for Principal
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## 1. Statement of Context and Purpose

The Child Safeguarding Policy is set in the context of the mission and vision of St Kevin's College **(the College)**, where we seek to live, learn and teach with the values of the Catholic Church and those of the College – *compassion, integrity, and excellence*. The College is committed to standards of excellence in the formation of young people. We lead through the values of the Gospel and in the spirituality of Edmund Rice. We strive with compassion and integrity to build a better world.

The Purpose of this Policy and Procedures is to:

- Outline the College's Duty of Care and Legal Obligations relating to recognising, reporting and responding to child safety incidents or concerns, including in particular obligations under Ministerial Order 1359, the Reportable Conduct Scheme, mandatory reporting under Child protection law and offences under the Crimes Act 1958.
- outline the roles and responsibilities for identifying, responding and reporting child safety incidents at the College, including all its environments
- detail the procedures that must be followed by College staff when they witness an incident, receive a disclosure or form a reasonable belief that a child is in need of protection.

The Child Safeguarding Program is the name given to the full collection of College Policies and Procedures in place to meet the requirements of the Victorian Child Safe Standards, Ministerial Order 1359 and the National Catholic Safeguarding Standards.

This Policy and its Procedures assist all Representatives of the College (as defined under 'Application' below) to:

- identify indicators of a child or young person being (or at risk of being) "abused," "otherwise harmed", "in need of protection", or subjected to "Reportable Conduct"
- understand who to inform, including Dean of Child Safeguarding, College Leadership, about students in these situations, and take action to protect and support the student and others who may be impacted
- comply with the College's organisational duty of care and their own duty to protect students

- (including obligations under the Failure to Protect offence)
- comply with their obligations (under the law and under College policy) to report child safety incidents or concerns to relevant external authorities, including:
    - mandatory reporting of physical and sexual abuse to the Department of Families, Fairness and Housing (DFFH Child Protection)
    - mandatory reporting of sexual offences against children (including grooming) to Police
  - comply with their obligations under the Victorian Reportable Conduct Scheme
  - comply with other laws, regulations, and relevant standards relating to recognising, reporting and responding to child safety incidents or concerns, including in particular Ministerial Order 1359.

## Principles

The College and its governing authority is committed to ensuring the safety, wellbeing, and participation of all children and young people under our care.

The SKC Board and every person involved in the College has a responsibility to understand the important and specific role they have individually and collectively to ensure that the wellbeing and safety of all children and young people are at the forefront of all they do and every decision they make.

Our policies and procedures for reporting and responding to suspected and alleged incidents of child abuse are guided by the College's Child Safeguarding Principles as set out in the Child Safeguarding (Safety and Protection) Policy and Procedures.

All of the College's policies and procedures for recognising, reporting and responding to child safety incidents or concerns are designed and implemented to be inclusive of the diverse characteristics of the College community.

## 2. Child Safety

The College is an inclusive school committed to providing a safe and educationally supportive environment for students where there is zero tolerance policy for child abuse.

*Ministerial Order No. 1359 – Implementing the Child Safe Standards – Managing the risk of child abuse in schools and school boarding premises* sets out the requirements that the College must meet in order to comply with the Child Safe Standards.

This policy sets out the strategies and actions that the College will implement to meet the above requirements.

## 3. Related Documents

### Legislation

- Victorian Child Safe Standards
- the Children, Youth and Families Act 2005 (Vic.)
- the Crimes Act 1958 (Vic.)

- the Wrongs Act 1958 (Vic.)
- the Child Wellbeing and Safety Act 2005 (Vic.)
- Ministerial Order 1359
- National Catholic Safeguarding Standards

### Policies

- Child Safety Code of Conduct
- Child Safeguarding (Safety and Protection) Policy and Procedures
- Parent and Student Complaints Policy
- Recordkeeping Policy and Procedures

## 4. Application

This policy applies to complaints and concerns relating to child abuse made by or in relation to a child or student, a representative of the College or any other person while connected to the school environment.

This Policy and its Procedures apply to all **Representatives of the College**.

**Representatives of the College** include all teachers, administration and education support employees, temporary or casual employees, pre-service teachers, all volunteers (including SKC Board and Committee Members), all contractors (including external education providers) and clergy.

**Representatives of the College** are hereinafter referred to as “staff”.

This Policy and its Procedures apply in all College environments, both during and outside of school hours, including physical, virtual and online environments, and on-site and off-site College grounds (e.g. extra-curricular activities such as sport and other programs, camps and excursions, interstate and overseas travel).

## 5. Definitions

<b>Child Safe Standards</b>	Means the standards made under section 17 of the Child Wellbeing and Safety Act 2005 (Vic). The aim of the Child Safe Standards is to promote child safety, ensure that child abuse is prevented, and ensure that allegations of child abuse are properly addressed.
<b>MO 1359</b>	Means <i>Ministerial Order No. 1359 – Implementing the Child Safe Standards – Managing the risk of child abuse in schools and school boarding premises</i> .
<b>Staff</b>	Means all person identified in Section 4 of this policy.
<b>Cultural Safety</b>	Is a concept that goes beyond cultural awareness (knowledge and understanding of cultural differences and history) and cultural competence

(culturally sensitive behaviour). It is about creating an environment where Aboriginal and Torres Strait Islander people are not only treated in a culturally respectful manner but are also empowered to actively participate and supported to carry out culturally significant tasks.

Refer to Appendix A for a list of key definitions relating to this Policy and Procedures.

## 6. Overview

### Legislative and Regulatory Requirements

In Victoria, there are a number of key legislative and regulatory requirements underpinning child safety and reporting obligations for schools and school staff.

The College as a registered school in Victoria must operate in compliance with the prescribed minimum standards for school registration, including any Ministerial Orders in effect. Ministerial Order 1359 – Implementing the Child Safe Standards – Managing the Risk of Child Abuse in Schools and School Boarding Premises (MO1359) specifies the minimum requirements for a school's compliance with the new Child Safe Standards (Standards) which came into force on 1 July 2022. The Standards are compulsory minimum standards designed to prevent child abuse and harm from occurring within schools and its environments by requiring organisations to implement policies and procedures to prevent, respond to and report allegations of child abuse.

The Crimes Act 1958 (Vic) includes the following as criminal offenses reportable to the Police:

**Failure to disclose:** Reporting child sexual abuse is a community-wide responsibility. All adults in Victoria who have a reasonable belief that an adult has committed a sexual offence against a child under 16 have an obligation to report this information to the police.

**Failure to protect:** People in authority at the College will commit an offence if they know of a substantial risk of child sexual abuse and have the power or responsibility to reduce or remove the risk, but negligently fail to do so.

**Offence of Grooming:** It is an offence in the State of Victoria to groom a child under the age of 16 for sexual conduct. The offence applies where an adult communicates, by words or conduct, with a child (under 16 years) or with a person who has care, supervision or authority for the child, with the intention of facilitating the child's involvement in sexual activity at a later time either with the groomer or another adult. Grooming does not necessarily involve any sexual activity or even discussion of sexual activity.

**Mandatory Reporting:** The Children, Youth and Families Act 2005 (Vic) (CYFA) (section 184) requires Mandatory Reporters to make a report to DHHF Child Protection when they believe that a child (aged under 17) is in need of protection from significant harm from physical injury or sexual abuse. All staff who are mandatory reporters (refer below) must comply with their duties, as outlined in this policy and procedures. The report must be made as soon as practicable after forming the belief.

If, in the course of carrying out their duties, a mandatory reporter forms a reasonable belief that a child is in need of protection because the child has suffered, or is likely to suffer, significant harm as a result of physical injury or sexual abuse, and that the child's parents/guardians/carers are unwilling or unable to protect the child, they must report that belief to the Department of Families, Fairness and Housing (DFFH) Child Protection and/or Victoria Police

## Mandatory Reporting Obligations

At the College, the following people are Mandatory Reporters:

- teachers
- the Principal, Dean of Child Safeguarding and Deputy Principals
- medical practitioners
- nurses
- school counsellors
- registered psychologists
- early childhood workers
- persons in religious ministry.

Staff in the above categories are Mandatory Reporters regardless of whether they are engaged by the College as an employee, volunteer or contractor.

**Reportable Conduct Scheme:** The Victorian Reportable Conduct Scheme seeks to improve organisations' responses to allegations of child abuse and neglect by their workers and volunteers. The scheme is established by the Child Wellbeing and Safety Act 2005 (the Act). For conduct that must be reported to the Commission for Children and Young Persons (CCYP) see Additional Definitions under Appendix A.

## The Four Critical Actions

It is the College's Policy that the PROTECT Four Critical Actions for Schools: Responding to Incidents, Disclosures or Suspicions of Child Abuse be followed by all staff in responding to a child safety incident, or develop a child safety concern, receive a disclosure or form a reasonable suspicion or belief that a child has been, or is at risk of being, abused or harmed. The Four Critical Actions diagram must be displayed in strategic areas of the College to ensure that all staff are aware of the actions to take.

The Four Critical Actions which must be taken are:

1. Responding to an Emergency
2. Reporting to Authorities
3. Contacting Parents/Carers
4. Providing Ongoing Support.

It is noted that the Four Critical Actions requires that staff (including those who are not Mandatory Reporters) must make wellbeing reports, protective intervention reports and therapeutic treatment reports to DFFH Child Protection (or, in some circumstances, to the Police or Child First/the Orange Door\*\*).

Therefore, it is the College's Policy that wellbeing reports, protective intervention reports and therapeutic treatment reports must be made by staff members to either DFFH Child Protection, Police or Child First/the Orange Door. \*\*

\*\*Child and Family Information, Referral and Support Teams (Child FIRST) were introduced to give families an opportunity to obtain family services earlier at their own request or following a referral from others, including College staff.

### Duty of Care

All staff must understand their role to keep children and young people safe. In particular, staff have an obligation to avoid acts or omissions (failures) that could be reasonably foreseen to injure or harm students.

As part of this duty of care, all staff must:

- act by following the Four Critical Actions as soon as they witness or receive a child safety incident concern, disclosure or form a reasonable belief that a child has or is at risk of being abused
- act if they form a suspicion/reasonable belief, even if they are unsure and have not directly observed child abuse (e.g. if the victim or another person tells them about the abuse)

### Becoming aware of a child safety incident or concern

Staff may become aware of a child safety incident or concern through:

- witnessing a child safety incident
- observing:
  - key indicators of child abuse or other harm in a child or young person
  - conduct towards a child or young person by an adult that breaches the Child Safety Code of Conduct (if the adult is associated with the College) or is otherwise indicative of child abuse or other harm
  - harm or abuse towards a child or student by another student
- being told about a child safety incident by the child or young person themselves (a disclosure), directly or indirectly through assignments, art work or other means
- being told about a child safety incident or concern by a third party, such as a friend, parent/carer, other family member or other person (including as part of a complaint)
- being told, by a former student, about an historical child safety incident that occurred at or involved the College or its staff, volunteers or contractors, (including as part of a complaint).

### Response to Child Safety Incidents or Concerns

Staff must follow the Four Critical Actions.

As required by the Four Critical Actions, all staff must:

- meet their legal obligations to protect students from harm, and take action in response to any situations involving child safety incidents or concerns, (including those that occur at the College or College events).
- report any and all child safety incidents or concerns involving students (including incidents or concerns that involve students aged 18 or over) internally to the Dean of Child Safeguarding, Deputy Principal or Principal as well as externally to the relevant authority (as required).
- make any and all reports to external authorities that are required by law or by the Four Critical Actions/College policy (these are explained further in the Procedures section, below)
- provide culturally sensitive and ongoing support to affected students and staff of the College.
- act if they witness, receive a disclosure or form a reasonable belief that a child has been abused or is at risk of being abused.

The Dean of Child Safeguarding will provide support and guidance for staff in following the Four Critical Actions.

Please note: reporting internally to or consulting with a Child Safety Officer, the Dean of Child Safeguarding, Deputy Principal or the Principal, does not change any obligation under legislation to report to an external authority.

Staff must make reports to the relevant external authority if they form the required belief about the matter, even if the person they reported to internally at the College does not share that belief.

The College will take appropriate, prompt action in response to all child safety incidents or concerns, including all complaints, allegations or disclosures of abuse or other harm, when these are reported to the College, whether by staff, students, parents/carers or anyone else.

Lead by the Dean of Child Safeguarding, the College's response will include:

- reporting all matters that meet the required relevant thresholds (refer to PROTECT: Four Critical Actions for Schools linked above) externally to DFFH Child Protection, the Police, the CCYP, and/or the Victorian Institute of Teaching, depending on the issues raised
- responding in a timely and appropriate manner to a child or student who raises or is affected by the complaint or concern
- fully cooperating with any resulting investigation by an external agency
- protecting any student connected to the child safety incident or concern until it is resolved and providing ongoing support to those affected
- taking particular measures in response to child safety incidents or concerns about an Aboriginal or Torres Strait Islander student, a student from a culturally and linguistically diverse background, a student with a disability, students who identify as lesbian gay, bisexual, transgender, queer or intersex (LGBTQI+) students and other vulnerable students (such as students who are unable to live at home)

- sharing information with, or requesting information from, external people or agencies as permitted or required under the Child Information Sharing Scheme and/or the Family Violence Information Sharing Scheme
  - securing and retaining records of the child safety incident or concern and the College's response to it in accordance with the Public Record Office Victoria Recordkeeping Standards
  - taking broader actions to improve child safety at the College (including systemic reviews informed by child safety and complaints data and resulting improvements).

## Procedures

Whenever there are concerns that a child or young person is in immediate danger the Police should be called on 000.

There are a number of legal obligations that the College and staff must follow when responding to child safety incidents, complaints or concerns. In addition to these legal obligations, the College also requires staff to respond to and to report certain child safety incidents and concerns to external authorities in situations where this is not required by law.

These legal and policy-based obligations, and their procedures, align with the Four Critical Actions and are summarised below.

Note: Fulfilling the roles and responsibilities in these procedures does not displace or discharge any other obligations that arise if a person reasonably believes that a child is at risk of child abuse.

## Critical Action One: Respond to Emergencies

### Responding to an Emergency:

If a student has just been or is at immediate risk of being harmed, all staff must ensure their safety by

- separating alleged victims and others involved
- administering first aid
- calling 000 for urgent medical assistance or Police assistance to address immediate health and safety concerns
- briefing the Dean of Child Safeguarding to be the future liaison with the Police on the matter.

When a child safety incident occurs at the College or at a College event, all staff preserve evidence of the incident and record accurate details of the incident, if it is safe to do so, by:

- Environment: do not clean up the area, and preserve the sites where the alleged incident occurred.
- Clothing: take steps to ensure that the person who has allegedly committed the abuse and the child who has allegedly been abused remain in their clothing. If this is not possible, ensure the clothes are not washed, handled as little as possible and stored in a sealed bag.

- Other physical items: ensure that items such as weapons, bedding and condoms are untouched.
- Potential witnesses: reasonable precautions must be taken to prevent discussion of the incident between those involved in or witnesses of the alleged incident.

As soon as immediate health and safety concerns are addressed OR if there is no immediate risk of harm staff must follow Critical Action Two to make reporting to internal and external authorities as outlined.

### **Critical Action Two: Report (Internally and to External Authorities)**

#### Internal Reporting of Child Safety Incident or Concerns

As soon as immediate health and safety concerns are addressed, the College requires that all staff must report any and all child safety incidents, or concerns and complaints involving safety and wellbeing of our students (including student to student incidents and concerns, as well as behaviour committed by an adult) to the Dean of Child Safeguarding, a Child Safety Officer or the Principal within 24hrs of the incident occurring or becoming aware of an incident. Our internal protocols require child safety incidents to be reported to the SKC Board via Principal's report and in certain high risk matters immediately.

If a matter involves the Principal, the internal report must instead be made to the Chair of the SKC Board on [chair@stkevins.vic.edu.au](mailto:chair@stkevins.vic.edu.au)

In addition to internal reporting, where the instance of suspected child abuse is within the school, staff must report all instances to Victoria Police (000 or your local police station). If the instance of suspected child abuse is within the family or community, you must report to DFFH Child Protection as outlined in Critical Action Two.

If you are a mandated reporter under Mandatory Reporting, you have additional reporting obligations that must be followed as outlined in the Mandatory reporting section of this Policy

### **Mandatory Reporting to Child Protection**

Although everyone has a moral and social responsibility to report concerns about child abuse or other harm, some professionals are legally required to make a report to DFFH Child Protection in certain circumstances.

DFFH Child Protection has a responsibility to provide child protection services for all children and young people under the age of 17 years, or where a protection order is in place, for children under the age of 18.

The main functions of DFFH Child Protection are to:

- receive reports from people who believe that a child is in need of protection or have significant concerns about the wellbeing of a child
- provide consultation and advice to people making reports
- investigate matters where it is believed that a child is at risk of significant harm

- refer children and families to services that assist in providing for the ongoing safety and wellbeing of children.

### **When Must a Mandatory Report be Made?**

A Mandatory Report must be made if – during the course of their professional work or carrying out duties of their office, position or employment – a Mandatory Reporter (see Definitions):

- forms a belief on reasonable grounds
- that a child who is aged under 17 (or who is aged 17 but is under a child protection order) is “in need of protection” because:
  - the child has suffered or is likely to suffer significant harm as a result of physical injury or sexual abuse and
  - the child’s parents have not protected or are unlikely (including if they are unable) to protect the child from the harm.

Mandated Reporters must make their report to DFFH Child Protection “as soon as practicable” after forming their belief on reasonable grounds.

(Note that the concept of forming a belief on reasonable grounds is not limited to Mandatory Reporting but should be applied in relation to any Child Safeguarding concerns. In accordance with MO1359, staff are not required to make a judgement about the truth of a complaint or concern.)

### **What is a Belief on Reasonable Grounds?**

The concept of a “belief on reasonable grounds” requires you to consider whether another person, when faced with similar information, would also draw the same conclusion. It is a low threshold.

You may have a belief on reasonable grounds, such that a Mandatory Report should be made, if:

- you witness the physical or sexual abuse of a child
- a child tells you that they have been physically or sexually abused
- a child tells you that they know someone who has been physically or sexually abused
- someone who knows the child tells you that the child has been physically or sexually abused
- a child shows physical or behavioural signs of being physically or sexually abused.

### **How to Make a Mandatory Report:**

Mandatory Reports must be made to either to DFFH Child Protection or to the Police.

If you have contacted the Police, either as a result of Responding to an Emergency above or Reporting to Police below, then you have made your Mandatory Report.

If you have not contacted Police, you must report to DFFH Child Protection. You must do this by:

- during business hours (8:45am-5:00pm, Monday to Friday), telephoning the Child Protection intake service for the local government area where the child resides.
- after hours, telephoning DFFH Child Protection on 13 12 78.

### **Mandatory Reporting and Other External Reports**

International Students: The College is a CRICOS provider and therefore any mandatory reports which relate to an International Student (where the College has assumed responsibility for approving the student's accommodation, support and general welfare) must also notify the VRQA.

### **Non-Mandatory Reporting to Child Protection**

Under the law, anyone can report the following to DFFH Child Protection:

- significant concerns for the wellbeing of a child aged under 17 (wellbeing reports)\*
- a child aged under 17 who the person believes on reasonable grounds to be in need of protection (protective intervention reports)
- a child (aged under 18 who the person believes on reasonable grounds is in need of therapeutic treatment because they are exhibiting sexually abusive behaviours (therapeutic treatment reports).

\*For example, parental substance misuse, psychiatric illness or intellectual disability that is impacting on a student's safety, stability or development.

We refer to these reports as "Non-Mandatory Reports to Child Protection."

All of these reports are voluntary under the law. This means that all staff, students, parents/carers, external education providers, contractors, volunteers or other community members who have concerns that a child may be subject to abuse or other harm can report to DFFH Child Protection, or they can contact the Dean of Child Safeguarding or one of the School's Child Safeguarding Officers listed above.

For guidance on responding to concerns about the wellbeing of a child, the different kinds of reports and when to report/who to report to/how to report, refer to the protocol PROTECT: Identifying and Responding to All Forms of Abuse in Victorian Schools

Child FIRST ensures that vulnerable children, young people and their families are linked effectively to relevant services. Child FIRST is staffed by family services practitioners who are experienced in assessing the needs of vulnerable children and their families. Child FIRST teams work closely with community-based DFFH Child Protection workers.

The role of Child FIRST includes:

- providing a point of entry to a local network of family services
- receiving reports about vulnerable children where there are significant concerns about their wellbeing

- undertaking an initial identification and assessment of the risks to the child and the child's needs in consultation with DFFH Child Protection
- Identifying appropriate service responses for families.

Child FIRST as the access point for family services is in the process of transitioning to the Orange Door; however at this stage, the referral is made to Child FIRST.

### Failure to Protect

In Victoria, it is a crime if a person who occupies a position within or in relation to the College:

- knows that there is a substantial risk that:
  - a child (aged under 16) who is under the care, supervision or authority of the College
  - will become a victim of a sexual offence committed by an adult associated with the College and
- has, by reason of their position, the power or responsibility to reduce or remove that risk and
- negligently fails to reduce or remove that risk.

This criminal offence is known as "Failure to Protect" and, in the College context, it covers failures to protect a student aged under 16 from sexual abuse by staff who are adults (students aged 18 or over and parents/carers are not "adults associated with the College" for the purposes of the Failure to Protect Offence).

The College also has a duty to protect all students from reasonably foreseeable risks of harm, including risks of all types of child abuse or other harm that may arise from all people associated with the College (including staff, students, including those aged 18 or over, parents/carers and other family members of students).

To help staff members meet both their Failure to Protect and Duty of Care obligations, the College requires that:

(a) if **a staff member** knows that:

- **any** adult associated with the College (including Employees, Volunteers, Contractors, students aged 18 or over, parents/carers and other family members of students)
- poses a substantial risk of sexually abusing a student or a reasonably foreseeable risk of any form of child abuse or other harm to a student

(b) they must:

- take any actions to reduce or remove that risk that are within their power or responsibilities to take
- report the matter to the Principal (or, if the adult who poses the risk is the Principal, to the Chair of the SKC Board at [chair@stkevins.vic.edu.au](mailto:chair@stkevins.vic.edu.au))
- follow their obligations to make appropriate external reports as listed below.

Actions that could be taken to protect students include, but are not limited to:

- immediately removing the person from contact with students
- ensuring that the person is not left alone with a student
- if the person is a parent, not allowing them to act as a parent volunteer or to attend College events.

### **Failure to Disclose: Obligation to Report Sexual Offences Against Children to Police**

Victorian law requires that any adult (a person aged 18 or over) who forms a reasonable belief that a sexual offence has been committed by another adult against a child aged under 16 must report that information to the Police, except in certain circumstances.

Failure to do this is a criminal offence known as “Failure to Disclose.”

#### **Who Must Make a Report (of Sexual Offence Against Children) to Police?**

Any adult at the College, including all staff who are adults, must report to Police when they have the required belief.

#### **When Must a Report to Police be Made?**

Staff must make these reports when they have a reasonable belief that:

- an adult (including a staff member, volunteer, contractor, parent/carer, student over 18 years old or any other adult)
- has committed a sexual offence
- against a person who, at the time of the offence, was aged under 16 (including but not limited to current or former students).

It does not matter whether the other adult is associated with the College.

Sexual offences committed against a child aged under 16 by a student at the College aged under 18 do not fall under the Failure to Disclose offence. However, this must still be reported to Police under College policy (see Non-Mandatory Reporting to Police below).

#### **What is a Reasonable Belief?**

A “reasonable belief” is formed if another person in the same position would have formed the same belief on the same grounds.

A “reasonable belief” might be formed when:

- a child tells you that they are being or have been sexually abused
- a person aged over 16 tells you that they were sexually abused when they were aged under 16
- a child tells you that they know someone who is being or has been sexually abused (sometimes the child may be talking about themselves)

- someone who knows a child tells you that the child is being or has been sexually abused
- signs of sexual abuse lead you to believe that a child is being or has been sexually abused.

### **How to Report to Police**

- In emergencies, or if the crime is happening now or has just happened and the suspected offender may still be in the area: call 000
- All other matters: call your local police station

### **Obligation to Act - Non-Mandatory Reporting to Police**

The Four Critical Actions, together with the protocol PROTECT Four Critical Actions for Schools: Responding to Student Sexual Offending requires, and therefore is College Policy, that all staff must report the following to Police, even though this is not required by law:

sexual offences committed by a student aged under 18 against any other person (see Responding to Student Sexual Offending below).

- concerns for a student's immediate safety (see Responding to an Emergency above)
- knowledge or suspicions that a student aged 18 or over is being abused or harmed, but only if the student consents to the report
- where a student is partaking in illegal activity that is extreme in nature or poses a high risk to the student (see Responding to Other Concerns About the Wellbeing of a Student below).

(It is noted that under College Policy, staff must act in response to student sexual offending and report it to the Police irrespective of a student's age.)

### **Reportable Conduct**

The Principal of the College as 'head of entity' is required to report to the Commission for Children and Young People (CCYP) any allegation that an "employee" of the College (defined below) has committed "Reportable Conduct" or misconduct that may involve Reportable Conduct (a reportable allegation). They must also conduct an appropriate investigation into the matter, and report the outcome to the CCYP.

CCYP is an independent statutory body that promotes improvement in policies and practices affecting the safety and wellbeing of Victorian children and young people.

CCYP is responsible for administering the Reportable Conduct Scheme, which includes:

- Supporting and guiding organisations that receive allegations in order to promote fair, effective, timely and appropriate responses
- Independently overseeing, monitoring and, where appropriate, making recommendations to improve the responses of those organisations.

The Principal is required to undertake the following functions under the Reportable Conduct Scheme:

- notifying and updating the CCYP of reportable allegations about the College's employees
- ensure investigations are undertaken into all reportable allegations made against the College's employees
- comply with all obligations as the "head" of the College under the Reportable Conduct Scheme.

If the reportable allegation involves the Principal, then the Chair of the SKC Board has authorised the Dean of Safeguarding to undertake these functions.

### **What is Reportable Conduct?**

Reportable Conduct is defined in **Appendix A Definitions**

Who is an Employee?

For the purposes of the Reportable Conduct Scheme, an employee is anyone aged 18 or over who is:

- employed by the College
- engaged by the College to provide services as a volunteer, contractor, office holder or other officer

It does not matter whether their work or activities relate to or involve providing services to children.

### **Internal Reporting of Reportable Conduct**

To enable the Principal to fulfil their authorised obligations, the College requires that all staff:

- who form a reasonable belief that an employee at the College has engaged in Reportable Conduct or misconduct that may involve Reportable Conduct

**must** immediately report their concerns to the Principal (or to the Chair of the SKC Board if the allegation involves the Principal).

They **must** also consider their obligations under this policy to make a report to DFFH Child Protection or to Police, take any other action or make any other external reports. Staff may seek further guidance from the Dean of Child Safeguarding or a Child Safety Officer.

Any member of the College community can also report concerns about reportable conduct by a College employee to the Principal (or to the Chair of the SKC Board if the allegation involves the Principal).

Any staff member or member of the College Community can also or instead make a report directly to the CCYP, by calling 1300 78 29 78 or emailing [contact@ccyp.vic.gov.au](mailto:contact@ccyp.vic.gov.au)

### **The College's Response to Reportable Allegations**

When they become aware of a reportable allegation (whether through receiving an internal report of Reportable Conduct, through receiving a complaint from a student, parent/carer or anyone else, or through any other means), **the Principal (or the Chair of the SKC Board if the allegation involves the Principal) must:**

- notify the CCYP as soon as possible, and no later than 3 business days after becoming aware of the reportable allegation
- report the matter to Police if the reportable allegation involves possible criminal conduct
- take any necessary interim action to ensure the safety and wellbeing of the child/ren involved and students at the College
- ensure that an appropriate internal investigation is conducted into the reportable allegation (subject to Police advice, if the matter has been reported to Police, and to consultation with DFFH Child Protection, if the matter has been reported to DFFH Child Protection) and notify the CCYP of the person who will be conducting the internal investigation
- provide the CCYP with an update about the College's response to the reportable allegation within 30 days of becoming aware of it
- if, as a result of the internal investigation, a finding is made that the reportable allegation is "substantiated", report this to relevant regulators such as the Victorian Institute of Teaching or Working With Children Check Victoria and, if the finding involves a criminal offence, to Police if a report has not already been made
- decide what, if any, measures should be put in place to minimise any further risk of harm to students at the College
- notify the CCYP of the outcome of the internal investigation as soon as practicable after it has concluded.

### **Teacher Misconduct that is Reportable to the Victorian Institute of Teaching (VIT)**

The Victorian Institute of Teaching (VIT) is an independent statutory authority for the teaching profession, whose primary function is to regulate members of the teaching profession.

Registered teachers in Victoria are exempt from the Working with Children Check (WWCC) scheme. To align teacher registration with the WWCC scheme, registered teachers must notify the VIT if they are charged with, committed for trial for, or convicted or found guilty of certain criminal offences (that accord with those relevant to Working with Children Checks) or if they have been issued with a negative notice in relation to the Working with Children Check.

The College must also notify the VIT if it becomes aware that a teacher has been charged with, or convicted or found guilty of, these criminal offences or has been given a negative notice.

The College must dismiss or remove from its employment or engagement any teacher who has been convicted or found guilty of these criminal offences or been given a negative notice.

The College must also notify the VIT if the College has taken any action against a registered teacher in response to allegations that raise concerns about the teacher's fitness to teach.

To enable the College to fulfil its obligations, it requires that:

- **Staff who are registered teachers** must inform the Principal (or, if they are the Principal, the Chair of the SKC Board) if they are charged with, committed for trial for, or convicted or found guilty of a relevant offence or if they have been given a negative notice in relation to a WWCC
- **Staff (who are employees, direct contact contractors or direct contact volunteers) must** immediately report to the Principal (or, if the incident or allegation involves the Principal, to the Chair of the SKC Board) any incident or allegation that raises concerns about a teacher's fitness to teach.

## Responding to Sexual Behaviour in Children and to Student Sexual Offending

Knowing how to identify and respond to all sexual behaviour in students, whether it be age-appropriate, concerning, harmful or student sexual offending, helps staff to support the development of healthy sexuality and protect students from abuse and other harm.

### Recognising and Responding to Sexual Behaviour in Children

The College references the True Traffic Lights® Framework to enable staff to identify, recognise and respond to all forms of sexual behaviour. The Traffic Lights® Framework categorises sexual behaviour as green, orange or red light.

As a general guide:

- **Red light sexual behaviours** are those that are problematic or harmful, including forceful, secretive, compulsive, coercive or degrading sexual behaviours. These behaviours signal the need to provide immediate protection and follow up support.
- **Orange light sexual behaviours** are those that are outside normal behaviour in terms of persistence, frequency or inequality in age, power or ability. These concerning behaviours signal the need to monitor and provide extra support.
- **Green light sexual behaviours** are those that are normal, age-appropriate, spontaneous, curious, mutual, light-hearted and easily diverted experimentation. These behaviours provide opportunities to talk, explain and support.

All green, orange and red light behaviours require some form of action and support.

Most red light (harmful) sexual behaviour by a student aged 10 or over that is directed at another person would be considered student sexual offending. Some orange light (concerning) behaviours could also be student sexual offending.

Orange and red light behaviours may therefore require external reporting, such as **Mandatory or Non-Mandatory Reporting to Child Protection** or **Non-Mandatory Reporting to Police** above.

To enable the College to respond appropriately to students with concerning or harmful sexual behaviour, it requires that employees, direct contact volunteers and direct contact contractors must report orange light and red light sexual behaviours to a Child Safety Officer or the Dean of Child Safeguarding.

### Responding to Student Sexual Offending

Student sexual offending refers to sexual behaviour that:

- is led by a student aged 10 or over
- is directed at another person and
- amounts to a sexual offence.

The College requires that, when staff become aware of, or suspect, student sexual offending, or that a student is at risk of perpetrating or suffering student sexual offending, they must follow the Responding to Student Sexual Offending Four Critical Actions .

The Student Sexual Offending Four Critical Actions requires that incidents of or concerns about student sexual offending must be reported to Police, and that additional reports must be made, if relevant, to DFFH Child Protection or Child First/Orange Door.

- In emergencies, or if the student sexual offending is happening now or has just happened and the student offender may still be in the area: call 000
- All other matters: call your local police station

For guidance on identifying and responding to student sexual offending, refer to the protocol PROTECT Identifying and Responding to Student Sexual Offending.

It's also important to note that beyond reporting, staff must ensure continuing support is offered to all students involved in an allegation of student sexual offending including:

- any students who are victims of student sexual offending
- students who have engaged in student sexual offending

and any other students who are impacted by the student sexual offending (e.g. witnesses).

### **Responding to Other Concerns About the Wellbeing of a Student**

Any concerns about the wellbeing of a student, regardless of whether it has been caused by abuse or other harm, will be taken seriously and acted upon.

The College and staff who have students under their care owe a duty of care to all students at the College to ensure that they feel safe and are supported at the College.

Concerns about the wellbeing of a student, that do not appear to be the result of abuse or other harm, may still be reported by staff:

- Internally to Deputy Principals, Deans, Dean of Child Safeguarding, Year Level Leaders
- Victoria Police
- DFFH Child Protection
- Child FIRST/the Orange Door

depending on the age of the student and the nature of the concern.

The College will also consider whether a referral to a support service may assist.

## Child Safeguarding Record Keeping

All internal and external reports of child safety incidents and concerns, as well as the College's responses to these child safety incidents and concerns must be recorded using PROTECT Recording your actions: Responding to suspected child abuse - A Template for Victorian Schools or, if the matter involves student sexual offending, using PROTECT Responding to Suspected Student Sexual Offending: Template for all Victorian Schools.

Staff must complete the relevant sections of these forms, however this may be done with the assistance of the Dean of Child Safeguarding, Deans/ Directors, Deputy Principals or the Principal. Completed forms must then be provided to the Dean of Child Safeguarding or the Principal.

As the various responses of the College occur, the Dean of Child Safeguarding, Deans/ Directors, Deputy Principals or the Principal. Completed forms must then be provided to the Dean of Child Safeguarding or the Principal must record these in the relevant sections of the form (see PROTECT Recording your actions: Responding to suspected child abuse - A Template for Victorian Schools).

A record of the report and/or form will be stored by the College in accordance with the College's Child Safeguarding Records Keeping Policy and Procedures

## Critical Action Three: Contact Parents/Carers

### Communicating with Parents/Carers About Internal and External Reports

It is usually critical that the parents/carers of a student who is the subject of a child safety incident or concern are notified as soon as practicable when an internal report has been received and/or that an external report has been or will be made. This enables the student's parents/carers to take steps to prevent or limit their child's exposure to further abuse or other harm and ensure that their child receives the support that is needed. However, this may not be appropriate in all circumstances.

- If a report has been or will be made to DFFH Child Protection or Police, then the Principal or Dean of Child Safeguarding must seek advice from DFFH Child Protection or Police (depending on who the report has been made to) before contacting parents/carers. They will advise whether it is appropriate to contact parents/carers at this stage and if so, what information can be shared with the parents/carers.
- If the matter involves an internal investigation of Reportable Conduct, then by law, the Principal (or the Chair of the SKC Board if the matter involves the Principal) can share information about the progress of the investigation, its findings and recommendations, and actions taken, with the child and their parents/carers. They must take into account a number of factors when deciding whether, to what extent, and at what point in the investigation, information about the matter should be shared with the child and their parents/carers.

Where information about an external report can be shared with parents/carers, the Principal or Deputy Principals or Dean of Child Safeguarding must make sensitive and professional contact with the parents/carers as soon as practicable after the child safety incident or concern occurred or arose.

## Critical Action Four: Provide Support for Students, Families and Representatives Following Child Safety Incident or Disclosure

## Supporting Students

Ensuring a student feels safe and supported following an incident is of critical importance to our College.

The College employs a range of measures to support students affected by a child safety incident or concern (including students making reports), depending on the particular circumstances of the matter and of the student and their family:

- Child Safety Officers, Heads of House, Year Level Coordinators, Deans, Directors, Tutors, Form Teachers, Learning Support staff or others may work with the student and their family to develop a Student Support Plan, including academic support.
- Support strategies that could be considered for students and/or their families might include offering or organising referrals to internal or external support, such as the College Psychologists, family counsellor, bi-cultural workers and/or translators, or an external support agency and/or child advocacy organisation which specialises in supporting children and young people impacted by abuse or other harm.

For strategies on how to manage a disclosure, refer to PROTECT: Strategies for Managing a Disclosure

Former students who disclose historical child safety incidents or concerns from their time at the College are also offered similar support by the College.

## Supporting Staff

Witnessing a child safety incident or receiving a disclosure of abuse or other harm can be a distressing experience for the staff involved. The College will assist impacted staff to access necessary support, such as the Employee Access Program.

## Supporting our College Community

Key principles that we apply in the design of policy, procedure, interventions, support and reporting in our Child Safeguarding Program are to ensure we:

- promote the cultural safety of Aboriginal or Torres Strait Islander children and young people
- promote the cultural safety of children from culturally and linguistically diverse backgrounds
- promote the safety of children with any form of disability
- promote the safety of students who identify as LGBTQI+
- promote the safety of vulnerable students or those with complex needs

## Student Awareness

The College is committed to the protection of all children and young people from all forms of child abuse and other harm. It is important all our students are educated on how to raise any concerns and we raise their awareness of child safety concerns and concerning behaviours to report. We have designed and are implementing a comprehensive child safety program curriculum with age-

appropriate education and awareness programs. This curriculum further supported by our actions and processes empower our students to have a voice and to take action for their own care.

### Organisational Duty of Care

Section 91 of the Wrongs Act 1958 (Vic) imposes a duty of care on the College, as an organisation, to take reasonable precautions to:

- prevent the physical or sexual abuse of a child under its care, supervision or authority by an individual associated with the College.

Reasonable precautions to prevent all forms of abuse (including physical or sexual abuse) of students at the College may include:

- conducting employment screening and reference checking
- providing supervision and training to employees and relevant volunteers and contractors
- implementing systems to provide early warning of possible sexual or physical abuse by employees, volunteers and contractors
- performing random and unannounced inspections to deter misconduct
- encouraging children and adults to report to the College and/or external authorities any signs of inappropriate behaviour
- implementing improvements following a review of our policies and procedures, either as part of our regular review process or after a particular child safety incident.

### Documenting Reasonable Precautions to Prevent Physical and Sexual Abuse

Records that document the actions taken by the College in response to child safety incidents and concerns, and that document our review and improvement processes, are kept by the College, to assist in demonstrating reasonable precautions taken by the College to prevent the physical or sexual abuse of its students. These records must be retained in accordance with the Public Record Office of Victoria (PROVE) Recordkeeping Standards and the College's Child Safeguarding Records Keeping Policy and Procedures

### Privacy and Confidentiality

Anyone who has access to information regarding a case of suspected child abuse or other harm must keep such information confidential and secure and must only disclose or discuss this information with those involved in managing the situation.

Reports or referrals made to DFFH Child Protection or Child FIRST are confidential and the reporter's identity is generally protected by law. Exceptions include if:

- the reporter chooses to inform the child or family of the report
- the reporter consents in writing to their identity being disclosed
- a court or tribunal decides it is necessary for the identity of the reporter to be disclosed to ensure the safety and wellbeing of the child

- a court or tribunal decides the reporter is required to attend court to provide evidence.

The identity of the person who makes a report to the Police, including reports under section 327 of the Crimes Act 1958 (Vic) (Obligation to Report a Sexual Offence), 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.

A person who makes a Mandatory Report in accordance with the CYF Act, or a report under the CWS Act (Reportable Conduct Scheme) will not be held liable for the eventual outcome of any investigation.

## 7. Policy in Practice

Roles and responsibilities relevant to child safeguarding at the College in general are set out in the College's Child Safeguarding (Safety and Protection) Policy, available on our public website.

The following roles have additional responsibilities under this policy and its procedures:

- **All Representatives of the College** (referred to as "staff") are responsible for understanding and complying with their general duty of care towards all students
- **All Representatives of the College** are responsible for understanding their internal and external reporting requirements and for complying with this Policy and its Procedures

The College's Dean of Child Safeguarding, Deputy Principals and the Principal are responsible for:

- receiving internal reports and notification to Board
- providing assistance and advice to Representatives of the College about their obligations under this Policy and its Procedures
- ensuring that all child safety incidents or concerns, including those that occur at or involve the College or that involve Representatives of the College, are taken seriously, escalated, reported and responded to
- managing the College's response and monitoring the College's compliance with this policy and its procedures.
- Reporting to the SKC Board on a regular basis (at minimum four times annually) via the Board Committees on College's child safety incidents and escalations as required

Where a particular child safety incident or concern involves the Principal, the Chair of the SKC Board undertakes these responsibilities.

The SKC Board is the College's "governing authority" for the purposes of Ministerial Order 1359, and is responsible for:

- approving this Policy and its Procedures
- ensuring this Policy and its Procedures has been implemented by all relevant staff
- analyzing complaints, concerns and safety incidents to identify causes and systemic failures and inform continuous improvements
- ensuring this policy and its procedures are championed and modelled by leaders

## 8. Concerns and Complaints

Any concerns arising in respect of these Guidelines are encouraged to be raised with the College in first instance. The College will respond to such concerns in accordance with its *Staff Grievance Resolution Procedure*.

## 9. Consequences of Breach

Breaches of these Guidelines will be taken seriously.

The College will respond in accordance with its requirements under law and its policies and procedures.

### Exemptions

Nil

## 10. Acknowledgement and Review

Staff must annually acknowledge that they have read, understood, and agree to abide by this Policy. This acknowledged process will be implemented through the College's Learning Management System.

## 11. Where to get help?

For enquiries on this Policy, contact the **Principal**

For general policy enquires, contact the **Risk and Compliance Manager**.

You can provide feedback on this policy by emailing [policy@stkevins.vic.edu.au](mailto:policy@stkevins.vic.edu.au).

For enquiries on the Colleges' handling of a breach of this policy, please contact the **Director of Governance**.

## Appendix A – Definitions

Definitions of particular terms used in the Child Safeguarding (Responding and Reporting Obligations)

Policy and Procedure can be found in the Child Safeguarding (Safety and Protection) Policy and Procedures.

Of particular importance to this Policy and its Procedures are the following key definitions:

### Child safety incident or concern

This Policy and its Procedures (and the College’s Child Safeguarding Program) use the phrase “child safety incident or concern” rather than the more limited concept of “child abuse”.

**Child safety incidents or concerns** can take many forms. These include not only “abuse” of a child or young person by their parents/carers, but also conduct by other people that can cause harm to a child or young person. The perpetrator may be a parent, carer, staff member, volunteer, contractor, another adult or even another child.

At the College, we define “child safety incidents or concerns” as:

- incidents of or concerns about child abuse as defined in the Child Wellbeing and Safety Act 2005 (Vic) (CWS Act)
- incidents of or concerns about other harm, defined below
- incidents of or concerns about Reportable Conduct as defined in the CWS Act
- incidents of or concerns about a breach of the Child Safety Code of Conduct, by staff, volunteers and contractors, no matter how minor the breach
- incidents of or concerns about child abuse or other harm of a student by another student or by another person while at the College or a College event.

Definitions of all of the above terms are set out in the **Additional Definitions** section below.

### Additional Definitions

The nature of child abuse and other harm is complex. The abuse/harm may occur over time and potential indicators are often difficult to detect.

For definitions of all of the different types of child abuse and other harm, a comprehensive list of the indicators of these types of harm, and advice on identifying perpetrators of child sexual abuse, refer to the protocol PROTECT Identifying and Responding to All Forms of Abuse in Victorian Schools.

### Child Abuse

**Child abuse** is defined in the CWS Act as:

- any act committed against a child involving:

- a sexual offence<sup>1</sup> or
- a grooming offence under section 49M(1) of the Crimes Act 1958 (Vic)<sup>2</sup>
- the infliction, on a child, of—

1. Sexual offences against children and young people include:

- sexual offences against children aged under 16
- sexual offences against children aged 16-17 who are under the care, supervision or authority of the offender
- grooming by an adult of children aged under 16
- encouragement by an adult of child aged under 16, or a child aged 16-17 under the care, supervision or authority of the adult, to engage in or be involved in sexual activity
- offences related to child abuse material, including making (including by involving a child in making), producing, distributing, possessing, and administering websites containing this material offences

2. This grooming offence involves grooming by an adult of another adult who has the child under their care, supervision or authority.

- physical violence or “serious” emotional or psychological harm the “serious” neglect of a child.<sup>3</sup>

### **Other Harm**

Because the definition of “child abuse” in the CWS Act is quite limited, reference to other kinds of harm to children and young people, that must be reported internally to the College and that must be responded to in accordance with this policy and its procedures, is required.

**Other harm** includes:

- children and young people who may be “in need of protection”, as set out in the Children, Youth and Families Act 2005 (Vic) (CYF Act) 4

### **Reportable Conduct**

The Commission for Children and Young People (CCYP) identifies five behaviours as reportable. These include:

here are five types of ‘reportable conduct’:

- sexual offences committed against, with or in the presence of a child
- sexual misconduct committed against, with or in the presence of a child
- physical violence against, with or in the presence of a child
- any behaviour that causes significant emotional or psychological harm to a child

- significant neglect of a child.
3. “Serious” emotional or psychological harm and “serious” neglect involve harm that has a lasting permanent effect.
4. The grounds set out in the CYF Act for a child to be considered “in need of protection” include:
- abandonment by or death/incapacitation of their parents, and no suitable person can be found who is willing and able to care for the child
  - the child has suffered, or is likely to suffer, significant harm as a result of physical injury or sexual abuse and the child's parents have not protected, or are unlikely to protect, the child
  - the child has suffered, or is likely to suffer, emotional or psychological harm of such a kind that the child's
  - emotional or intellectual development is, or is likely to be, significantly damaged, and the child's parents have not protected, or are unlikely to protect, the child
  - the child's physical development or health has been, or is likely to be, significantly harmed because the child's parents have not provided, arranged or allowed the provision of, or are unlikely to provide, arrange or allow the provision of, basic care or effective medical, surgical or other remedial care.