



# Child Safe Program

## **Child Protection Reporting Obligations: Summary of the College's Procedures for Responding to and Reporting Child Safety Incidents or Concerns**

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## **Introduction**

We use the terms “staff” and “staff member” to include all teaching and non-teaching staff, Board members, Volunteers, Contractors and external providers.

This document summarises the legal and policy-based obligations that the College and its staff members have when responding to a child safety incident or concern.

## **What is a Child Safety Incident or Concern?**

At Mildura Christian College, we use the phrase “child safety incident or concern” rather than the more limited concept of “child abuse”. A “child safety incident or concern” is an incident of or concern about:

- “child abuse” as defined in the Child Wellbeing and Safety Act 2005 (Vic) (CWS Act) and Ministerial Order 1359
- a child being “in need of protection” as defined in the Children, Youth and Families Act 2005 (Vic) (CYF Act)
- “reportable conduct” as defined in the CWS Act
- a criminal offence against a child or young person, or against a student aged 18 or over, as set out in the Crimes Act 1958 (Vic)

- a practice to change or suppress a child's, or a student aged 18 or over's, sexual orientation or gender identity, which is prohibited under the Change or Suppression (Conversion) Practices Prohibition Act 2021 (Vic)
- a breach of the Child Safety Codes of Conduct.

Unfortunately, the nature of child safety incidents and concerns is complex. The abuse of or harm to children, young people and students aged 18 or over may occur over time and potential indicators of abuse or harm are often difficult to detect. The perpetrator may be a parent, carer, other family member, staff member, another adult or even another child or young person.

The legal obligations for reporting allegations of child abuse or other harm can vary depending on the circumstances of the child safety incident or concern.

## **How to Report Child Safety Incidents or Concerns to the College**

### **Students**

There are no limits on how or to whom students at the College can disclose a child safety incident or concern or make a complaint about a staff member. We have multiple, child-focused pathways, including a pathway for anonymous disclosure, to enable all students to raise child safety incidents or concerns. These are explained in the child-friendly child safe policy and complaints handling policy, which the College provides to all students.

### **Parents/carers, family members and other community members**

Parents/carers, family members and other community members who have child safety concerns about a student at the College are asked to follow the procedures set out in our Child Safety and Wellbeing Policy and Procedures, available on our public website.

### **Staff Members**

We require all staff members to report any and all child safety incidents or concerns involving our students and/or our staff members to the College. They do this by contacting a Child Safe Champion or – if the matter involves the conduct of a staff member – the Principal.

All staff members must also follow our policies and procedures for responding to child safety incidents or concerns, including by meeting their legal obligations to report to external agencies, such as the Department of Families, Fairness and Housing (DFFH Child Protection), the Police, the

Commission for Children and Young People (CCYP) and the Victorian Institute of Teaching (VIT). These legal obligations are explained below.

Our policies and procedures make clear that reporting internally to or consulting with a Child Safe Champion does not change any obligation under legislation to report to an external authority.

## **The College's Response to Internal Reports**

The College will take appropriate, prompt action in response to all child safety incidents or concerns, including all allegations or disclosures of abuse or other harm, that are reported internally to the College, including by:

- itself reporting all matters that meet the required relevant thresholds externally to the relevant external agency, depending on the issues raised (these are explained below)
- fully cooperating with any resulting investigation by an external agency
- protecting any student connected to the 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 disability and other vulnerable students
- securing and retaining records of the child safety incident or concern and the College's response to it.

The College also has particular legal obligations when a child safety incident or concern involves the conduct of a current or former staff member. [The Procedures for Managing Child Safety Incidents or Concerns Involving the College or its Staff Members \(Summary\)](#), available on our public website, explains the procedures that the College will follow in these cases. It does not matter who raised the matter (for example, a staff member, a student, a parent/carer, a family member or a community member) or how.

## **Obligations to Respond to Child Safety Incidents and Concerns and to Report to External Agencies**

There are a number of legal and policy-based obligations that College and its Staff must follow when responding to child safety incidents or concerns. These are summarised below.

### **Duty to Protect and the Failure to Protect Offence**

## The Failure to Protect Offence

In Victoria, it is a crime if a person who occupies a position within or in relation to the College (this includes members of The Mildura Christian College Board and all staff members):

- knows that there is a substantial risk that a child (a person aged under 16) who is under the care, supervision or authority of the College (this includes but is not limited to students) 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 crime is known as the 'Failure to Protect' offence and, in the College context, it covers failures to protect a student aged under 16 from sexual abuse by:

- members of The Mildura Christian College Board
- employed staff members (including teaching, non-teaching, permanent and casual Staff)
- Volunteers (including Direct Contact, Regular and Casual Volunteers, parent/carer volunteers)
- Contractors (including Direct Contact, Regular and Casual Contractors).

## Duty to Protect

Staff members who have students under their care also have a duty, under the law, to protect them (no matter their age) from reasonably foreseeable risks of harm while they are at the College or College events, including risks of **all** types of abuse or other harm that may arise from **any** person.

The College itself has:

- a similar legal duty to protect **all** students (no matter their age) from reasonably foreseeable risks of harm
- an additional legal duty to take reasonable precautions to prevent the physical or sexual abuse of a child under its care, supervision or authority (which includes, but is not limited to, students) by a person associated with the College.

## How Staff and the College Meet These Obligations

To help staff members and the College meet these obligations, the College requires that all staff members who know that **any** person associated with the College (including another staff member, a student who is in a position of supervision or authority over other students, a parent/carer or other family member of students) poses:

- a substantial risk of committing a sexual offence against a student aged under 16 (or another child who is under the College’s care, supervision or authority); or
- a reasonably foreseeable risk of any kind of harm to a student of any age

**must** take any actions to reduce or remove that risk that are within their power or responsibilities to take.

In addition, they **must** report the matter to the Principal (or to the MCC Board Chair if the adult who poses the risk is the Principal).

They **must** also follow their legal obligations to make appropriate external reports as listed below.

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

Certain people are required, by law, to report certain kinds of harm to children and young people to DFFH Child Protection. These people are called “Mandatory Reporters”.

At the College, the following people are Mandatory Reporters:

- the Principal
- teachers, including casual or temporary teachers medical practitioners working at the College in their professional capacity
- people in religious ministry who are working or volunteering at the College in their religious capacity

Mandatory Reporters **must** report to DFFH Child Protection or the Police if – during the course of their professional work or carrying out duties of their office, position or employment – they form a belief on reasonable grounds that a child (a person aged under 17 or aged under 18 and subject to a child protection order) is in need of protection because:

- they have suffered or are likely to suffer significant harm as a result of physical injury or sexual abuse; and
- their parents have not protected or are unlikely to protect them from the harm.

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

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

- significant concerns for the wellbeing of a child (a person aged under 17 or aged under 18 and subject to a child protection order) (wellbeing reports)
- a child (a person aged under 17 or aged under 18 and subject to a child protection order) who the person believes on reasonable grounds to be in need of protection (protective intervention reports)
- a child (a person 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).

Together, we call these 'Non-Mandatory Reports to DFFH Child Protection.'

Although these reports are voluntary under the law, the College requires that **all** staff members (including those who are not Mandatory Reporters) **must**, in certain circumstances, make wellbeing reports, protective intervention reports and therapeutic treatment reports to DFFH Child Protection.

This aligns with the 4 Critical Actions set out in **PROTECT Four Critical Actions for Schools: Responding to Incidents, Disclosures or Suspicions of Child Abuse**.

## **Mandatory Reporting (of Sexual Offences Against Children) to Police**

In Victoria, it is a crime if an adult (a person aged 18 or over) forms a reasonable belief that a sexual offence has been committed by another adult against a child (a person aged under 16) but does not report this information to the Police.

This crime is known as the 'Failure to Disclose' offence and we call the legal obligation created by it 'Mandatory Reporting (of Sexual Offences Against Children) to Police'.

The Failure to Disclose offence means that **any** adult associated with the College who has concerns that another adult, including a staff member or any other adult, has committed a sexual offence against a person who, at the time of the offence, was aged under 16 (including a current or former student) **must** immediately report their concerns to the Police, except in certain circumstances.

Although sexual offences committed against a child aged under 16 by another child (including a student aged under 18) do not fall under the Failure to Disclose offence, the College requires that all staff members must still report this to the Police (see below).

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

Although not required by law to do so, the College requires that all staff members **must** report the following situations to the Police:

- a student aged 10 or over has committed a sexual offence against another person (it does not matter who) (refer to below)
- concerns for a student's immediate safety
- concerns that a student aged under 18 has been the victim of a criminal offence other than a sexual offence, but where a Mandatory or Non-Mandatory Report to DFFH Child Protection will not be made (for example, a report to DFFH Child Protection would generally not be made if the offender is not a family member and the student's parent is willing and able to protect them). These kinds of incidents could include possible criminal offences committed by students against other students
- concerns that a student aged 18 or over is being abused or harmed, but only if the student consents to the report or, if they do not consent, to lessen or prevent a serious or imminent threat to an individual's life, health, safety or welfare
- concerns that a student aged 17 or over is engaging 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).<sup>^</sup>

<sup>^</sup> If the student is aged under 17, this **must** instead be reported to DFFH Child Protection.

## Reportable Conduct

Victorian law requires the "head" of the College to report to the CCYP any allegation that a staff member has committed "reportable conduct" or misconduct that may involve reportable conduct (a "reportable allegation").

The "head" of the College for the purposes of the Reportable Conduct Scheme is the Principal, who has authorised the MCC Board Chair to assist them to undertake their responsibilities under the Scheme.

"Reportable conduct" includes:

- a sexual offence committed against, with or in the presence of, a child (a person aged under 18)
- sexual misconduct committed against, with or in the presence of, a child
- physical violence committed 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.

It does not matter whether the child is a student at the College, whether the conduct occurred in the course of the staff member's employment or engagement with the College or, for sexual offences, whether or not a criminal proceeding in relation to the offence has been commenced or concluded.

To help the College fulfil its reporting obligations, the College requires that all staff members who form a reasonable belief that another staff member at the College has engaged in reportable conduct or misconduct that may involve reportable conduct **must** immediately report their concerns to:

- the Principal; or
- if the matter involves the Principal, the MCC Board Chair by emailing Ms Bethany Scholar - [chair@milduracc.vic.edu.au](mailto:chair@milduracc.vic.edu.au).

They must also consider whether they need to make a Mandatory or Non-Mandatory Report to DFFH Child Protection, take any other action under the Duty to Protect/Failure to Protect obligations or make any other external reports (such as Reporting to Police).

## Teacher Misconduct

Registered teachers in Victoria are exempt from the Working with Children Check (WWCC) Scheme. To align teacher registration with the WWCC scheme, Victorian law requires that 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 WWC Checks) or if they have been issued with a negative notice in relation to the WWC Check.

Victorian law also requires that the College **must** 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 also** 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 help the College fulfil its obligations, the College requires that:



- registered teachers **must** inform the Principal (or, if they are the Principal, the MCC Board Chair) 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
- **all** staff members **must** immediately report to the Principal (or, if the incident or allegation involves the Principal, to the MCC Board Chair) any incident or allegation that raises concerns about a teacher's fitness to teach.

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

The College requires that all staff members **must** report, both internally to the College and to relevant external authorities, concerns about certain kinds of sexual behaviour by students.

We use the Department of Families, Fairness and Housing's resource [Children with Problem Sexual Behaviours and Their Families: Best interests case practice model](#) (Sexual Behaviour Practice Model) and [PROTECT Identifying and Responding to Student Sexual Offending](#) to help Staff identify, recognise and respond to all forms of sexual behaviour.

The Sexual Behaviour Practice Model categorises sexual behaviour as age-appropriate, concerning or very concerning.

As a general guide:

- [age-appropriate 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.
- [concerning sexual behaviours](#) are those that are outside normal behaviour in terms of persistence, frequency or inequality in age, power or ability. These behaviours signal the need to monitor and provide extra support.
- [very concerning 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.

PROTECT Identifying and Responding to Student Sexual Offending says that "Student Sexual Offending" is sexual behaviour:

- by a student aged 10 or over
- that is directed at another person; and

- that amounts to a sexual offence.

Very concerning sexual behaviour by a student aged 10 or over that is directed at another person is likely to be Student Sexual Offending. It does not matter who the other person is.

Some concerning sexual behaviour by a student aged 10 or over that is directed at another person could also be Student Sexual Offending.

## Responding to Student Sexual Offending

When a staff member becomes aware of, or suspects, Student Sexual Offending, or that a student is at risk of perpetrating or being the victim of Student Sexual Offending, they **must** follow **PROTECT Four Critical Actions for Schools: Responding to Student Sexual Offending**, which requires them to report the matter to the Police, and, if relevant, also to DFFH Child Protection or the Orange Door.

## Responding to Sexual Behaviour that Does Not Involve Student Sexual Offending

All staff members **must** report all incidents of or concerns about concerning sexual behaviour by a student internally to the College. Depending on the circumstances, they **might also** need to report concerning sexual behaviour by a student externally to DFFH Child Protection or the Police.

All Staff members **must** report all incidents of or concerns about very concerning sexual behaviour **both**: internally to the College **and** externally to either DFFH Child Protection or the Police, depending on the circumstances.

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

The College and its staff members owe a duty of care to all students at the College to ensure that they feel safe and are supported at the College.

The College requires that all staff members **must** take any concerns about the wellbeing of a student, regardless of whether it has been caused by abuse or other harm, seriously and act on these. These concerns can be reported by Staff to:

- internally to the College
- the Police
- DFFH Child Protection; and/or
- 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.