

Failure to Protect Policy

Commitment to Child Protection

All students enrolled, and any child visiting, have a right to feel safe and be safe all of the time. The wellbeing of children in our care will always be our first priority and we have zero tolerance for child abuse. At Sacred Heart we strive to maintain a child safe and child friendly environment where children feel safe and are free to enjoy life to the full without any concern for their safety. We are committed to continually reviewing our Child Safe policies and practices to ensure that every effort is made for ongoing improvement of our Child Safe environment.

We at Sacred Heart recognise that some groups of children are particularly vulnerable and we are committed to promoting the cultural safety of Aboriginal/linguistically diverse children and also promoting the safety of children with a disability.

Source of Obligation

Where a person in a position of authority at the School knows that a staff member, Volunteer, Third Party Contractor, or other person associated with the School poses a substantial risk of committing a sexual offence against a student or students, the person has a duty to take immediate action to ensure that the student or students are protected from that risk. The School has a duty of care which requires the protection of all students from foreseeable risks while at school or engaging in School activities.

In addition, under section 49O of the Crimes Act 1958 (Vic) (Crimes Act) a person who:

- a) by reason of the position they occupy within or in relation to the School, has the power or responsibility **to reduce or remove a substantial risk** that a relevant child (under the age of 16 who is, or may come under the care, supervision or authority of the School) 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.

Objectives

This policy aims to:

- ensure a safe environment is provided to protect children and young people from harm and to prevent staff from abusing their position of authority and trust
- ensure the safety and wellbeing of all children is the primary focus of all decision making
- ensure the Leadership Team and all staff members are self-aware of, and comply with, their professional obligations and responsibilities
- that a positive and robust child protection culture is created and maintained.

Who must act to protect?

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 a member of the 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:

- Canonical Administrators
- the School Board
- the Principal
- members of the School Leadership Team
- teachers
- Volunteers where they are in a position of supervision.

When should action be taken?

A person in a position of authority at the School 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 a 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 and should raise the issue with a School Child Safety Officer. The duty to act extends to situations where the students at risk or the person in authority is outside of Victoria.

What is a 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 – 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 will become the 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
- 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
- encouraging a child to engage in, or be involved in, sexual activity

- an attempted sexual offence or an assault with intent to commit a sexual offence.

Who is “a person associated with the School”?

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

- Canonical Administrator
- Sacred Heart School Board members
- Principal
- teacher
- employee
- Volunteer (including parent/carer volunteers)
- Third Party 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 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:

- 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
- report the matter to a School Child Safety Officer, and the Principal, as soon as practicable
- conduct an investigation unless this relates to a Mandatory Reporting situation
- make the appropriate report.

Appropriate action to be taken may include, 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 should not be allowed to attend overnight School camps as a parent helper.

Whenever there are concerns that a child is in immediate danger call the Police on 000.

Record Keeping Obligations

For the School's record keeping obligations relating to child protection incidents, refer to Child Protection Record Keeping.

Review

Sacred Heart is committed to the continuous improvement of our Child Protection Program. In accordance with our Continuous Improvement and Review Policy this Policy is regularly reviewed for overall effectiveness and to ensure compliance with all child protection related laws, regulations and standards.

Last Review: November 2019