



# CHILD SAFETY POLICY

## PROTECT Responding & Reporting Obligations

July 2022

Catholic Education Sandhurst Limited (CES Ltd), operates and governs all Catholic Primary and Secondary Schools within the Diocese of Sandhurst (*excluding FCJ College Benalla, Marist College Bendigo, Catherine McAuley College Bendigo and St Joseph's College Echuca*).

### 1. Introduction

Protection for children and young people is based upon the belief that each person is made in the image and likeness of God and that the inherent dignity of all should be recognised and fostered.

CES Ltd and its schools are entrusted with the holistic education of the child, in partnership with parents, guardians and carers, who are the primary educators of their children. CES Ltd school staff therefore have a duty of care to students to take reasonable care to avoid acts or omissions that they can reasonably foresee would be likely to result in harm or injury to the student, and to work for the positive wellbeing of the child.

Under the [\*The National Framework for Protecting Australia's Children 2021 - 2031\*](#), protecting children is everyone's responsibility – parents/guardians/carers, communities, governments and businesses all have a role to play.

In Victoria, a joint policy [\*Protect: Identifying and Responding to All Forms of Abuse in Victorian Schools\*](#), involving the Victorian Department of Education and Training (DET), the Catholic Education Commission of Victoria Ltd (CECV) and Independent Schools Victoria (ISV) exists to protect the safety and wellbeing of children and young people.

DET has also produced [\*Four Critical Actions for Schools: Responding to Incidents, Disclosures and Suspicions of Child Abuse and Protect: Responding to Suspected Child Abuse: A Template for all Victorian Schools\*](#), both of which are referred to in the joint protocol.

**All teachers, other school staff members, volunteers, contractors, other service providers, parish priests of CES Ltd Office and Catholic schools in Sandhurst** must understand and abide by the professional, moral and legal obligations to implement child protection and child safety policies, protocols and practices.

## 2. Purpose

Ministerial Order No. 1359: *Implementing the Child Safe Standards – Managing the Risk of Child Abuse in Schools and school boarding premises* was made under the *Education and Training Reform Act 2006* (Vic.) and sets out the specific actions that all Victorian schools must take to meet the requirements in the Child Safe Standards for registration.

This Policy applies to complaints and concerns relating to child abuse made by or in relation to a child or student, school staff member, volunteer, contractor, service provider, visitor or any other person while connected to the school environment. It is designed to enable CES Ltd and all Sandhurst Catholic schools to comply with Victorian Child Safe Standards, as well as the school-specific requirements for procedures for responding to allegations of suspected abuse in Ministerial Order No. 1359. All procedures for reporting and responding to an incident of child abuse are designed and implemented by taking into account the diverse characteristics of school communities.

Actions required under the relevant legislation and regulatory guidance when there is a reasonable belief that a child is in need of protection, or a criminal offence has been committed are set out in this policy. It also provides guidance and procedures on how to make a report.

This policy and the related procedure assists all staff, volunteers, contractors and clergy to:

- identify the indicators of a child or young person who may be in need of protection
- understand how a ‘suspicion’ or ‘reasonable belief’ is formed
- where possible, refer to the principles of the Victorian Charter of Human Rights and Responsibilities as best practice in respecting and protecting the basic rights, freedoms and responsibilities of members of the school community
- make a report about a child or young person who may be in need of protection
- comply with obligations under the Victorian Reportable Conduct Scheme
- comply with mandatory reporting obligations under child protection law
- comply with legal obligations relating to criminal child abuse and grooming under criminal law.

## 3. Legislative and Regulatory Requirements

CES Ltd and the schools it owns and operates, must comply with the legal obligations that relate to managing the risk of child abuse under the *Children, Youth and Families Act 2005* (Vic.), the *Crimes Act 1958* (Vic.), the *Child Wellbeing and Safety Act 2005* (Vic.), the *Education and Training Reform Act 2006* (Vic.), the *Education and Training Reform Regulations 2017* (Vic.) and the *Family Violence Protection Act 2008* (Vic.).

The *Child Wellbeing and Safety Act 2005* (Vic.) introduced the Victorian Child Safe Standards, in January 2016. Following a review of those standards, changes have been made to those

standards, with effect from 1 July 2022. The new Victorian Child Safe Standards set out minimum requirements and outline the actions organisations must take to keep children and young people safe. They provide more clarity for organisations and are more consistent with the standards in place in the rest of Australia.

Child abuse reporting obligations fall under six separate pieces of legislation with differing reporting requirements:

- *Children, Youth and Families Act 2005 (Vic.)*
- *Education and Training Reform Act 2006 (Vic.)*
- *Education and Training Reform Regulations 2017 (Vic.)*
- *Crimes Act 1958 (Vic.)*
- *Family Violence Protection Act 2008 (Vic.)*
- *Wrongs Act 1958 (Vic.)*

These legislative obligations exist in addition to moral and duty of care obligations, which require school community members to protect any child under their care and supervision from foreseeable harm.

CES Ltd and each Sandhurst Catholic school is a prescribed Information Sharing Entity (ISE) meaning that, where legislated requirements are met, it is able to share confidential information with other ISEs to promote child wellbeing or safety under the Child Information Sharing Scheme (CISS) or the Family Violence Information sharing Scheme (FVISS).

## 4. Definitions and obligations

### Types of child abuse and indicators of harm

Child abuse can take many forms. The perpetrator may be a parent, guardian, carer, school staff member, volunteer, another adult or even another child. The nature of child abuse is complex. The abuse may occur over time and potential risk indicators are often difficult to detect. Therefore, the legal obligations for reporting allegations of child abuse can vary depending on the circumstances of the incident.

Child abuse is defined in the *Child Wellbeing and Safety Act 2005 (Vic.)* to include:

- sexual offences
- grooming offences under section 49M(1) of the *Crimes Act 1958 (Vic.)*
- physical violence
- serious emotional or psychological harm
- serious neglect.

<b>Sexual offences</b>	A sexual offence occurs when a person involves a child in sexual activity, or deliberately puts the child in the presence of sexual behaviours that are exploitative or inappropriate to the child's age and development. Sexual offences are governed by the <i>Crimes Act 1958</i> (Vic.). Sexual abuse can involve a wide range of sexual activity and may include fondling, masturbation, oral sex, penetration, voyeurism and exhibitionism. It can also include exploitation through pornography or prostitution.
<b>Grooming</b>	Grooming refers to predatory conduct undertaken by an adult (18 years or over) to prepare a child for sexual activity at a later time. It is a sexual offence under section 49M of the <i>Crimes Act 1958</i> (Vic.) carrying a maximum 10-year term of imprisonment. Under section 49M, the adult's words or conduct must be intended to facilitate the child engaging or being involved in the commission of, or attempt to commit, a sexual offence by the adult or another adult.
<b>Physical violence</b>	Physical violence occurs when a child suffers or is likely to suffer significant harm from a non-accidental injury or injuries inflicted by another person. Physical violence can be inflicted in many ways including beating, shaking, burning or using weapons (such as belts and paddles). Physical harm may also be caused during student fights.
<b>Serious emotional or psychological harm</b>	Serious emotional or psychological abuse may occur when a child is repeatedly rejected, isolated or frightened by threats or the witnessing of family violence. It also includes hostility, derogatory name-calling and put-downs, or persistent coldness from a person, to the extent where the behaviour of the child is disturbed or their emotional development is at serious risk of being impaired. Serious emotional or psychological harm could also result from conduct that exploits a child without necessarily being criminal, such as encouraging a child to engage in inappropriate or risky behaviours.
<b>Serious neglect</b>	Neglect includes a failure to provide a child with an adequate standard of nutrition, medical care, clothing, shelter or supervision. Significant neglect causes harm to a child that is more than trivial or temporary. Serious neglect is when the child is exposed to an extremely dangerous or life-threatening situation and there is a continued failure to provide a child with the basic necessities of life.
<b>Family violence</b>	Family violence is defined under the <i>Family Violence Protection Act 2008</i> (Vic.) to include behaviour that causes a child to hear, witness or be exposed to the effects of family violence such as abusive, threatening, controlling or coercive behaviour. While family violence does not form part of the official definition of 'child abuse' in the <i>Child Wellbeing and Safety Act 2005</i> (Vic.), the impact of family violence on a child can be a form of child abuse, for example, where it causes serious emotional or psychological harm to a child. A child can also be a direct victim of family violence.

Child abuse can have a significant effect on a child's physical, social, psychological or emotional health, development and wellbeing. The younger the child, the more vulnerable they are to abuse and the more serious the consequences are likely to be.

There can be physical or behavioural indicators of child abuse and neglect, or a combination of both. While the presence of a single indicator, or even several indicators, does not necessarily prove that abuse or neglect has occurred, the repeated occurrence of either a physical or behavioural indicator, or the occurrence of several indicators together, should alert school staff to the possibility of child abuse or neglect.

Child sexual abuse is more commonly perpetrated by someone who is known to and trusted by the child, and is also often someone highly trusted within their families, communities, schools and/or other institutions, such as the Church.

For further definitions of all types of child abuse, a comprehensive list of the indicators 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*.

## 5. Sources of child abuse reporting obligations

### *Children, Youth and Families Act 2005 (Vic.)*

#### **Mandatory reporting**

Mandatory reporting is a legal requirement under the Children, Youth and Families Act 2005 (Vic.) to protect children from harm relating to physical injury and sexual abuse. A child, for the purpose of the relevant parts of this Act, is any person who is under the age of 17 years. In Victorian schools, registered teachers, school principals, early childhood workers, registered psychologists, school counsellors and all people in religious ministry are mandated to report a reasonable belief of child physical or sexual abuse to child protection authorities. 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, including the information prescribed in *PROTECT: Responding to Suspected Child Abuse: A Template for all Victorian Schools*, as soon as possible after forming the belief.

A subsequent report must be made on each occasion on which the mandatory reporter becomes aware of further reasonable grounds for the belief and even if the reporter knows that another report has been made concerning the same child and suspected abuse.

The threshold for reporting child protection incidents, disclosures, concerns or suspicions has been set deliberately low by the joint policy *Protect: Identifying and Responding to All Forms of Abuse in Victorian Schools*. This protocol focuses on *Four Critical Actions* (included in CES Ltd Child Safety - PROTECT Reporting & Responding Obligations Procedures and detailed in the

DET PROTECT: Reporting and Responding Obligations Procedures) that all staff must take if they form a suspicion or reasonable belief that child abuse has occurred, or that a child is at risk of suffering abuse.

### **Reasonable belief**

Where staff members are concerned about the safety and wellbeing of a child or young person, they must assess that concern to determine if a report should be made to the relevant agency. If a staff member has witnessed potentially abusive behaviour, has a suspicion or has received a disclosure of child abuse, they must determine whether these observations or receipt of such information have caused the staff member to form a reasonable belief.

A reasonable belief or a belief on reasonable grounds is not the same as having proof, but is more than rumour or speculation. A reasonable belief is formed if a reasonable person in the same position would have formed the belief on the same grounds.

A reasonable belief might be formed if:

- a child states that they have been physically or sexually abused
- any person tells you that they believe someone has been abused; this may include a child who is talking about themselves
- you observe physical or behavioural indicators of abuse, as described in *Protect: Identifying and Responding to All Forms of Abuse in Victorian Schools*
- a child or young person exhibits sexually abusive or age-inappropriate behaviour(s)
- professional observations of the child's behaviour or development cause you to form a belief that the child has been physically or sexually abused, or is likely to be abused.

While any indicators of possible child abuse or neglect are concerning, it is important to understand that the presence of a number of indicators that suggest either physical or sexual abuse of a child may be sufficient to form a reasonable belief in a mandatory reporter's mind which must be reported.

### ***Child Wellbeing and Safety Act 2005 (Vic.)***

#### **Reportable conduct**

The Reportable Conduct Scheme was created under the *Child Wellbeing and Safety Act 2005* (Vic.) and requires schools to notify the Commission for Children and Young People (CCYP) if an allegation of reportable conduct (a reportable allegation) is made against one of their employees.

**Employees** can include a principal, teacher, administrative or corporate staff member, board or school council employee, contractor, volunteer, school doctor/nurse/medical professional, allied health staff member, or minister of religion or religious leader.

**Reportable conduct** is defined under the *Child Wellbeing and Safety Act 2005* (Vic.) to mean a sexual offence, sexual misconduct or physical violence committed against, with or in the

presence of a child, behaviour causing significant emotional or psychological harm to a child, or significant neglect of a child.

A **reportable allegation** means any information that leads a person to form a reasonable belief that an employee has committed reportable conduct or misconduct that may involve reportable conduct, whether or not the conduct or misconduct is alleged to have occurred within the course of the person's employment.

The Reportable Conduct Scheme imposes obligations on the head of entity (governing authority). The Chief Executive Officer of our governing body CES Ltd, through the school Principal, will:

- have in place systems to prevent reportable conduct and, if reportable conduct is alleged, to ensure allegations are brought to the attention of the Chief Executive Officer at the earliest opportunity for investigation and response
- ensure that the CCYP is notified and given updates on the organisation's response to an allegation by contacting the Safeguarding Team on 03 5443 2377 or [rsc@ceosand.catholic.edu.au](mailto:rsc@ceosand.catholic.edu.au)
- report to Victoria Police as soon as they become aware that a reportable allegation may involve suspected child abuse or criminal conduct.

Reportable conduct may also include historical reportable allegations. More guidance can be found at [Reportable Conduct Scheme – Historical allegations](#).

All staff are required to notify the Principal (if the Principal is involved in the allegation, a member of the Leadership Team, the CES Ltd Safeguarding Team or the Chief Executive Officer) if they have a reportable allegation. The Principal or a member of the Leadership Team (as applicable) must notify the CES Ltd Safeguarding Team of the allegation of reportable conduct as soon as possible, who in turn immediately notify the Chief Executive Officer. For further support and advice regarding reporting conduct under the Reportable Conduct Scheme, contact the CES Ltd Safeguarding Team on 03 5443 2377 or [rsc@ceosand.catholic.edu.au](mailto:rsc@ceosand.catholic.edu.au).

The Reportable Conduct Scheme does not change mandatory reporting or other reporting obligations, including internal reporting and reporting criminal behaviour to Victoria Police. Reportable conduct reporting should be done in addition to these other reporting obligations.

The *Child Wellbeing and Safety Act 2005* (Vic.) also enables a school, as a prescribed Information Sharing Entity (ISE) to share confidential information with other ISEs to promote child wellbeing or safety, where legislated requirements are met.

### ***Crimes Act 1958 (Vic.)***

In response to the [Betrayal of Trust](#) report, three new criminal offences have been introduced under the *Crimes Act 1958* (Vic.):

- **failure to disclose offence**, which requires adults to report to Victoria Police a



reasonable belief that a sexual offence has been committed against a child

- **failure to protect offence**, which applies to people in positions of authority within organisations, who knew of a risk of child sexual abuse by someone in the organisation and failed to reduce or remove the risk
- **grooming offence**, which targets communication with a child or their parents with the intent of committing child sexual abuse.

### **Failure to disclose**

Any staff member who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child under 16 must disclose that information to Victoria Police.

Failure to disclose the information to Victoria Police is a criminal offence under section 327 of the *Crimes Act 1958* (Vic.) and applies to all adults (18 years and over) in Victoria, not just professionals who work with children.

The obligation is to disclose that information to Victoria Police as soon as it is practicable to do so, except in limited circumstances such as where the information has already been reported to DFFH Child Protection.

For further information about the failure to disclose offence, see the Department of Justice and Community Safety '[Failure to disclose offence](#)' information.

### **Failure to protect**

Any staff member in a position of authority who has the power or responsibility to remove risk, and becomes aware that an adult associated with their organisation (such as an employee, contractor, volunteer, sport coach or visitor) poses a risk of sexual abuse to a child under 16 who is in the care or supervision of the organisation, must take all reasonable steps to reduce or remove that risk.

In a school context, this will include the Principal, Deputy Principal, Business Manager and Leadership Team may also extend to school counsellors, heads of departments and heads of schools.

Failure to take reasonable steps to protect a child in the organisation from the risk of sexual abuse from an adult associated with the organisation is a criminal offence under section 490 (1) of the *Crimes Act 1958* (Vic.)

For further information about the failure to protect offence, see the Department of Justice and Community Safety '[Failure to protect](#)' information.

### **Grooming**

The offence of grooming prohibits predatory conduct designed to prepare or 'groom' a child for future sexual activity and is contained in section 49M(1) of the *Crimes Act 1958* (Vic.). The offence applies to communication with children **under 16 years**.



Grooming can be conducted in person or online, for example via interaction through social media, web forums and emails. The offence can be committed by any person aged 18 years or over. It does not apply to communication between people who are both under 18 years of age.

For further information about the grooming offence, see the Department of Justice and Community Safety '[Grooming offence](#)' information.

For more information about managing and responding to the risk of abuse, see DET's '[Identify and Respond to Student Sexual Offending](#)' and '[Risk Management - Schools](#)' webpages.

### ***Education and Training Reform Act 2006 (Vic.) – Child safety obligations***

From a child safety perspective, the key functions of the *Education and Training Reform Act 2006 (Vic.)* are to:

- require schools to notify the Victorian Institute of Teaching (VIT) of action taken against a registered teacher or early childhood teacher in response to allegations of serious misconduct or if the school becomes aware that the teacher is currently charged with, or convicted or found guilty of, certain offences including sexual offence.
- ensure compliance with the Victorian Child Safe Standards as a requirement of registration for all Victorian schools.

CES Ltd and each Sandhurst catholic school must ensure that the care, safety and welfare of all students attending the school are in accordance with all applicable Victorian and Commonwealth laws, and that all staff employed at the school are advised of their obligations to child safety.

### ***Wrongs Act 1958 (Vic.) and duty of care***

#### **Organisational duty of care**

The *Wrongs Act 1958 (Vic.)* creates an organisational liability for child abuse for organisations that exercise care, supervision or authority over children. This is colloquially referred to as an 'organisational duty of care'.

CES Ltd and its schools owe a duty to take reasonable precautions to prevent the abuse (sexual or physical) of a child (under 18) by an individual associated with the school while the child is under the care, supervision or authority of the school.

Individuals associated with a Sandhurst Catholic school can include employees, volunteers, office holders, contractors, ministers of religion and religious leaders.

Reasonable precautions that CES Ltd and its schools could take are not defined in the *Wrongs Act 1958 (Vic.)* but, as examples, the following measures are what courts have previously considered to be reasonable precautions in the context of organisational child abuse:

- conducting employment screening and reference checking
- providing supervision and training
- implementing systems to provide early warning of possible offences

- performing random and unannounced inspections to deter misconduct
- encouraging children and adults to notify authorities or parents about any signs of aberrant or unusual behaviour.

### **School staff duty of care**

School staff have a duty to take reasonable steps to protect children and young people under their care and supervision from harm that is reasonably foreseeable (this duty applies to all school staff). The question of what constitutes reasonable steps will depend on the individual circumstances of each case.

A staff member may breach their duty of care towards a student if they fail to act in the way a reasonable or diligent professional would have acted in the same situation.

For more information on the scope of staff duty of care obligations and examples of reasonable steps they can take in relation to suspected child abuse, refer to the protocol [Protect: Identifying and Responding to All Forms of Abuse in Victorian Schools](#).

### **Victorian Charter of Human Rights and Responsibilities**

While Victorian Catholic schools are not bound by the *Charter of Human Rights and Responsibilities Act 2006* (Vic.), the following principle should be noted:

*School staff are required to respond to suspected child abuse with proper consideration for human rights, and, when making decisions and taking actions in response to suspected child abuse, to act compatibly with human rights. This means that school staff should take into account the right to protection without discrimination, the right to protection from torture and cruel, inhuman or degrading treatment and the right to privacy when responding to suspected child abuse.*

## **6. Required actions under this Policy**

CES Ltd and each of its schools have a moral, legal and mission-driven responsibility to create nurturing school environments where children and young people are respected and their voices heard, and where they are safe and feel safe.

Every person involved in CES Ltd and its schools has a responsibility to understand the important and specific role they have individually and collectively, to ensure that complaints and concerns relating to child abuse are taken seriously, and 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.

### **6.1 Staff awareness and training**

CES Ltd Office staff, including teachers, mandatory reporters and all other staff will be made aware of and receive training in relation to their mandatory reporting obligations.

The principal of each CES Ltd school will ensure all teachers, mandatory reporters and all other staff are made aware of and receive training in relation to their mandatory reporting obligations.

## 6.2 Responding to and reporting child abuse concerns

**CES Ltd Office staff** when responding to and reporting child abuse concerns will use follow the joint protocol *Four Critical Actions for Schools: Responding to Incidents, Disclosures and Suspicions of Child Abuse* as outlined in the CES Ltd Protect and Reporting Obligations Procedures.

**CES Ltd schools** when responding to and reporting child abuse concerns will use follow the joint protocol *Four Critical Actions for Schools: Responding to Incidents, Disclosures and Suspicions of Child Abuse* as outlined in the CES Ltd Protect and Reporting Obligations Procedures.

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