



## 7. MANDATORY REPORTING POLICY

<b>Last Review:</b> October 2020	<b>Constructed / Reviewed by:</b> Clayton Utz
<b>Next Review:</b> October 2021	<b>Approval Required:</b> Board Motion
<b>Policy Number:</b> 7	<b>Board Sign Off Date:</b> 18 August 2021

---

### 1. Statement of Context and Purpose

Mentone Grammar has an important role to play in supporting children and their families and in protecting students who may be at risk of harm due to abuse or neglect. Employees in close daily contact with students are well placed to observe when a child or young person appears to be at risk of harm.

Employees and persons involved in child-connected work have a duty of care to support and protect the children and young people with whom they are professionally involved.

When an employee forms a reasonable belief that a child or young person has been harmed or is at risk of harm, they are legally obligated (by legislation) to take action to protect the safety and wellbeing of that child or young person.

In addition, and separate, to employees mandatory reporting obligations, under the *Crimes Act 1958* (Crimes Act) it is a criminal offence if any person, who forms a reasonable belief that a sexual offence has been committed against a child under the age of 16 years by another person of or over the age of 18 years, fails to disclose that information to Victoria Police as soon as it is practicable to do so, unless the person has a reasonable excuse under Crimes Act for not doing so (**Failure to Disclose Offence**).

Employees and persons involved in child-connected work must always act in the best interests of those children and young people to protect and preserve their safety, health and wellbeing. As far as is practicable, employees must monitor the general safety and wellbeing of each and every student in order to meet responsibilities under the duty of care prescribed by legislation.

A person who, by reason of the position they occupy within the school has the power or responsibility to reduce or remove a substantial risk that a child will become the victim of a sexual offence committed by a person associated with the school and knows that there is a substantial risk that that person will commit a sexual offence against the child, negligently fails to reduce or remove the risk will be guilty of a criminal offence (**Failure to Protect Offence**). A person negligently fails to reduce or remove a risk if that failure involves a falling short of the standard of care that a reasonable person would exercise in the circumstances.

---

### 2. Application

This policy applies to all Employees and mandatory reporters performing functions for Mentone Grammar.

Those employees who are not mandatory reporters are still required to be aware of the content of this policy and its implications upon their work.



---

### 3. Reference Points / Background Papers

- *Children, Youth and Families Act 2005* (Vic);
- *Crimes Act 1958* (Vic);
- *Education and Training Reform Act 2006* (Vic);
- *Education and Training Reform Regulations 2017* (Vic);
- *Charter of Human Rights and Responsibilities Act 2006* (Vic);
- *Evidence Act 2008* (Vic);
- 'National Framework for Protecting Australia's Children';
- 'Guiding Principles for a Safe and Supportive School Environment';
- 'Protecting the Safety and Wellbeing of Children and Young People';
- Performance Management, Misconduct and Disciplinary Action Policy;
- Code of Conduct;
- Child Safety Policy and Procedure; and
- Reportable Conduct Policy.

---

### 4. Definitions

**Mandatory reporters** has the meaning given to it by the *Children, Youth and Families Act 2005* (Vic) and includes primary and secondary school teachers, early childhood teachers, employees with post-secondary qualifications employed to undertake childcare services, principals, school nurses, students in training to become teachers and a person in a religious ministry.

---

### 5. Responsibilities

#### 5.1 When a mandatory report is required

Mandatory reporters must, and employees who are not mandatory reporters are expected to, take steps (in accordance with the law and this policy) to ensure that a report is made to Child Protection (within the Department of Human Services) as soon as practicable after forming a belief on reasonable grounds, in the course of undertaking their professional duties, that a young child or young person is in need of protection from significant harm as a result of physical injury or sexual abuse, and the child's parents/guardians have not, or are unlikely to, protect the child from that harm.

To avoid doubt, a mandatory reporter is not exempt from the requirement to make a report merely because that information would be privileged information for the purposes of section 127 of the Evidence Act regarding religious confessions.

#### 5.2 Crimes Act disclosure obligation - Failure to disclose offence

In addition and separate to the mandatory reporting obligations outlined above, any person, whether or not an employee of Mentone Grammar, must disclose to a Victoria police officer as soon as practicable after forming a belief on reasonable grounds that a young child or young person (under the age of 16 years, as per section 327(2) of the Crimes Act) that a sexual offence has been committed against that child or young person, unless the first-mentioned person has a reasonable excuse under the Crimes Act for not doing so.

A reasonable excuse for not making such a report to a police officer as soon as practicable includes the belief on reasonable grounds that the information has already been disclosed to



Victoria Police by another person in compliance with the mandatory reporting obligations of this policy. For example, where Child Protection Services have been notified.

If there is any uncertainty about the need for a mandatory report to Child Protection Services or to contact Victoria Police, this should be raised with the Principal and consideration will be given to ringing the Department of Human Services for advice, and/or Victoria Police.

### **5.3 Referral to Child FIRST**

A referral to Child FIRST should be considered if, after taking into account the available information, the mandatory reporter forms a view that the concerns have a low-to-moderate impact on the wellbeing of the child and the child is not at immediate risk of harm.

### **5.4 Who should make a report or referral?**

Generally it would be in consultation with the Child Safety Officers that would make a report to Victoria Police, Child Protection or a referral to Child FIRST after consultation with the mandatory reporter(s).

If they are not available, it will be the Principal or a Deputy Principal. They will inform the relevant mandatory reporter(s) if they have or have not made a report or a referral.

If the Principal, Head of School or a Child Safety Officer does not wish to make a mandatory report, this does not discharge the mandatory reporter's legal obligation to do so *if the mandatory reporter continues to hold a reasonable belief that abuse or a sexual offence may have occurred* (including in circumstances where the student's parents/guardians have not or are unlikely to protect their child from that harm). In that circumstance, the mandatory reporter must still make a report to Child Protection or a referral to Child FIRST and in the case of a sexual offence, Victoria Police.

In relation to the Failure to Disclose Offence, in circumstances where a person has formed a reasonable belief that a sexual offence has been committed against a child by someone over the age of 18 years, they must disclose that information to a member of the police force as soon as it is practicable to do so unless:

- they fear on reasonable grounds for the safety of any person (other than the person believed to have committed the offence) were they to disclose the information to the police and the failure to disclose the information to police is a reasonable response in the circumstances; or
- they believe on reasonable grounds that the information has already been disclosed to the police by another person and they have no further information.

### **5.5 Protocol**

The mandatory reporter(s) will be instructed to:

- Document date(s), time(s), nature of incident, patterns of behaviour, current and/or prior concerns and grounds for belief, regarding the student in their care (employees will be provided with a list of possible indicators of harm, and definitions to assist in deciding if abuse is occurring and if the impact warrants a report to Child Protection, Child FIRST, V police or another course of action);



- Consult directly with the Principal and relevant Child Safety Officer, and provide the documentation described above; and
- Document and consult directly with the persons listed above for each and every incident for a child they have concerns about.

The Child Safety Officers will be instructed to:

- Coordinate information from the reporter and reference any additional student files and information from Section Coordinators, Year Level Coordinators, Campus Head, Health Centre, etc;
- If deemed to be appropriate, contact the relevant family;
- If deemed to be appropriate, report the matter to Child Protection or refer to Child FIRST and (where applicable) notify Victoria Police, and inform the Principal, relevant Deputy Principal and other employees as required; and
- Act as the School's liaison person with Child Protection, Victoria Police or any other relevant authorities.

The Principal may remove an employee, volunteer, contractor or agent of the school (and/or take other steps to reduce or remove risk) where the Principal considers there is a substantial risk an employee volunteer, contractor or agent of the school will commit a sexual offence against a young person or child so as to ensure that they do not negligently fail to reduce or remove that risk under section 49C(2) of the Crimes Act.

## **5.6 Own investigations strictly prohibited**

Mandatory reporters must follow the above protocol strictly. Under no circumstances should the mandatory reporter 'investigate' an allegation of child abuse. This is the role of Child Protection and/or Victoria Police.

## **5.7 Confidentiality**

All employees must respect confidentiality when dealing with a case of suspected child abuse and neglect, and may only discuss case details and the identity of the child or young person and their family only with those involved in managing the situation, including a police officer in the case of a suspected sexual offence committed against a child or young person.

---

## **6. Consequences of a Breach of this Policy**

Mentone Grammar emphasises the need to comply with the requirements of this policy. Any employee found to be in breach of the requirements of this policy may be subject to disciplinary action, up to and including termination of employment. Employees should refer to the Performance Management, Misconduct and Disciplinary Action Policy for further information.

---

## **7. Implications for practice**

### **7.1 At Board / Principal Level**

To properly implement this policy, Mentone Grammar, the Board and/or the Principal must ensure:

- that this policy is endorsed on an annual basis;



- that copies of this policy are made available to employees, for example on the Mentone Grammar intranet, in physical form in the staff room and on employee bulletin notice boards;
- that this policy is incorporated into the Board's / Principal's record of current policies;
- that this policy is incorporated into Mentone Grammar's induction program, to ensure that all employees are aware of the policy, have read and understood the policy, and acknowledge their commitment to comply with the policy;
- that periodic training and refresher sessions are administered to all employees in relation to this policy.

## **7.2 At Other Levels**

To properly implement this policy, all Mentone Grammar's employees must ensure:

- that they will abide by this policy and assist Mentone Grammar in the implementation of this policy.