

Mandatory Reporting Policy¹

1. Purpose of this policy

- 1.1. The Learning Cooperative is committed to preventing harm to children through the reporting of child abuse and neglect under the *Children, Youth and Families Act 2005 (Vic) (CYFA)*.²
- 1.2. The school will comply with the requirements set out in clause 11 of Ministerial Order 870³ 'Procedures for responding to and reporting allegations of suspected child abuse'.
- 1.3. The mandatory reporting policy sets out the principles and framework governing the school's behaviours and activities that enact the mandatory reporting requirements and which aims to keep all children safe from harm. The policy, together with the policy implementation documents listed in section 10, must be read and understood by all those connected to the school.

2. Principles

- 2.1. The values and ethos as set out in the Learning Cooperative's philosophy form the foundation for the school's child safe standards policies.
- 2.2. The school, those that work in it and its wider community together have a duty of care to protect children from harm through abuse or neglect.
- 2.3. The school is committed to implementing clear procedures for reporting and recording reports of suspected child abuse and grooming.

¹ This policy has been updated in light of changes to government policy made following the Royal Commission into Institutional Responses to Child Sexual Abuse. The Victorian Government (DHHS) completed a review of the Victorian Child Safe Standards in December 2019 (the Review) and the government has indicated that the report's recommendations will be implemented in full. Some of the recommendations will take time to implement (e.g. amendments to the Child Wellbeing and Safety Act 2005 (the Act)). This model policy, therefore, reflects the position as at January 2020, but schools should understand that further changes are likely over the next couple of years.

² <https://www.legislation.vic.gov.au/in-force/acts/children-youth-and-families-act-2005/122>

³ <http://www.gazette.vic.gov.au/gazette/Gazettes2016/GG2016S002.pdf>

- 2.4. The school will create a supportive culture in which children, staff, volunteers and families feel confident and comfortable in discussing any allegations of abuse, grooming or child safety concerns.

3. Aims of the policy

- 3.1. To protect students in our care from abuse.
- 3.2. To comply with the school's reporting obligations under child protection law and criminal law and to fulfil its duty of care.
- 3.3. To enable school staff to protect the safety and wellbeing of students by being able to:
 - a. Identify indicators that a child or young person may be in need of protection.
 - b. Make a report about a child or young person who may be in need of protection.
 - c. Make a report about an allegation of child abuse against any adult including adults who are employees or who are in some way connected with the school.

4. Legal and regulatory basis for compliance⁴

Victorian Government Acts – duty of care

- 4.1. *Child Wellbeing and Safety Act 2005 (Vic)* (the Act)⁵ establishes the principles for the wellbeing of children, sets the standards framework, provides for the oversight functions of the Commission for Children and Young People (CCYP) and the Reportable Conduct Scheme.
- 4.2. *Child Wellbeing and Safety Amendment (Child Safe Standards) Act 2015 (Vic)*
- 4.3. *Children Legislation Amendment (Reportable Conduct) Act 2017 (Vic)*
- 4.4. *Children, Youth and Families Act 2005 (Vic)* provides for the protection of children including mandatory reporting.
- 4.5. *Crimes Act 1958 (Vic)*⁶

⁴ Schools will see from this list that governments continue to grapple with legislation and regulation in this area; there is a complex mix of jurisdictions, Acts and their amendments, government departments and regulatory bodies. Schools have a responsibility to help members of its community understand their responsibilities by keeping policies and procedures as simple as possible.

⁵ <https://www.legislation.vic.gov.au/in-force/acts/child-wellbeing-and-safety-act-2005/031>

⁶

https://www.legislation.vic.gov.au/search?q=Crimes+Act+&queryType=title_content&page=1&sort%5B_score%5D=desc&sort%5Btitle_az%5D=asc9

- 4.6. *Crimes Amendment (Grooming) Act 2014* (Vic)
- 4.7. *Crimes Amendment (Protection of Children) Act 2014* provides for the offences of failure to protect and failure to disclose.

Other regulatory instruments and reports

- 4.8. Victorian Registration and Qualifications Authority (VRQA) Minimum Standards 2021.⁷
- 4.9. Ministerial Order 870 January 2016 (Vic) – Managing the Risk of Child Abuse in Schools.
- 4.10. Betrayal of Trust Report 2014 (Vic)⁸
- 4.11. National Principles for Child Safe Organisation, Australian Human Rights Commission, 2018 and adopted by the Council of Australian Governments in February 2019.⁹
- 4.12. Review of the Victorian Child Safe Standards, December 2019.¹⁰

5. Key definitions

5.1. Child abuse¹¹ includes

- a. any act committed against a child involving
 - i. a sexual offence; or ^[SEP]
 - ii. an offence under section 498(2) of the *Crimes Act 1958* (grooming); and
- b. the infliction, on a child, of
 - i. physical violence; or ^[SEP]
 - ii. serious emotional or psychological harm; and ^[SEP]
 - iii. serious neglect of a child.

⁷ [The VRQA Minimum Standards](#) were updated in June 2020 and take effect for existing schools from 1 July 2021. The standards themselves have not changed but the mandated evidence requirements have been considerably strengthened. The revised section on Child Safety is set out more clearly and now includes reference to the Reportable Conduct Scheme but has no new requirements as such.

⁸ <https://www.parliament.vic.gov.au/fcdc/article/1788> Report dated 13 November 2013; Government response dated 8 May 2014

⁹ <https://www.humanrights.gov.au/sites/default/files/National%20Principles%20for%20Child%20Safe%20Organisations.pdf> dated 15 May 2018

¹⁰ https://www.dhhs.vic.gov.au/publications/review-victorian-child-safe-standards?_ga=2.143021238.223650226.1580169987-1170913085.1579489768 report dated December 2019

¹¹ [As defined in Ministerial Order 870](#). The Ministerial Order states that this definition explicitly goes beyond child sexual abuse

- 5.2. **Child Protection** is the statutory child protection service provided by the Department of Families Fairness and Housing (DFFH) ¹², which is able to intervene to protect children and young people at risk of significant harm.
- 5.3. **Mandatory Reporting:** *The Children, Youth and Families Act 2005* places a legal obligation on principals, teachers and others working in schools to make a report to Child Protection (DFFH) if they believe, on reasonable grounds, that a child has been physically or sexually abused or a child is in need of protection from significant harm because of physical or sexual abuse.
- 5.4. Within the Mandatory Reporting requirement, **mandated notifiers** are legally required to report child physical and sexual abuse. Mandated notifiers include
- a. Registered principals and teachers (including pre-service and visiting teachers).
 - b. Registered medical practitioners and psychiatrists.
 - c. Registered nurses including school nurses.
 - d. Members of the police force
 - e. registered psychologists
 - f. people in religious ministry
 - g. staff who provide direct support to students for mental, emotional or psychological wellbeing, including (but not limited to) school health and wellbeing staff, primary welfare officers, student wellbeing coordinators, mental health practitioners, chaplains, and Student Support Services staff
- 5.5. Any **non-mandated** person may also make a report to Child Protection if they are concerned for a child's welfare even if they are not required to do so as a mandatory reporter. Any person making a voluntary (non-mandated) report is also protected regarding confidentiality and immunity from legal liability.¹³ [The school's reporting procedures for mandated notifiers also includes reporting procedures for non-mandated employees.]
- 5.6. Sitting alongside the Mandatory Reporting requirement are the following mandated requirements¹⁴:
- a. **Failure to disclose:** Any adult (not just those who work with children) who holds a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child must report that information to Victoria

¹² <https://services.dhhs.vic.gov.au/child-protection>

¹³ <https://aifs.gov.au/cfca/publications/mandatory-reporting-child-abuse-and-neglect>

¹⁴ Brief definitions of the requirements can be found on [VRQA](#) (2021), p.40

Police. This offence is legislated in the *Crimes Amendment (Protection of Children) Act 2014*.

- b. **Failure to protect:** *The Crimes Act 1958* (Vic) provides that people in positions of authority such as principals must take action to protect children and young people where they know that a person associated with their organisation poses a substantial risk of sexually abusing children.
- c. **Reportable Conduct Scheme**¹⁵: *The Children Legislation Amendment (Reportable Conduct) Act 2017* (Vic) requires principals to have systems in place to prevent child abuse and to investigate and respond to such allegations. Principals are required to report allegations of child abuse against any adult including adults who are employees or who are in some way connected with the school to CCYP.
- d. **The Reportable Conduct Scheme** does not replace Mandatory Reporting requirements nor the need to report allegations of child abuse, criminal conduct and family violence to Victoria Police.
- e. **Reporting Obligations of Principals** to the Victorian Institute of Teaching (VIT)¹⁶: As from 1st September 2019 schools must notify the VIT if a registered teacher is charged with, been convicted or found guilty of a category A or category B sexual offence.

6. Scope

- 6.1. The policy applies to members of the governing board, the principal, all school staff, volunteers, contracted service providers and ministers of religion working in the school environment.
- 6.2. The policy applies to allegations or disclosures of child abuse made by or in relation to a child, school staff, visitors, or other persons while connected to a school environment.

7. Roles and responsibilities

- 7.1. Mandatory Notifiers are required to report to Child Protection (DFFH) if they believe on reasonable grounds that a child has been physically or sexually abused or a child is in need of protection from significant harm because of physical or sexual abuse.
- 7.2. Any adult (i.e. including but not limited to all members of the school community) who form a reasonable belief that an adult (over the age of 18) has committed a sexual offence (including grooming) against a child under 16 must report that

¹⁵ <https://ccyp.vic.gov.au/reportable-conduct-scheme/about-the-reportable-conduct-scheme/>

¹⁶ https://www.vit.vic.edu.au/data/assets/pdf_file/0009/95652/Fact-sheet-ELA-Employers.pdf

information to Victoria Police, unless the reporting adult has already made a report to Child Protection. (Failure to Disclose offence).

- 7.3. This responsibility does not change mandatory reporting obligations.
- 7.4. Any person in a position of authority¹⁷ within or associated with the school (will include the chair of the governing board, board members, principal, senior staff and may also include residential house staff, business managers, religious leaders) has a specific duty to protect children against the risk of a sexual assault. If they know of a substantial risk of a sex offence another adult associated with the school may commit against a child under 16 within the school's care, they must take reasonable steps to remove or reduce the risk of child sexual assault and must report the matter to Victoria Police. (Failure to Protect offence)
- 7.5. Under the Reportable Conduct Scheme, Principals to have in place systems to prevent child abuse and to investigate and respond to such allegations. Principals are required to report allegations of child abuse to CCYP.
- 7.6. The Reportable Conduct Scheme does not replace Mandatory Reporting requirements nor the need to report allegations of child abuse, criminal conduct and family violence to Victoria Police.
- 7.7. The principal must ensure the school's internal reporting procedures are clear so that employees and other members of the school community are able to make correct decisions in a timely manner.
- 7.8. The principal is responsible for providing comprehensive training so that employees and other members of the school community are alert to child abuse and understand their legal responsibilities.
- 7.9. In addition to an employee's legal responsibility to report concerns as set out above, all employees must also comply with the school's internal reporting procedures.

8. Links to other policies

- Duty of Care
- Child Safety and Wellbeing Policy
- Student Welfare Policy
- Training Policy
- Risk Management Policy
- Child Safe Code of Conduct

¹⁷ Not just mandated reporters

- Privacy Policy
- Record Management Policy (including Archiving Policy)
- Complaints and Grievances Policy
- Whistleblower Policy
- Reportable Conduct Policy
- Amendments to the Crimes Act Policy

9. Communication of the policy

- 9.1. The school will make regular and frequent public statements to raise an awareness of the school community's collective responsibility in reporting allegations of child abuse.
- 9.2. This policy and relevant policy implementation documents will be made publicly available on the school's website and from the school office.
- 9.3. The school will put in place arrangements to ensure the school community (including applicants for jobs) is informed about the school's child safe standards policies, procedures and allocated roles and responsibilities.
- 9.4. The school will require all staff to confirm in writing when appointed and thereafter on an annual basis that they know their legal obligations and that they have read and understood the school's child safe standards policies and procedures.

10. Policy implementation documents

- 10.1. The documents setting out the strategies and actions required to implement this policy are:
 - a. Reporting flow chart including mandatory reporting.
 - b. Internal reporting procedures and flow chart.
 - c. Child Safe Standards reporting procedures.
 - d. Child Safe Standards checklist.
 - e. Communication plan to inform the school community about the mandatory reporting policy and procedures, allocated roles and responsibilities.
 - f. Detailed roles and responsibilities for ensuring reporting procedures are implemented, monitored and reviewed.
 - g. Templates for responding to and documenting suspected child abuse.
 - h. Training policy to include training in the school's reporting procedures.

- i. Training and guidance in recognising signs and indications of child abuse and grooming.

10.2. The Victorian Department of Education and Training provides helpful procedural guidance, templates, training materials, links, etc on its website.¹⁸

11. Policy review

11.1. The governing board will review the Mandatory Reporting Policy annually.

11.2. The governing board will require the principal to report on the implementation of the Mandatory Reporting Policy termly at the Board Meetings.

This policy was ratified by the School Board on: 11/10/2021

Chairperson's signature:



(MYRA THEISZ)

¹⁸ <https://www.education.vic.gov.au/school/teachers/health/childprotection/Pages/report.aspx>

Version and revision control record

Date	Version	Approver	Next Review Date
11/10/2021	1	Name:MYRA THEISZ Position: Chairperson of the School Board Signature: 	October 2022