



Geelong Lutheran College is committed to providing a safe environment for all students when they are in the care of the College.

Definitions

The College: Geelong Lutheran College St John's Newtown and Armstrong Creek

Parents: Parents, Guardians, Caregivers

SSR: Social Services Regulator

Rationale

The Child Wellbeing and Safety Act 2005 (Vic) (the Act) requires the College to investigate and report to the Social Services Regulator allegations of employee reportable conduct or misconduct that may involve reportable conduct.

The College has developed the following Policy which sets out the systems for enabling persons to report reportable conduct and for such reports to be investigated and responded to. This Policy is made available to all Staff, Volunteers, Third Party Contractors, the College Board, parents and students via our public website.

The Social Services Regulators website provides additional guidance and materials which assist the College to understand and meet their obligations under the Act.

Definition of an Employee

Section 3 of the Act defines employee as a person aged 18 years or over who is:

- employed by the College whether or not that person is employed in connection with any work or activities of the College that relate to children; or
- engaged by the College to provide services, including as a volunteer, contractor, office holder or officer, whether or not the person provides services to children

A minister of religion or a religious leader is also an employee.

Of relevance to the College, the following people are considered to be employees:

- Staff members
- Volunteers
- Third Party Contractors
- External Education Providers
- College Board members

For the purposes of this policy, all of the above are referred to collectively as Staff or Staff Members.

Definition of Reportable Conduct

Reportable conduct is defined in Section 3 of the Act to mean:

- a sexual offence committed against, with or in the presence of, a child, whether or not a criminal proceeding in relation to the offence has been commenced or concluded;
- 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; or
- significant neglect of a child.



Sexual misconduct includes:

- behaviour, physical contact or speech or other communication of a sexual nature, for example 'sexting'
- inappropriate touching or physical contact
- grooming behaviour
- voyeurism

Sexual offence for the purposes of the Reportable Conduct Scheme means a serious sexual offence as set out in clause 1 of Schedule 1 of the Sentencing Act 1991 (Vic), which includes rape, attempted rape, sexual assault, incest, indecent act with a child, persistent sexual abuse of a child, grooming and the production or possession of child pornography.

Significant means in relation to emotional or psychological harm or neglect, that the harm is more than trivial or insignificant, but need not be as high as serious and need not have a lasting permanent effect. The Social Services Regulator has provided guidance on how to identify physical violence, behaviour that causes emotional or psychological harm to a child and neglect.

Physical violence includes an act that causes physical injury or pain. Examples of physical violence can include:

- hitting/kicking/punching
- pushing/shoving/grabbing/throwing/shaking
- using an object to hit or strike
- using inappropriate restraint/excessive force

Physical violence does not include:

- reasonable steps taken to protect a child from immediate harm, such as taking a child's arm to stop them from going into oncoming traffic
- medical treatment given in good faith by an appropriately qualified person, such as a first aid officer administering first aid

Behaviour that causes emotional or psychological harm to a child requires a clear link between the alleged conduct and the significant harm suffered (significant is defined above).

Signs that a child may have been emotionally or psychologically harmed may include:

- patterns of out-of-character behaviour
- regression in behaviour
- distress and anxious behaviours
- other physical symptoms, such as self-harm

The exacerbation or aggravation of an existing mental health disorder may also cause emotional or psychological harm.

Examples of emotional or psychological harm may include:

- exposure to violence or threats of violence
- self-destructive behaviour
- antisocial behaviour
- persistent hostility/rejection
- humiliation/belittling
- scapegoating



It will not be reportable conduct if:

- a person takes reasonable steps to protect a child from immediate harm
- a person with responsibility for discipline takes lawful and reasonable disciplinary action, such as sending a child to sit in time out for a period of time (refer to our Student Behavioural Management (Discipline) Policy) Policy 2.08 CS
- an appropriately qualified person gives medical treatment in good faith such as a first aid officer administering first aid

Neglect occurs when a person does not meet their obligations and responsibilities to keep a child safe and well. The neglect:

- must be more than minor and insignificant
- does not need to have a lasting or permanent effect
- may be an ongoing situation or a one-off incident, as long as it is not minor in nature

Refer to Definition and Key Risk Indicators of Abuse for more information about sexual offences, grooming, physical violence, emotional or psychological harm and neglect.

Our Child Safety Code of Conduct Policy 2.28 CS outlines expected standards of behaviour for all Staff, Volunteers and Third- Party Contractors at the College. It is important to note that a breach of this Code will not always be reportable conduct. Such breaches can often be dealt with at the College level and don't need to be reported to the Social Services Regulator. For example, reasonable discipline of a student would not amount to behaviour that causes emotional or psychological harm to a child and therefore is not reportable conduct.

What to Report to the Social Services Regulator

Under the Act, the College must notify the Social Services Regulator of a reportable allegation against a Staff Member.

Reportable allegation is defined in section 3 of the Act to mean any information that leads a person to form a reasonable belief that a Staff Member has committed:

- reportable conduct; or
- misconduct that may involve reportable conduct, whether or not the conduct/misconduct is alleged to have occurred in the course of the person's employment at the College.

Guidance from the Social Services Regulator states that **reasonable belief** is more than a suspicion. There must be some objective basis for the belief. However, it is not the same as proof and does not require certainty.

Who must make the notification

Any person may disclose a reportable allegation to the Social Services Regulator by using an online form available from the Social Services Regulator's website, by phone or by letter (section 16L of the Act).

While any person *may* disclose a reportable allegation, the head of an entity to which the reportable conduct scheme applies *must* notify the Social Services Regulator of a reportable allegation (section 16M).



The Executive Principal for the purposes of the Reportable Conduct Scheme is defined under section 3(1) of the Act as:

- the chief executive officer of the entity (however described); or
- if there is no chief executive officer, the Heads of School of the entity (however described); or
- if there no chief executive officer or Heads of School, a person, or the holder of a position in the entity nominated by the entity and approved by the Social Services Regulator
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The Executive Principal is responsible for the Reportable Conduct Scheme Policy 2.13 CS. The Executive Principal has distinct responsibilities under the Reportable Conduct Scheme.

It is a criminal offence for the Executive Principal to fail to disclose a reportable allegation to the Social Services Regulator without a reasonable excuse. The Act does not define what a reasonable excuse may be, but section 16M(5) provides an exemption if they honestly and reasonably believed that another person had notified the Social Services Regulator.

The Executive Principal must notify the CCYP using an online form available from the Social Services Regulator's website.

Fulfilling the Head of College's Responsibilities

The Executive Principal is responsible for ensuring that the College complies with the reportable conduct obligations under the Act. However, the Social Services Regulator does not expect the Executive Principal to practically carry out their responsibilities alone. They may seek help from other people within the College. This may include creating and developing systems, sending approved notifications to the Social Services Regulator, or conducting investigations on the behalf of the Executive Principal.

The Executive Principal cannot *delegate* their responsibilities under the Act. They are still solely responsible for ensuring the College's compliance with the Reportable Conduct Scheme.

The Executive Principal has authorised the Heads of School to carry out physical or practical tasks such as making notifications to the Social Services Regulator, or liaising with the Social Services Regulator, when the Executive Principal is unavailable.

Reportable Conduct and Other Reporting Obligations

The reportable conduct obligation covered in this policy is separate and distinct from the:

- Mandatory Reporting obligation under the Children, Youth and Families Act 2005 (Vic)
- Obligation to Report a Sexual Offence (Failure to Disclose) obligation under the Crimes Act 1958 (Vic)
- Conduct that is Reportable to the Victorian Institute of Teaching under the Education and Training Reform Act 2006 (Vic)

The threshold for reporting allegations of reportable conduct is much lower than these other reporting obligations.

Any allegations of criminal conduct, including physical violence, significant emotional or psychological abuse, sexual offences and significant neglect must be reported to the Victorian Police as the priority. A Police investigation will take priority over any investigation conducted by the College under this Policy.



Internal Reporting of Reportable Allegations

As soon as a person, including a Staff Member, forms a reasonable belief that a Staff Member at the College has engaged in reportable conduct or misconduct that may involve reportable conduct (a reportable allegation), the person must notify the Head of College. The Executive Principal will then notify the Heads of School.

Where the reportable allegation involves the Head of College, the Staff Member must notify the Chair of the College Council or the Commission or the Social Services Regulator.

The internal report may be made verbally or in written form using the Incident Reporting Form, available Child Protection Report Form.

Where a verbal report is made by a Staff Member, it should be followed up with a written report provided to the Executive Principal within 48 hours of the verbal report.

Reporting to the Social Services Regulator

When the Executive Principal (or other authorised person under this Policy) receives a reportable allegation from any person, including a Staff Member, they must notify the Social Services Regulator within three business days.

Where the reportable allegation involves the Executive Principal, the Chair of the Board will undertake the responsibilities of the Executive Principal for the purposes of reporting the reportable allegation to the Social Services Regulator.

There are two stages of reporting. The Social Services Regulator must be notified in writing of:

- the reportable allegation as soon as possible, and in any event within three business days of the Executive Principal (or other authorised person) being notified of the reportable allegation (**Stage One Report**)
- the proposed next course of action (see below), as soon as practicable, and within 30 days of becoming aware of the reportable allegation (**Stage Two Report**)

Stage One Report

The report to the Social Services Regulator must state:

- that a reportable allegation has been made against a Staff Member
- the name (including any former name and alias, if known) and date of birth, if known, of the Staff Member
- whether the Victoria Police has been contacted about the reportable allegation
- the name, address and telephone number of the College
- the name of the Head of College

An online form available on the Social Services Regulator's website must be used for the Stage One Report.

If the Staff Member is a registered teacher and the misconduct involves a charge, conviction or finding of guilt of a sexual offence, the College must immediately notify the Victorian Institute of Teaching (VIT) under our Conduct that is Reportable to the Victorian Institute of Teaching policy. The timing of making a Stage One Report to the Commission under this Policy will coincide with the timing of a report made to the VIT.



Stage Two Report

The report to the Social Services Regulator must state:

- detailed information about the reportable allegation
- whether or not the College proposes to take any disciplinary or other action in relation to the Staff Member and the reasons why it intends to take, or not to take, that action

Any written submissions made to the Executive Principal (or other authorised person under this Policy) concerning the reportable allegation that a Staff Member wished to have considered in determining what, if any disciplinary or other action should be taken in relation to the Staff Member

Any allegation of criminal conduct, including physical violence, significant emotional or psychological abuse, sexual offences or significant neglect, must be reported to the Victorian Police. A Police investigation will take priority over any investigation conducted by the College under this Policy.

What Happens After a Report is made to the Social Services Regulator

After the Executive Principal (or other authorised person) has made a report to the Social Services Regulator, they must ensure that an appropriate investigation of the reportable allegation is conducted. The investigation can be conducted by the Executive Principal or the Heads of School. Alternatively, the College can appoint a regulator (for example the VIT) or an independent investigator. A regulator engaged by the College for the purposes of an investigation may also appoint an independent investigator. The Executive Principal (or other authorised person) must notify the Social Services Regulator of who will be conducting the investigation.

The investigation must be conducted in accordance with the rules of procedural fairness and natural justice. For example, the investigation should be conducted without bias and the person against whom the allegation is made should be given the right to respond. Refer to the Social Services Regulator's website Information (Sheet 4) Investigation overview for more information on what to consider when conducting an investigation.

A Police investigation into any matter takes priority over an investigation by the College. On becoming aware that the Police are investigating a reportable allegation:

- the College should consult with the Police before commencing an investigation to find out if the Police are, or will be, conducting an investigation
- the College's investigation should be put on hold until the Police investigation is complete

The Executive Principal (or other authorised person) must give the Social Services Regulator:

- a copy of the findings of the investigation and the reasons for those findings
- details of any disciplinary or other action that the College proposes to take in relation to the Staff Member and the reasons for that action
- if the College does not propose to take any disciplinary or other action in relation to the Staff Member, the reasons why no action is to be taken.

Under the Act, a Staff Member may seek a review by the Social Services Regulator of a finding made at the conclusion of an investigation.



Information Sharing: Children and Parents

Under the Act, the Executive Principal (or other authorised person) may disclose:

- information about the progress of the investigation
- the findings, reasons for the findings and the recommendations made at the conclusion of the investigation
- an action taken in response to those findings to:
 - the child who is the subject of the reporting allegation
 - a parent
 - a carer
 - Child Protection if the child is under its care.

Information Sharing: Schools, the Social Services Regulator and Others

Under the Act, the Executive Principal (or other authorised person) may disclose information in relation to:

- a reportable allegation
- a concern that reportable conduct has been committed
- the investigation of a reportable allegation or concern about reportable conduct
- the findings of an investigation and the reasons or recommendations made at the conclusion of the investigation
- any action taken in response to those findings to:
 - the Social Services Regulator
 - the head of another entity governed by the Act, such as another school
 - a regulator
 - the Chief Commissioner of Police
 - if necessary, for the purposes of an investigation, an independent investigator
 - if necessary, for the purposes of a WWC Check, the Secretary to the Department of Justice and Regulation
 - a relevant Minister
 - a prescribed body under the Act.

Publication of Information

The College must not publish information that would enable the identification of:

- a person or who notified the Social Services Regulator
- a child in relation to whom a reportable allegation was made or a finding of reportable conduct was made

The Act provides more information on the meaning of publish, which includes making the information publicly available in writing or email.

Powers of the Social Services Regulator

The Social Services Regulator has broad powers under the Act in relation to investigating a reportable allegation at the College. The Social Services Regulator may visit the College, inspect documents and interview staff or students involved in the reportable allegation.

The College must assist the Social Services Regulator in all reasonable aspects of its investigation.



Evaluation

This Policy will be reviewed as part of the school's five-year review cycle.

Policy Administration

Responsible Person/s	Approver	Date Approved	Next Review
Executive Principal	College Board	September 2023	September 2028