

## RATIONALE

At Balcombe Grammar School we are committed to supporting the welfare of all our students and protecting them from child abuse. It is the responsibility of all members of the school community to ensure the wellbeing of all students.

Mandatory reporting is a requirement of the Children, Youth and Families Act 2005 (Vic.) for the protection of children from harm due to physical injury and sexual abuse. Registered teachers (VIT), along with other professionals are mandated under this act.

From the 27 October 2014, the Victorian Government introduced a 'failure to disclose' offence under the Crimes Act 1958 (Act). **All adults** will be required to disclose to the Victoria Police if they know or reasonably believe that a sexual offence has been committed by an adult against a child under the age of 16.

In line with Ministerial Order No. 870 – Child Safe Standards, all staff, volunteers and visitors are expected to behave at all times in a manner supportive of the welfare and best interests of all students.

In addition to existing systems to prevent child abuse, from July 1 2017, the Victorian Reportable Conduct Scheme requires schools to also ensure that the Commission for Children and Young People is notified and given updates on a school's response to an allegation by a worker of volunteer of the school.

A number of circumstances are specified in the Act where a person is not obliged to make such a disclosure. For example, if a disclosure has been made under the existing mandatory reporting system, a person will not be required to make a further disclosure under the Act. The new offence, however, applies more broadly than to the professionals currently subject to mandatory reporting requirements under the Children, Youth and Families Act 2005. The new 'failure to disclose' offence is likely to include some persons in school environments not currently subject to mandatory reporting requirements.

Therefore all Balcombe Grammar staff must make a report to the Department of Human Services (DHS) as soon as possible if they have formed a 'reasonable belief that a child is in need of protection from physical injury/abuse or sexual abuse. They must report the belief and the grounds for it.

## AIMS

- To ensure that all child protection issues are identified and assessed
- To inform all staff of the policy on child protection
- To develop and implement appropriate programs that teach children how to protect themselves against abuse
- To offer support in the form of counselling to victims

## IMPLEMENTATION GUIDELINES

- If a staff member believes in good faith that a child is in need of protection, then he or she must make a report.
- Every member of staff is mandated to report to the Department of Human Services (DHS).
- Mandated reporters must report their belief, when the belief is formed in the course of practising their profession. This report must be made as soon as possible, and on each occasion that they become aware of any further reasonable grounds for the belief.
- If two or more mandated staff members have formed a belief about the same child on the same occasion then it is sufficient that only one of the mandated staff members make a report. The other is obliged to ensure that the report has been made and that all the grounds for their own belief were included in the report made by the other person.
- If a senior member of staff directs another staff member not to make a report, but the staff member continues to hold the belief that the child is in need of protection, then that staff member is legally obliged to make a report to DHS.
- It is the policy of Balcombe Grammar that all Mandatory Reports are reported to the Principal or the Leadership Team as soon as possible.
- Information about child abuse must be documented and remain confidential. The staff member must not discuss this information with anyone other than the Principal or the Leadership Team and DHS.
- Staff members do not have to be able to prove that the child has been abused before the report is made.
- Mandated staff members are protected legally and professionally. This means that he/she cannot be successfully sued or subjected to any legal liability, nor can he/she be disciplined for unprofessional conduct by the school. Mandatory Reports take precedence over confidentiality.
- The mandated reporters identity will remain confidential unless:
  - they disclose it or consent in writing to their identity being disclosed
  - a court or tribunal decides that it is necessary in the interests of justice for your identity to be disclosed
- A person who knows of child sexual abuse occurring in the past will not have to report to police unless the victim is still a child when the offence comes into effect.
- Failure to report a belief based on reasonable grounds that a child in need of protection because of physical or sexual abuse is liable to be prosecuted under State Law. The maximum penalty for failing to disclose child sexual abuse is three years imprisonment.

## GROOMING

The Crimes Amendment (Grooming) Act 2014, which commenced in Victoria on 9 April 2014, introduces the offence of grooming for sexual conduct with a child under the age of 16 years. This offence targets predatory conduct designed to facilitate later sexual activity with a child. The Betrayal of Trust report recommended the grooming offence, given the way in which many sex offenders target their victims. Grooming can be conducted in person or online, for example via interaction through social media, web forums and emails. Many perpetrators of sexual offences against children purposely create relationships with victims, their families or carers in order to create a situation where abuse could occur. For this reason, parents, carers or other family members who have been targeted by perpetrators in order to gain access to a child are also victims. The Victim's Charter Act 2006 was amended to expressly provide that a child and a family member of that child are victims of a grooming offence and are entitled to provide a victim impact statement to a court.

## PROCEDURE

Using the **BGS Responding to Suspected Child Abuse** document, staff are required to follow the flowchart process (provided on the next page). The completed documentation must be retained in securely and confidentially in Principal's filing system or Deputy Principal's if appropriate.

Typically this will be carried out by a member of the Leadership Team or School Counsellor, in conjunction with the reporting staff member, if applicable.

The call to DHS should be made as soon as practically possible.

Any calls received by DHS to particular staff members should be directed to Deputy Principal – Students and Community in the first instance.

Fulfilling the roles and responsibilities contained in the procedure does not displace or discharge any other obligations that arise if a person reasonably believes that a child is at risk of child abuse.

# FOUR CRITICAL ACTIONS FOR SCHOOLS

## RESPONDING TO INCIDENTS, DISCLOSURES AND SUSPICIONS OF CHILD ABUSE

### YOU MUST TAKE ACTION

As a school staff member, you play a **critical role** in protecting children in your care.

■ You **must** act, by following the four critical actions, as soon as you witness an incident, receive a disclosure or form a reasonable belief that a child has, or is at risk of being abused.

■ You **must** act if you form a suspicion/reasonable belief, even if you are unsure and have not directly observed child abuse (for example, if the victim or another person tells you about the abuse).

■ You **must** use the **Responding to Suspected Child Abuse** template to keep clear and comprehensive notes.

*\*A reasonable belief is a deliberately low threshold. This enables authorities to investigate and take action.*

### 1 RESPONDING TO AN EMERGENCY

If there is no risk of immediate harm go to **ACTION 2**.

If a child is at immediate risk of harm you **must** ensure their safety by:

- separating alleged victims and others involved
- administering first aid
- calling **000 for urgent medical and/or police assistance** to respond to immediate health or safety concerns
- identifying a contact person at the school for future liaison with Police.

Where necessary you may also need to maintain the integrity of the potential crime scene and preserve evidence.

### 2 REPORTING TO AUTHORITIES

As soon as immediate health and safety concerns are addressed you **must** report all incidents, suspicions and disclosures of child abuse as soon as possible. Failure to report physical and sexual child abuse may amount to a criminal offence.

Typically this will be carried out by a member of the Leadership Team or School Counsellor, in conjunction with the reporting staff member, if applicable.

#### IF THE SOURCE OF SUSPECTED ABUSE IS FROM WITHIN THE SCHOOL

You **must** report internally to:

- School Principal and/ or a Deputy Principal

#### VICTORIA POLICE

You **must** report all instances of suspected child abuse involving a school staff member, contractor or volunteer to Victoria Police.

Typically this will be carried out by a member of the Leadership Team or School Counsellor, in conjunction with the reporting staff member, if applicable.

#### IF THE SOURCE OF SUSPECTED ABUSE IS FROM WITHIN THE FAMILY OR COMMUNITY

You **must** report internally to:

- School Principal and/ or a Deputy Principal

Typically these external reports will be carried out by a member of the Leadership Team or School Counsellor, in conjunction with the reporting staff member, if applicable.

#### DHHS CHILD PROTECTION

You **must** report to DHHS Child Protection if a child is considered to be:

- in need of protection from child abuse
- at risk of being harmed (or has been harmed) and the harm has had, or is likely to have, a serious impact on the child's safety, stability or development.

#### VICTORIA POLICE

You **must also** report all instances of suspected sexual abuse (including grooming) to Victoria Police.

### 3 CONTACTING PARENTS/CARERS

BGS Principal or delegate **must** consult with DHHS Child Protection or Victoria Police to determine what information can be shared with parents/carers. They may advise the school:

- **not to contact** the parents/carers (e.g. in circumstances where the parents are alleged to have engaged in the abuse, or the child is a mature minor and does not wish for their parents/carers to be contacted)
- **to contact** the parents/carers and provide agreed information (this must be done as soon as possible, preferably on the same day of the incident, disclosure or suspicion).

### 4 PROVIDING ONGOING SUPPORT

BGS will provide support for children impacted by abuse. This will include the development of a Student Support Plan in consultation with wellbeing professionals. This is an essential part of the school's duty of care requirements.

Strategies may include development of a safety plan, direct support and referral to wellbeing professionals etc.

You **must** follow the **Four Critical Actions** every time you become aware of a further instance or risk of abuse. This includes reporting new information to authorities.

If you believe that a child is not subject to abuse, but you still hold significant concerns for their wellbeing you must still act.

This may include making a referral or seeking advice from Child FIRST (in circumstances where the family are open to receiving support), or to DHHS Child Protection or Victoria Police.

### CONTACT

**DHHS CHILD PROTECTION**  
South Division 1300 655 795

**CHILD FIRST**  
www.dhs.vic.gov.au  
Phone 13 12 78

**VICTORIA POLICE**  
000 or contact your local police station

**AFTER HOURS**  
After hours, weekends, public holidays 13 12 78

## AGENCIES

<b>Department of Human Services (DHS) Child Protection</b>	During business hours staff members can ring the number covering the local government area (LGA) where the child lives	<b>Southern Suburban LGAs</b> <b>1300 655 795</b> Bayside, Cardinia, Casey, Frankston, Glen Eira, Greater Dandenong, Kingston, Mornington Peninsula, Port Phillip, Stonnington
	After hours staff members can ring the Child Protection Crisis Line	<b>13 12 78 (24 hrs 7 days, toll free)</b>
<b>Victoria Police</b>	If you want to report a child in immediate risk or danger of sexual abuse	<b>Triple Zero (000)</b>

## DEFINITIONS (UNDER THE FAILURE TO DISCLOSE SEXUAL ABUSE OFFENCE)

### 1. WHAT IS A 'REASONABLE BELIEF'?

A 'reasonable belief' is not the same as having proof. A 'reasonable belief' is formed if a reasonable person in the same position would have formed the belief on the same grounds.

For example, a 'reasonable belief' might be formed when:

- a child states that they have been sexually abused
- a child states that they know someone who has been sexually abused (sometimes the child may be talking about themselves)
- someone who knows a child states that the child has been sexually abused
- professional observations of the child's behaviour or development leads a mandated professional to form a belief that the child has been sexually abused
- signs of sexual abuse leads to a belief that the child has been sexually abused.

### 2. EXCUSES FOR NOT REPORTING CHILD SEXUAL ABUSE TO POLICE?

A person will not be guilty of the offence if he or she has a reasonable excuse for not disclosing the information. A reasonable excuse includes:

#### 2.1 Fear for safety

A reasonable excuse exists in cases where a person has a reasonable fear for their own safety or the safety of another person (such as a child or another family member) and they do not report to police due to those circumstances.

This defence may apply, for example, if a mother decides not to disclose information about her partner sexually abusing her child due to fear of violence to her or her child.

The person's fear must be subjectively reasonable, that is, it must be reasonable from the perspective of that person in those circumstances. This recognises that the person in question is best placed to judge whether their safety is in danger.

The court or jury will consider whether it was reasonable for the person not to report in the circumstances.

## 2.2 Where the information has already been disclosed

It is a reasonable excuse to not disclose where a person believes on reasonable grounds that the information has already been disclosed to police and they have no further information to add.

An important example of this exception is where the person has already made a report under the mandatory reporting obligation specified in the *Children, Youth and Families Act 2005*. This obligation requires teachers, doctors and other professionals to report concerns about child welfare to child protection authorities within the Department of Human Services (DHS).

Under the existing mandatory reporting system, DHS already passes on all allegations of child sexual abuse to police, so it will be a reasonable excuse for not reporting to police if a person has made a report to DHS or reasonably believes a report has been made to DHS. This ensures that people are not required to make multiple reports to different agencies.

## 3. WHAT IS NOT A REASONABLE EXCUSE?

A person does not have a reasonable excuse for failing to disclose sexual abuse if they are only concerned for the perceived interests of the perpetrator or any organisation. 'Perceived interests' includes reputation, legal liability or financial status.

For example, a principal's concern for the reputation of a school, or a clergyman's concern for the reputation of a church where the abuse happened will not be regarded as a reasonable excuse.

## 4. ANY OTHER EXEMPTIONS TO THE OFFENCE

There are a number of other exemptions, which include:

### 4.1 The victim requests confidentiality

The new offence respects the position of a victim who does not want the offending disclosed and who is sufficiently mature to make that judgment. The obligation to report therefore does not apply where the information comes from a person aged 16 or over and this person requests that the offence not be reported. The law recognises that a child under 16 is not able to make this kind of decision and sometimes lacks the capacity to fully understand the effects of abuse.

A person will still be required to disclose information to police if:

- the victim who requested confidentiality has an intellectual disability, and
- the victim does not have the capacity to make an informed decision about a disclosure, and
- the person who received the information is aware or should be reasonably aware of those facts.

### 4.2 The person is a child when they formed a reasonable belief

If a person was under the age of 18 when they formed a reasonable belief, they will not be obliged to make a disclosure when they turn 18. This protects children from the burden of knowing that they will have to disclose to police when they turn 18.

#### 4.3 The information would be privileged

People will not be required to disclose where the information would be privileged. This includes:

- client legal privilege
- journalist privilege
- religious confessions.

For example, if a priest obtains information made in good faith through a rite of confession, (as long as the admission is not given for a criminal purpose) the priest is exempt from disclosing.

#### 4.4 The information is confidential communication

A registered medical practitioner or counsellor is not required to disclose information to police if the information is obtained from a child whilst providing treatment and assistance to that child in relation to sexual abuse. However, under the mandatory reporting obligations, a registered medical practitioner would still be required to report to DHS if they form a reasonable belief that a child has been sexually abused and is in need of protection. This exemption is not designed to prevent the reporting of child sexual abuse, but rather to protect the registered medical practitioner or counsellor from criminal liability.

If an adult provides information to a medical practitioner or counsellor regarding the sexual abuse of a child, the medical practitioner or counsellor would be required to disclose that information to police unless another exemption applies.

#### 4.5 The information is in the public domain

A person does not have to disclose to police if they get the information through the public domain, or form the belief solely from information in the public domain such as television or radio reports.

#### 4.6 Where police officers are acting in the course of their duties

A police officer, acting in the course of their duty in respect of the victim of sexual abuse is exempt from the offence.

## EVALUATION

This policy will be reviewed as part of the school's three-year review.

## ACKNOWLEDGEMENT

Department of Human Services – Victoria. Protecting Victorian Children. Child Protection Practice Manual.  
Department of Justice – Betrayal of Trust: Factsheet