



# Mary MacKillop Catholic Regional College

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## Protection of Children – Failure to Disclose Policy

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### 1.0 INTRODUCTION

This Protection of Children – Failure to Disclose Policy applies to Diocese of Sale Catholic Education Limited ('**DOSCEL**'), including all primary and secondary Catholic schools it manages and operates in the Diocese of Sale in the State of Victoria ('**Schools**') and the Catholic Education Office, Diocese of Sale ('**CEOSale**').

Protecting children and young people against sexual abuse is a community wide responsibility. DOSCEL has a moral and legal responsibility to ensure children and young people are safe in their care and to ensure that all forms of abusive behaviours towards children are prevented.

It is a clear legal duty of all adults to report child sexual abuse to police. Any adult who forms a reasonable belief that a sexual offence has been committed by an adult against a child has an obligation to report that information to police.

Under the [Crimes Act 1958](#) (Vic.) and the [Crimes Amendment \(Protection of Children\) Act 2014](#) (Vic.) it is an offence for a person in authority to fail to protect a child under the age of 16 years from a sexual offence when:

- The person has information sufficient to form a reasonable belief that a sexual offence has been committed in Victoria against a child, and
- Without reasonable excuse, the person fails to report the information to Victoria Police as soon as practicable.

Employees mandated to report (e.g. school principals, registered teachers, registered psychologists and school counsellors) do so under the Children, Youth and Families Act 2005 (Vic), the [Crimes Act 1958](#) (Vic.) and the [Crimes Amendment \(Protection of Children\) Act 2014](#) (Vic.).

This obligation applies to all non-mandated employees and adult community members and is separate to the mandatory reporting framework. It is subject to some exclusions, such as:

- The person reasonably believes that the information has already been disclosed to the police
- The victim is over the age of 16 at the time that the information is received, does not have an intellectual disability and requests that the information not be disclosed
- The information is privileged (e.g. communications between a client and their lawyer)
- The information is in the public domain
- The person fears on reasonable grounds for the safety of any person (except the offender) if the information is disclosed and the failure to disclose is a reasonable response in the circumstances.

**It is imperative to prevent, reduce and minimise child abuse and exploitation in all their forms.**

## **2.0 PURPOSE**

This policy informs DOSCEL employees of their responsibilities in relation to the disclosure/reporting responsibilities.

This policy acknowledges the particular duty DOSCEL employees have towards children and young people in their care.

It respects the dignity of children and young people and outlines the rights and responsibilities of DOSCEL employees.

## **3.0 PRINCIPLES**

- 3.1 The dignity of each person, made in the image of God, is a fundamental tenet of the Catholic Church and therefore of Catholic Education.
- 3.2 A safe environment is required to protect children/young people from harm and to prevent employees from abusing their position of authority and trust.
- 3.3 Employees need to be informed of matters related to child sexual abuse and be fully self-aware of their professional obligations and responsibilities.
- 3.4 All children and young people have the right to a thorough and systematic education in personal safety, including safety in relationships.
- 3.5 Abuse of children or young people by persons in positions of trust or authority is a serious matter. All allegations must receive a response and be dealt with promptly.
- 3.6 After a disclosure, any ongoing harm to the child or young person and the employee is minimised by:
  - adherence to agreed procedures
  - provision of appropriate social and emotional support and pastoral care
  - appropriate confidentiality.
- 3.7 The child or young person's ongoing safety and wellbeing should be the primary focus of decision making.
- 3.8 Failing to disclose the risk or act of sexual abuse against a child or young person is a serious offence.

## **4.0 DEFINITIONS**

For the purposes of this policy, the following definitions apply:

**Child and Young Person:** A child is legally defined as a person under the age of 16 years. A young person is any person who comes under or may come under the care, supervision or authority of the school.

**Confidential:** Being entrusted with private and restricted information that must be treated as such, both in written and verbal form.

**Duty of Care:** Employees, including volunteers and contractors working in Catholic schools have a duty of care to support and protect the children and young people with whom they are professionally involved.

When employees form a reasonable belief that a child or young person has been harmed or is at risk of harm, they are ethically bound to take action to protect the safety and wellbeing of that child or young person. For some employees this obligation is legally mandated.

Duty of care is breached if a person:

- does something that a reasonable person in that person's position would not do in a particular situation
- fails to do something that a reasonable person in that person's position would do in the circumstances
- acts or fails to act in a way that causes harm to someone to whom the person owes a duty of care
- fails to report when mandated.

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

## 5.0 PROCESSES AND PROCEDURES

This policy should be read in conjunction with Pastoral Care and Child Protection Policies.

The successful implementation of this policy will include the following:

- Regularly communicating this policy to employees and the wider community
- Educating children in personal safety and sexual abuse
- Educating school employees to identify possible sexual abuse
- Taking action that is timely, respectful and coordinated when an employee forms a belief that a child or young person is at risk of being harmed through sexual abuse, or has been harmed, such action to include:
  - Reporting the matter to the Police and the Principal
  - Knowing that Victoria Police has primary responsibility for conducting investigations into the alleged matter.
- Reporting to the Department of Health and Human Services ('DHHS') unless otherwise advised by the police
- Ensuring the child or young person and the child or young person's family have access to appropriate services in order to reduce any long-term effects of the abuse
- Documenting all allegations and retaining records in a secure area, ensuring their confidentiality.

## 6.0 EXPECTED OUTCOMES

- 6.1 DOSCEL employees are expected to be self-aware of their professional obligations and responsibilities and report to police any reasonable belief of the risk, or act, of sexual abuse against a child or young person.
- 6.2 A thorough and systematic education in personal safety, including safety in relationships, will be provided for all children and young people.
- 6.3 Approved professional learning in providing education in personal safety will be provided to all employees.

- 6.4 All allegations of grooming will receive a prompt response and be clearly documented.

## **7.0 REFERENCES**

- [Crimes Act 1958 \(Vic.\)](#)
- [Crimes Amendment \(Protection of Children\) Act 2014 \(Vic.\)](#)
- [Children, Youth and Families Act 2005 \(Vic.\)](#)

## **8.0 RELATED POLICIES**

- DOSCEL Pastoral Care Policy
- DOSCEL Child Protection and Safety Policy
- DOSCEL Protection of Children – Anti-Grooming Policy
- DOSCEL Protection of Children – Failure to Protect Policy
- DOSCEL Guide to Reporting Conduct under the Reportable Conduct Scheme

## **9.0 REVIEW**

**Implementation Date:** December 2019

**Review Date:** December 2021