



Mount Erin College

Child Safe Reporting Policy

Child Safe Standards

Mount Erin College is a Child Safe School. Our College is committed to safety and wellbeing of all children and young people. We value all students as individuals and their diversity. This will be the primary focus of our care and decision making.

Mount Erin College is committed to providing a Child Safe environment where children and young people are valued and feel safe, and their voices are heard about decisions that affect their lives.

Our College takes a preventative, proactive and participatory approach to Child Safety to ensure that the safety of children is promoted, child abuse is prevented and allegations of child abuse are properly responded to. Mount Erin College has zero tolerance for child abuse.

Appendix 2 A useful step by step Guide to making a Report to Child Protection or Child First

<i>Type of Reporting</i>	<i>By Whom</i>	<i>To Whom</i>
<p>Mandatory Reporting - DHHS Child Protection</p> <p>Mandatory Reporters must make a report as soon as practicable if, in the course of practising their profession or carrying out their duties, they form a belief on reasonable grounds that a child or young person is in need of protection, as a result of physical injury or sexual abuse, and the child's parents are unable or unwilling to protect the child.</p>	<p>Mandatory Reporters</p> <p>Teachers registered to teach or who have permission to teach pursuant to the <i>Education and Training Reform Act 2006 (Vic)</i></p> <p>Principals of government and non-government schools</p> <p>Registered medical practitioners</p> <p>Nurses</p> <p>All members of the police force</p>	<p>DHHS Child Protection</p>

Child in need of protection

Any person may make a report if they believe on reasonable grounds that a child is in need of protection for any of the following reasons:

- The child has been abandoned and there is no other suitable person who is willing and able to care for the child.
- The child's parents are dead or incapacitated and there is no other suitable person who is willing and able to care for the child.
- The child has suffered or is likely to suffer significant harm as a result of physical injury and the parents are unable or unwilling to protect the child.
- The child has suffered or is likely to suffer significant harm as a result of sexual abuse and their parents are unable or unwilling to protect the child.
- The child has suffered or is likely to suffer emotional or psychological harm and the parents are unable or unwilling to protect the child.
- The child's physical development or health has been, or is likely to be significantly harmed and the parents are unable or unwilling to provide basic care, or effective medical or other remedial care.

Any person

DHHS Child Protection
Victoria Police

Child displaying sexually abusive behaviours and in need of therapeutic treatment

Any person may make a report if they believe on reasonable grounds that a child who is 10 years of age or over, but under 15 years of age, is in need of therapeutic treatment because he or she has exhibited sexually abusive behaviours.

Any person

DHHS Child Protection

Significant concerns about wellbeing of a child

Any person

DHHS Child Protection

Any person may make a report if they have significant concerns for the wellbeing of a child.

Child FIRST

Reasonable belief that a sexual offence has been committed by an adult against a child under 16.

Any adult who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child under 16 must report that information to police. It is a criminal offence not to make a report, except in the following circumstances:

- The victim is 16 years of age or older and does not have an intellectual disability that limits his/her capacity to make an informed decision; and he/she does not want the information reported to the police
- The victim has disclosed the information in confidence in the course of a therapeutic relationship with you as a registered medical practitioner or counsellor.
- The victim turned 16 years of age before 27 October 2014.

Reasonable excuses for failing to comply with the requirement include:

- a reasonable belief that the information has already been reported to police or DHHS Child Protection disclosing all of the information
- a reasonable fear that the disclosure will place someone other than the alleged perpetrator at risk of harm

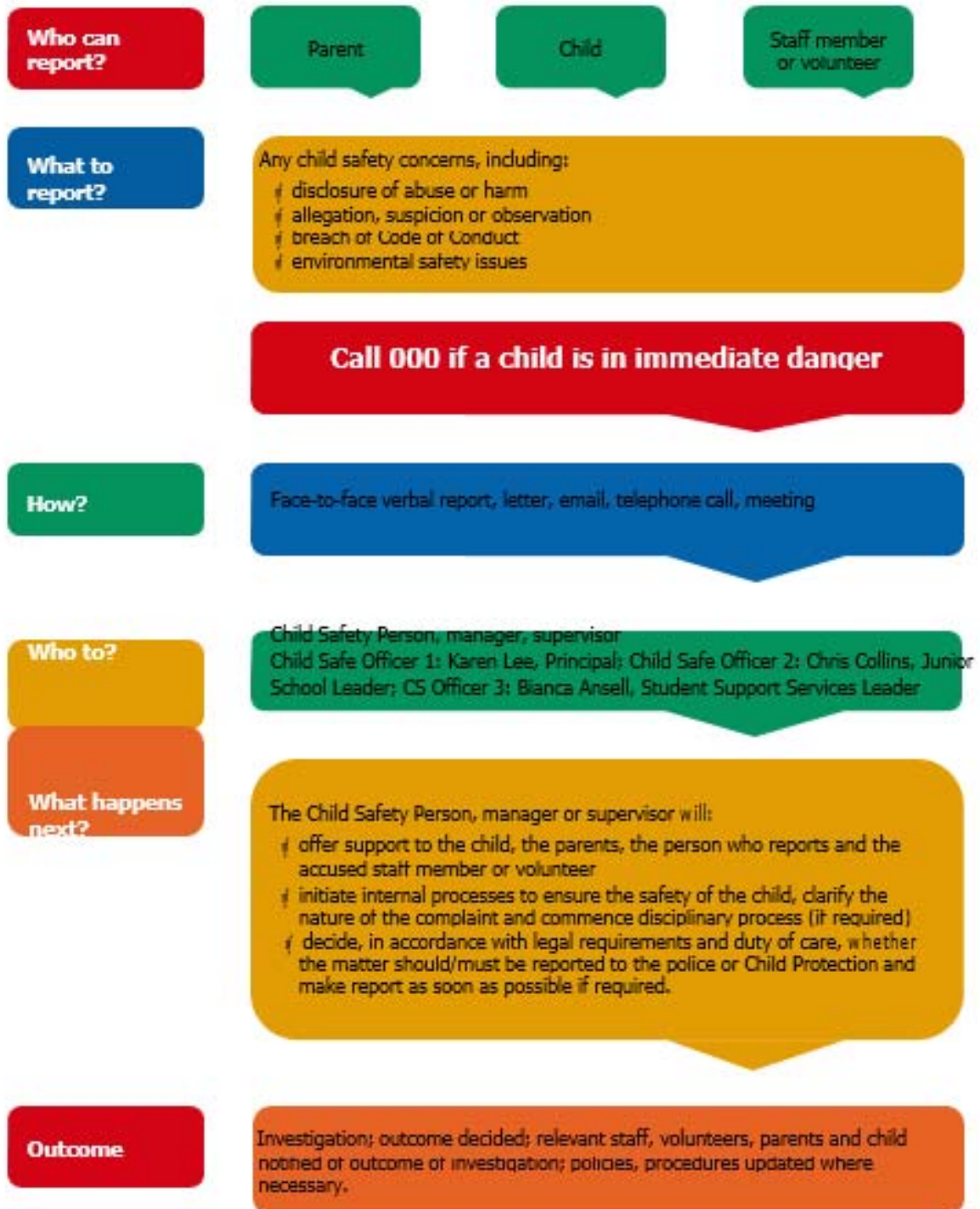
Any person aged 18 or over

Victoria Police



COMMISSION FOR CHILDREN AND YOUNG PEOPLE

Flowchart: CHILD SAFETY REPORTING PROCESS



Failure to Disclose Offence:

Reporting child sexual abuse is a community-wide responsibility. Accordingly, a new criminal offence has been created in Victoria that imposes a clear legal duty upon all adults to report information about child sexual abuse to police. The offence commenced on 27 October 2014.

Any adult who forms a reasonable belief that a sexual offence has been committed by an adult against a child under 16 has an obligation to report that information to police. Failure to disclose the information to police is a criminal offence.

For information about how the offence may affect the reporting obligations of organisations funded by the Department of Health and Human Services, download the factsheet from the [Department of Health and Human Services website \(External link\)](#).

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.

Are there any 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:

- fear for safety
- where the information has already been disclosed.

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.

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, school principals, doctors, nurses, midwives, out-of-home care workers, early childhood teachers and workers, registered psychologists and youth justice workers to report concerns about child welfare to child protection authorities within the Department of Health and Human Services (DHHS). From 31 January 2020, this will also include school counsellors.

Under the existing mandatory reporting system, DHHS 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 DHHS or reasonably believes a report has been made to DHHS. This ensures that people are not required to make multiple reports to different agencies.

For further information on the mandatory reporting obligation in the Children, Youth and Families Act 2005, visit the [Mandatory Reporting page on the Department of Health and Human Services website \(External link\)](#).

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 minister's concern for the reputation of a church where the abuse happened will not be regarded as a reasonable excuse.

Are there any other exemptions to the offence?

There are a number of other exemptions, which include:

- the victim requests confidentiality
- the person is a child when they formed a reasonable belief
- the information would be privileged
- the information is confidential communication
- the information is in the public domain
- where police officers are acting in the course of their duty.

The victim requests confidentiality

The 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.

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.

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.

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 DHHS 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.

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.

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.

If it is compulsory for everyone to report child sexual abuse, why are there exemptions?

We need to ensure that we do not put children and their families at even greater risk of harm, especially those who may be experiencing family violence.

Won't child sexual abuse continue to occur if exemptions are allowed?

Certain exemptions are required to avoid any unintended consequences of this reporting obligation. It is not intended, for example, that this offence criminalise victims of family violence who don't report due to fear for their own or someone else's safety.

For example, women in family violence situations may have a reasonable fear for the safety of their child or another family member, especially in cases where threats have already been made. They may fear that making a report to police will escalate the situation, putting their child or another family member at even greater risk of harm – or even death.

Preventing the sexual abuse of children is a community responsibility. Other people connected with the child will still be required to make a report, unless they have a reasonable excuse not to do so.

Doesn't this offence discourage people from seeking help where they have experienced child sexual abuse?

The law does not require a medical practitioner or counsellor to disclose information to police when it has been obtained from a victim during treatment for sexual abuse.

Disclosures for the purpose of obtaining legal advice will also be protected by client legal privilege. There are also other exemptions which have been listed above.

The offence requires 'any adult' to report suspected child sexual abuse. Isn't this too broad? Won't it lead to people reporting unfounded suspicions?

The offence requires a person to report to police where they have information that leads them to form a 'reasonable belief' that a sexual offence has been committed against a child under 16. Under the offence, people will not be expected to disclose unfounded suspicions as a suspicion does not constitute a 'reasonable belief'.

The failure to disclose offence is a big step towards preventing child sexual abuse in our community and ensuring people understand that protecting children and preventing sexual abuse is a community-wide responsibility.

How will I be protected if I make a disclosure to police?

Your identity will remain confidential unless:

- you disclose it yourself or you consent in writing to your identity being disclosed
- a court or tribunal decides that it is necessary in the interests of justice for your identity to be disclosed.

Will any person who knows of child sexual abuse happening in the past be required to report?

A person who knows of child sexual abuse occurring in the past will not have to report to police unless the victim was still a child when the offence came into effect on 27 October 2014.

What is the penalty for failing to disclose child sexual abuse?

The maximum penalty is three years imprisonment.

How do I contact Victoria Police to make a report?

If you want to report a child in immediate risk or danger of sexual abuse please call [Triple Zero \(000\) \(External link\)](#). Alternatively, you can [contact your local police station \(External link\)](#).

If you or someone you know has experienced child sexual abuse in an institutional context, we encourage you to contact Victoria Police's Sano Taskforce via email sanotaskforce@police.vic.gov.au [\(External link\)](#).

The creation of this offence was recommended in the [Betrayal of Trust](#) report.

Review Cycle:

This Policy was approved in July 2019 and is scheduled for review in July 2021