

# child safety reporting policy

## overview

The Child Safety Reporting Policy (the **Policy**) outlines the processes used by Ballarat Clarendon College to meet its Child Safety Reporting guidelines and operates with the accompanying procedural document. It should also be considered in conjunction with the school's Child Safety Framework which provides the broader framework that the school operates within to ensure the safety and wellbeing of students in its care, of which reporting is a component.

The school is accountable to a range of legislated requirements as outlined in both Ministerial Order 870 (pertaining directly to Child Safety), the Children, Youth and Families Act 2005 (Vic), the Child Wellbeing and Safety Act 2005 (Vic) and the Crimes Act 1958 (Vic).

This Policy outlines Clarendon's obligations in relation to:

1. Mandatory Reporting to DHHS;
2. Staff Reportable Conduct; and
3. criminal reporting to the Police.

## mandatory reporting to DHHS

The Children, Youth and Families Act 2005 (Vic) (CYFA) requires that mandatory reporters must make a report to the Department of Health and Human Services (DHHS) Child Protection when they believe that a child (aged under 17) is in need of protection from significant harm from physical injury or sexual abuse.

If a report is made by mandatory reporters in accordance with CYFA mandatory reporting obligations, an additional report to the Police under s327 Crimes Act 1958 (Vic) may not be required unless you have further information.

## who might be required to make a mandatory report to DHHS?

Mandatory Reporters are defined by the CYFA and include:

- registered teachers and early childhood teachers;
- school principals;
- registered medical practitioners;
- nurses;
- midwives;
- registered psychologists;
- police officers;
- school counsellors;
- early childhood workers;
- out of home care workers (excluding voluntary foster and kinship carers);
- youth justice workers; and
- persons in religious ministry.

It is the responsibility of other staff, volunteers or members of the school community to check whether they are Mandatory Reporters under child protection legislation.

## reporting by non-mandated staff

The CYFA states that any person who believes on reasonable grounds that a child is at risk of harm should report their concerns to DHHS Child Protection. Ballarat Clarendon College believes that all staff have a moral and ethical obligation to report regardless of whether they are mandated. The school's Child Safety Framework treats all staff equally with respect to their obligations. In this context staff includes non-teaching staff, Board members, volunteers, Third Party Contractors and External Education Providers

## mandatory reporting to police

Section 327 of the Crimes Act 1958 (Vic) requires any person of or over the age of 18 years (whether in Victoria or elsewhere) who has information that leads the person to form a reasonable belief that a sexual offence has been committed in Victoria against a child under the age of 16 years by another person of or over the age of 18 years to report that information to a police officer. In these circumstances, the mandatory reporter must disclose that information to a police officer as soon as it is practicable to do so, unless the person has a reasonable excuse for not doing so. Penalty: 3 years imprisonment.

## what gives rise to a mandatory report?

### **Mandatory Reporting**

A mandatory report to DHHS and/or police must be made if you form a belief on reasonable grounds that a child is in need of protection where the child has suffered, or is likely to suffer, significant harm as a result of:

- physical injury; or
- sexual abuse;  
the child's parents have not protected, or are unlikely to protect, the child from harm of that type.

## terminology

### **Reasonable Grounds**

The concept of 'reasonable grounds' requires an individual to consider whether another person, when faced with similar information, would also draw the same conclusion. It does not mean reporters are required to be certain, but rather reporters should ensure their concerns are well founded and based on information from a reliable source. Reasonable grounds for forming such a belief may include:

- a child states they have been physically or sexually abused;
- a child states that they know someone who has been physically or sexually abused;
- the school is in receipt of credible information that indicates a child has been abused or is at imminent risk of abuse." The current statement does not provide room to move in what might be a malicious disclosure (disgruntled ex partner etc.)
- a child shows signs of being physically or sexually abused;
- the staff member is aware of persistent family violence or parental substance misuse, psychiatric illness or intellectual disability that is impacting on a child's safety, stability or development;
- the staff member observes signs of abuse, including non-accidental or unexplained injury, persistent neglect, poor care or lack of appropriate supervision; or
- a child's actions or behaviour may place them at risk of significant harm and the child's parents are unwilling or unable to protect the child.

Grounds for belief include matters of which a person has become aware and any opinions based on those matters.

### **Significant**

'Significant' means that which is sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent.

What is 'significant' is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child's safety, welfare or wellbeing.

Significant harm can result from a single act or omission or an accumulation of these.

### **Physical Injury or Sexual Abuse**

To assist in identifying physical injury or sexual abuse, refer to Clarendon's information relating to Child Abuse - Definitions and Key Risk Indicators.

Parents have not protected, or are unlikely to protect, the child from harm of that type. The meaning of this phrase is not defined by legislation, but some examples may assist.

A parent who 'has not protected, or is unlikely to protect that child from harm of that type' includes a parent who wants to protect his or her child from harm, but lacks the means to.

It also includes a parent who has the means to protect his or her child from harm, but does not want to.

A parent may be rendered 'unlikely to protect' that child for many reasons. For example:

- that parent does not, or refuses to recognise that harm is occurring;
- that parent or child may be subject to domestic violence; or
- that parent's partner may be abusive or harmful to the child.

'Parent' includes:

- the child's father;
- the child's mother;
- the spouse of the mother or father of the child;
- the domestic partner of the father or mother of the child;
- a person who has custody of the child;
- a person who is named as the father on the child's birth certificate;
- a person who acknowledges that he is the father of the child by an instrument under the Status of Children Act 1974 (Vic); and
- a person in respect of whom a court has made a declaration or a finding or order that the person is the father of the child.

## what to report and when

A report becomes mandatory as soon as is practicable after forming the belief. A report must include details of the belief, and the reasonable grounds of that belief. Additional reports must be made on each occasion where you become aware of any further reasonable grounds for the belief.

Refer to the Victorian Department of Education's Guide to Making a Report to Child Protection or Child FIRST (Child and Family Information, Referral and Support Team) for guidance on making a decision on whether to report.

## how is a report/referral made?

A detailed explanation of how a report/referral is made is included in the attached Child Safety Reporting Procedure.

After receiving a report, DHHS Child Protection may seek further information, usually from professionals who may also be involved with the child or family, to determine whether further action is required. In most cases, DHHS Child Protection will inform the reporter of the outcome of the report.

## obligation to act

Staff who have formed a belief that abuse has occurred or is likely to occur, have an obligation to report this even if the school has informed that it does not believe that this step is necessary. In essence an individual's obligations transcend any direction given organisationally.

## diversity

All students and parents from linguistically and culturally diverse backgrounds have the right to sensitivity to their specific needs in the implementation of any Ballarat Clarendon College processes.

While this does not influence the legal, moral and ethical responsibilities of the school to implement its policies and procedures around child safety, the specific needs of individuals will always be considered and accommodated where appropriate by the school when acting on its child safety obligations.

## international students

There are specific child safety requirements for international students. Ballarat Clarendon College must notify the Victorian Regulation and Qualifications Authority (VRQA) if the alleged abuse relates to an international student and Clarendon has issued a Confirmation of Appropriate Accommodation and Welfare (CAAW) letter in relation to that student thereby assuming responsibility for approving the student's accommodation, support and general welfare. This means that Ballarat Clarendon College retains a legal obligation for international students even when they are not in the direct care of the school, and assessment monitoring and reporting procedures must be implemented for all settings that students in this category may find themselves in (holiday periods, third party education providers etc.).

## staff reportable conduct - commission for children and young people

The Reportable Conduct Scheme obligates organisations to report instances of inappropriate conduct by staff. It was developed as a response to 'The Betrayal of Trust' report tables to the Victorian Parliament and legislated in February 2017.

Under the scheme, a head of an organisation is required to notify the Commission for Children and Young People (CCYP) of a 'reportable allegation' against any employees, contractors, office holders or volunteers ('Staff').

A reportable allegation means information that leads a person to form a reasonable belief that a Staff member has committed:

- reportable conduct; or
- misconduct that may include reportable conduct.

Reportable conduct is:

- a sexual offence (even prior to criminal proceedings commencing), sexual misconduct or physical violence committed against, with or in the presence of a child;
- behaviour causing significant emotional or psychological harm;
- significant neglect of a child.

Organisations have three business days to report on becoming aware of the reportable allegation. Responsibility to report rests with the head of the organisation, in the case of schools this is the Principal.

The Reportable Conduct Scheme does not impact on the school's obligations around either Mandatory Reporting to DHHS or reporting criminal matters, but rather operates in conjunction with these processes.

In cases where a concern relates to the Principal, they should be directed to the school Board members or to the CCYP directly or directed through the school's Child Safety Officers.

## reporting criminal matters

In conjunction with its Mandatory Reporting and Reportable Conduct obligations, Ballarat Clarendon College has a clear obligation to report criminal matters to Victoria Police.

Where this relates to the conduct of a teaching staff, non-teaching staff, Board members, volunteers, Third Party Contractors and External Education Providers, this should be done immediately upon the forming of a reasonable belief that a crime has occurred or is likely to occur.

The school will only investigate matters to the point that this reasonable belief is reached prior to informing Victoria Police and taking direction from them.

This obligation relates to any criminal activity but in the area of Child Safety and relating to staff conduct, in particular to physical or sexual abuse and grooming behaviour as previously defined in this Policy.

The police can be contacted through 000 when there is imminent danger or through Ballarat Police on (03)5336 6000.

**Supporting Documentation**

Child Safety Framework  
Child Safety Reporting Procedure  
Child Safety Code of Conduct  
Staff and Students Professional Boundaries Policy



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