



Malvern

Child Protection Failure to Protect Policy

Rationale

De La Salle College has a legal and moral responsibility to ensure the safety of children or young people in their care and to ensure that all forms of abusive behaviours towards children/young people are prevented.

The Crimes Act 1958 (Vic) and the Crimes Amendment (Failure to Protect) Act 2014 includes an offence for failure by a person with power, authority and responsibility within an organisation to protect all children who are under the care or supervision of the organisation.

As soon as a person in authority becomes aware of a risk of child sexual abuse, he/she will be under a duty of care to remove or reduce that risk. A criminal offence applies where the person in authority:

- knows that there is substantial risk of a sexual offence being committed against a child by a person associated with the organisation; and
- negligence fails to reduce or remove that risk.

Mission

De La Salle College is a Catholic College in the Lasallian tradition, enabling students in a community of faith and excellence to achieve their full potential with integrity and distinction.

“Young people need good teachers, like visible angels”

St John Baptist de La Salle
(MTR 5.1 Med 197.1)

Aim of the Policy

This policy informs De La Salle College staff of their responsibilities in relation to child protection and disclosure/reporting obligations. The policy acknowledges the duty of care and legal responsibilities that staff have towards the children/young people in their care. It respects the dignity of children/young people and College staff and outlines their rights and responsibilities.

Policy Statement

De La Salle College is committed to providing a safe environment for all children/young people in its care and ensuring staff are aware of their obligations in removing or reducing the risk of abusive behaviours and acting to protect the child.

Guidelines

1. The dignity of each person, made in the image of God, is a fundamental teaching of the Catholic Church and of De La Salle College;
2. A safe environment is required to protect children/young people from harm and to prevent members of our community from abusing their position of authority and trust;
3. Staff need to be informed of matters relating to child sexual abuse and be fully self-aware of their professional obligations and responsibilities;
4. Staff, Volunteers and Contractors commit to upholding the Child Safety - Staff Code of Conduct

5. All children/young people have the right to a thorough and systematic education in personal safety, including safety in relationships;
6. Abuse of children by persons in positions of trust or authority is a serious matter. All allegations must receive a response and be dealt with promptly as outlined in the Child Protection Policy;
7. After a disclosure, any ongoing harm to the child/young person and the employee is minimised by:
 - maintaining active supervision;
 - adherence to agreed procedures;
 - provision of appropriate social and emotional support and pastoral care;
 - appropriate confidentiality.
8. The child/young person's ongoing safety and wellbeing should be the primary focus of decision making;
9. Failing to reduce the risk of sexual abuse against a child/young person is a serious offence.

Definitions

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

1. **Child and Young Person:** De La Salle College defines a child/young person as anyone who comes under or may come under the care, supervision or authority of the school.
2. **Confidential:** Being entrusted with private and restricted information that must be treated as such, both in written and verbal form.
3. **Duty of Care:** Staff or volunteers 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 staff members 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 staff members this obligation is legally mandated (cf DEECD and DHHS 2010).

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.
4. **Mandatory Reporter / Mandated Staff Member:** Under section 182(1) of the Child, Youth and Families Act (2005) the following persons are mandatory reporters for the purposes of this Act –
 1. a registered medical practitioner;
 2. a nurse / or midwife;
 3. a person who is registered as a teacher or an early childhood teacher under the Education and Training Reform Act 2006 or has been granted permission to teach under that Act;
 4. the Principal of a Government school or a non-Government school within the meaning of the Education and Training Reform Act 2006;
 5. a police officer;
 6. on and from the relevant date, the proprietor of, or a person with a post-secondary qualification in the care, education or minding of children who is employed by, a children's service to which the Children's Services Act 1996 applies or a person who is a nominee within the meaning of that Act for the children's service;
 - on and from the relevant date, the approved provider or nominated supervisor of, or a person with a post-secondary qualification in the care, education or minding of children who is employed or engaged by an education and care service within the meaning of the Education and Care Services National Law (Victoria);
 7. on and from the relevant date, a person with a post-secondary qualification in youth, social or welfare work who works in the health, education or community or welfare services field and who is not referred to in paragraph (8);
 8. on and from the relevant date, a person employed under Part 3 of the Public Administration Act 2004 to perform the duties of a youth and child welfare worker;
 9. on and from the relevant date, a registered psychologist;
 10. on and from the relevant date, a youth justice officer;
 11. on and from the relevant date, a youth parole officer;

12. on and from the relevant date, a member of a prescribed class of persons.
5. **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/young person states that they have been sexually abused;
 - a child/young person 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/young person has been sexually abused;
 - professional observations of the child/young person's behaviour or development leads a mandated professional to form a belief that the child has been sexually abused;
 - physical signs of sexual abuse leads to a belief that the child/young person has been sexually abused.

Procedures

This policy should be read in conjunction with the College's Pastoral Care and Child Protection Policies. The successful implementation of this policy will include the following:

- Regularly communicating this policy to staff and the wider community;
- Educating children/young people in personal safety, neglect and abuse;
- Educating school staff to identify possible abuse;
- Taking action that is timely, respectful and coordinated when a staff member forms a belief that a child/young person is at risk of being harmed through abuse or neglect. The matter must be reported to the Principal unless the matter relates to the Principal, then report the matter to a member of the Executive Team. The matter must also be reported to DHHS, Victoria Police, Catholic Education Melbourne and the Commission for Children and Young People. Victoria Police has primary responsibility for conducting investigations into the alleged matter;
- Ensuring the child/young person and the child's/young person's family have access to appropriate services in order to reduce any long-term effects of the grooming abuse;
- Documenting all allegations in line with the Reportable Conduct Scheme and retaining records in a secure area, ensuring their confidentiality. Refer Appendices 1-8.

Expected Outcomes

1. De La Salle College staff are informed of the Failure to Protect amendment and are expected to be self-aware of their professional obligations and responsibilities;
2. A thorough and systematic education in personal safety, including safety in relationships, will be provided for all children/young people;
3. Approved professional learning in providing education in personal safety will be provided to all staff;
4. All allegations of abuse of children will receive a prompt response and be clearly documented.

References

Crimes Amendment (Protection of Children) Act 2014, online,
http://www.austlii.edu.au/au/legis/vic/num_act/caoca20143602014417

DEECD and DHHS 2010, Protecting the Safety and Wellbeing of Children and Young People, A joint protocol of the Department of Human Services Child Protection, Department of Education and Early Childhood Development, Licensed Children's Services and Victorian Schools.

Victorian Parliamentary Inquiry into the Handling of Child Sexual Abuse by Religious and Other Non-Government Organisations, Final Report, Betrayal of Trust, November 2013.

Victorian State Government Education and Training, Protect: Reportable Conduct Scheme
<https://ccyp.vic.gov.au/reportable-conduct-scheme/>

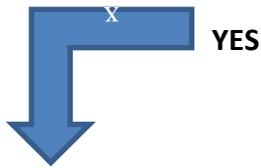
Related Policies

Child Protection Policy 2017
Child Protection – Child Safety Policy 2017
Child Protection – Grooming Policy 2017
Child Protection – Statement of Commitment to Child Safety
Pastoral Care Policy 2016
Positive Student Behaviour Policy 2016
Student Code of Conduct 2017

Approval

Responsible officer:	Deputy Principal – Students
Approval body:	College Executive
Approval date:	7 August 2017
Previous approval:	13 July 2016
Next scheduled review:	August 2020

Appendix 1



You are concerned about a child/young person because you have:

- received a disclosure from a child/young person about physical or sexual abuse or other types of abuse or neglect;
- observed indicators of physical or sexual abuse or other types of abuse or neglect;
- been made aware of possible harm via your involvement in the community external to your professional role.

Do your concerns relate to a child/young person in need of immediate protection, or have you formed a belief that a child/young person is at significant risk of harm? If your concerns relate to physical or sexual abuse, then it is **mandatory** to make a report – **Yes / No**. For some other concerns it is a requirement to contact Victoria Police (e.g. suspected grooming or failure to disclose and failure to protect).



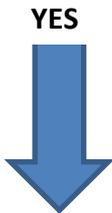
At your local Child Protection Intake provider to report a concern about **physical or sexual abuse**

Complete the Reportable Conduct Scheme template and contact

1. The Principal or Executive Team
2. DHHS Child Protection
3. Victoria Police (if emergency)
4. Catholic Education Melbourne
5. Commission for Children and Young People (within three days).

If after hours, call 13 12 78

Do you have other significant concerns that a child/young person and their family need a referral to Child FIRST for family services?



Contact your **local Child FIRST provider**.

Have the Reportable Conduct Scheme template completed prior to contact.



Consider level of immediate danger to the child/young person.

1. Ask yourself:
 - a) Have I formed a belief that the child/young person has suffered or is at risk of suffering significant harm?
YES / NO
 - b) Am I in doubt about the child/young person's safety and the parent / guardian's ability to protect the child?
YES / NO

If you answered yes to a) or b), contact **DHHS Child Protection to make a mandatory or protective report**.

2. If you have significant concerns that a child and their family need a referral to Child FIRST for family services, contact **local Child FIRST provider**.

Note:
Non-mandated staff are also able to report their concerns, and under the Crimes Act 1958 (Vic.) are legally obliged to report if a reasonable belief has been formed that an offence has been committed in Victoria against a child.

Appendix 2

Template – Responding to Suspected Child Abuse access [here](#).

Appendix 3

Template – Responding to Suspected Student Sexual Offending access [here](#).

Appendix 4

Commission for Children and Young People Three Day Notification Template access [here](#).

Appendix 5

Commission for Children and Young People Form A: 30 Day Update Template access [here](#).

Appendix 6

Commission for Children and Young People Form B: Investigator Update access [here](#).

Appendix 7

Commission for Children and Young People Form C: Investigation Outcomes access [here](#).

Appendix 8

Commission for Children and Young People Form D: Update Form access [here](#).