

Mandatory Reporting Policy

1. Statement of Context and Purpose

AGSV has an important role to play in supporting children and their families and in protecting students who may be at risk of harm due to abuse or neglect. AGSV staff in periodic close contact with children may observe when a child or young person appears to be at risk of harm.

Employees and persons involved in child-connected work have a duty of care to support and protect the children and young people with whom they are professionally involved. When a member of staff forms a reasonable belief that a child or young person has been harmed or is at risk of harm, they are legally obligated to take action to protect the safety and wellbeing of that child or young person.

In addition, and separate, to employee's mandatory reporting obligations, under the *Crimes Act 1958* (Crimes Act) it is a criminal offence if any person, who forms a reasonable belief that a sexual offence has been committed against a child under the age of 16 years by another person of or over the age of 18 years, fails to disclose that information to Victoria Police as soon as it is practicable to do so, unless the person has a reasonable excuse under Crimes Act for not doing so (**Failure to Disclose Offence**).

Employees and persons involved in child-connected work must always act in the best interests of those children and young people to protect and preserve their safety, health and wellbeing. As far as is practicable, employees must monitor the general safety and wellbeing of each child in order to meet responsibilities under the duty of care prescribed by legislation.

A person who, by reason of the position they occupy within the AGSV:

- has the power or responsibility to reduce or remove a substantial risk that a child will become the victim of a sexual offence committed by a person associated with the AGSV, and
- knows that there is a substantial risk that that person will commit a sexual offence against the child; and
- negligently fails to reduce or remove the risk,

will be guilty of a criminal offence (**Failure to Protect Offence**). A person negligently fails to reduce or remove a risk if that failure involves a falling short of the standard of care that a reasonable person would exercise in the circumstances.

2. Application

This policy applies to all AGSV staff performing functions for the AGSV.

To properly implement this Policy, all AGSV Member Schools must ensure that they implement a mandatory reporting policy that complies with the relevant legislation.

Those staff who are not mandatory reporters are still required to be aware of the content of this policy and its implications upon their work.

3. Reference Points / Background Papers

- Children, Youth and Families Act 2005 (Vic);
 - Crimes Act 1958 (Vic);
 - Crimes Amendment (Protection of Children) Act 2014 (Vic);
 - Crimes Amendment (Grooming) Act 2014 (Vic);
 - Education and Training Reform Act 2006 (Vic);
 - Education and Training Reform Regulations 2007(Vic);
 - Children's Services Act 1996 (Vic);
 - Children's Services Regulations 2009 (Vic);
 - Charter of Human Rights and Responsibilities Act 2006 (Vic);
 - 'National Framework for Protecting Australia's Children';
 - 'Guiding Principles for a Safe and Supportive School Environment';
 - 'Protecting the Safety and Wellbeing of Children and Young People';
 - Performance Management, Misconduct and Disciplinary Action Policy;
 - AGSV Code of Conduct;
 - AGSV Child Safe Policy; and
 - Child Safe Procedure.
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4. Responsibilities

4.1 When a mandatory report is required

Staff are expected to take steps (in accordance with the law and this policy) to ensure that a report is made to Child Protection (within the Department of Human Services) as soon as practicable after forming a belief on reasonable grounds, in the course of undertaking their professional duties, that a young child or young person is in need of protection from significant harm as a result of physical injury or sexual abuse, and the child's parents/guardians have not, or are unlikely to, protect the child from that harm.

4.2 Crimes Act disclosure obligation - Failure to disclose offence

In addition and separate to the mandatory reporting obligations outlined above, any person, whether or not an employee of AGSV, must disclose to a Victoria police officer as soon as practicable after forming a belief on reasonable grounds that a young child or young person (under the age of 16 years, as per section 327(2) of the Crimes Act) that a sexual offence has been committed against that child or young person, unless the first-mentioned person has a reasonable excuse under the Crimes Act for not doing so.

A reasonable excuse for not making such a report to a police officer as soon as practicable includes the belief on reasonable grounds that the information has

already been disclosed to Victoria Police by another person in compliance with the mandatory reporting obligations of this policy. For example, where Child Protection Services have been notified.

If there is any uncertainty about the need for a mandatory report to Child Protection Services or to contact Victoria Police, this should be raised with the Executive Officer and consideration will be given to ringing the Department of Human Services for advice, and/or Victoria Police.

4.3 Referral to Child FIRST

A referral to Child FIRST should be considered if, after taking into account the available information, the employee forms a view that the concerns have a low-to-moderate impact on the wellbeing of the child and the child is not at immediate risk of harm.

4.4 Who should make a report or referral?

Generally, it would be a Child Safe Officer that would make a report to Victoria Police, Child Protection or a referral to Child FIRST after consultation with the mandatory reporter(s).

If they are not available, it will be the Executive Officer. They will inform the relevant mandatory reporter(s) if they have or have not made a report or a referral.

In relation to the Failure to Disclose Offence, in circumstances where a person has formed a reasonable belief that a sexual offence has been committed against a child by someone over the age of 18 years, they must disclose that information to a member of the police force as soon as it is practicable to do so unless:

- they fear on reasonable grounds for the safety of any person (other than the person believed to have committed the offence) were they to disclose the information to the police and the failure to disclose the information to police is a reasonable response in the circumstances; or
- they believe on reasonable grounds that the information has already been disclosed to the police by another person and they have no further information.

4.5 Protocol

The Employee(s) will be instructed to:

- Document date(s), time(s), nature of incident, patterns of behaviour, current and/or prior concerns and grounds for belief, regarding the student in their care (employees will be provided with a list of possible indicators of harm, and definitions to assist in deciding if abuse is occurring and if the impact warrants a report to Child Protection, Child FIRST, Victoria police or another course of action);
- Consult directly with the Executive Officer and the Child Safe Officer, and provide the documentation described above; and
- Document and consult directly with the persons listed above for each and every incident for a child they have concerns about.

The Child Safe Officer will be instructed to:

- Coordinate information from the reporter and reference any additional information;
- If deemed to be appropriate, contact the relevant family;
- If deemed to be appropriate, report the matter to Child Protection or refer to Child FIRST and (where applicable) notify Victoria Police, and inform the Executive Officer and other employees as required; and
- Act as AGSV's liaison person with Child Protection, Victoria Police or any other relevant authorities.

The AGSV may remove an employee, volunteer, contractor or agent of the AGSV (and/or take other steps to reduce or remove risk) where it is considered that there is a substantial risk that an employee, volunteer, contractor or agent of the AGSV will commit a sexual offence against a young person or child so as to ensure that they do not negligently fail to reduce or remove that risk under section 49C(2) of the Crimes Act.

4.6 Own investigations strictly prohibited

Staff should follow the above protocol strictly. Under no circumstances should the mandatory reporter 'investigate' an allegation of child abuse. This is the role of Child Protection and/or Victoria Police.

4.7 Confidentiality

All AGSV staff must respect confidentiality when dealing with a case of suspected child abuse and neglect, and may only discuss case details and the identity of the child or young person and their family only with those involved in managing the situation, including a police officer in the case of a suspected sexual offence committed against a child or young person.

5. Consequences of a Breach of this Policy

AGSV emphasises the need to comply with the requirements of this policy. Any employee found to be in breach of the requirements of this policy may be subject to disciplinary action, up to and including termination of employment.

6. Implications for Practice

6.1 At Board Level

To properly implement this Policy, AGSV must:

- ensure that this Policy is endorsed on an annual basis and following significant incidents if they occur;
- ensure that copies of this Policy are made available to all staff;
- ensure that this Policy is incorporated into the Board's record of current policies;
- ensure that this Policy is incorporated into AGSV's induction program, to ensure that all staff (particularly those who are engaged in child-connected work) are aware of the Policy, have read and understood the Policy, and acknowledge their commitment to comply with the Policy;

- ensure that all staff are directed towards the Code of Conduct and the Child Safe Policy and Procedure; and
- ensure that this Policy is accessible to the public (including children and parents).

6.2 At Other Levels

To properly implement this Procedure, all AGSV staff must ensure:

- that they will abide by this Policy, the Code of Conduct, the Child Safe Policy and Procedure, and assist AGSV in the implementation of this policy; and
- that they have read and understood the definitions of child abuse outlined in this Policy.

6.3 At AGSV Member School level

To properly implement this Policy, all AGSV Member Schools must ensure that they implement a mandatory reporting policy that complies with the relevant legislation.

The AGSV will require Member Schools to sign an annual attestation of compliance with this policy (see Appendix 2).