

Obligation to Act to Protect Making Additional Reports and Mandatory Reporting

1. Statement of Commitment to Child Safety

The Geelong College is a Child Safe School. We have a zero-tolerance stance on child abuse and are committed to the protection of all children from all forms of abuse. The Geelong College recognises that in order to achieve a child safe environment at the College which meets students' intellectual, physical, social, emotional and moral needs, students need to be involved in the creation and maintenance of such an environment.

We are committed to taking a preventative and proactive approach to providing a child safe environment where children and young people are safe and feel safe; they are empowered to use their voices when decisions are being made that affect their safety. We are also committed to providing simple and accessible processes to assist all children to identify and communicate when they do not feel safe. Particularly, this includes those who are Aboriginal and Torres Strait Islander, from culturally diverse backgrounds and those with a disability.

We are clear about our behavioral expectations of every person in our community and are committed to having a shared understanding of and responsibility for child safety. All staff are expected to uphold a culture that protects children from all forms of harm.

2. Purpose

The Geelong College has developed the following Obligation to Act to Protect, Making Additional Reports and Mandatory Reporting Policy which sets out our systems for enabling persons to report reportable conduct and for such reports to be investigated and responded to.

3. Scope

This policy applies to;

Management or persons in control, persons in day-to-day charge, early childhood teachers, educators, staff, Day Students- Domestic and International Boarding, volunteers, approved providers/contractors, parents/guardians, children, and others attending the programs and activities of The Geelong College, including offsite excursions and activities.

Together referred to as "The Geelong College Community" for the purpose of the Act to Protect, Making Additional Reports and Mandatory Reporting Policy.

The Child Protection, Environment and Safety Policy applies in all The Geelong College and Boarding Houses (Mackie & Mossgiel) environments. The Geelong College and Boarding House environments include the following physical, virtual and online places used by a student or a boarding student at any time.

4. Obligation

The College has a common law duty of care to protect all students from reasonably foreseeable risks of harm while at school or engaging in The College activities. The College expects all Staff, Volunteers and Contractors to act to protect students from reasonably foreseeable risks of harm.

Failure to do this is not only a breach of duty of Care, but may also be, in certain circumstances, a criminal offence.

Under section 490 of the Crimes Act 1958 (Vic) (Crimes Act) a person commits an offence if:

- a. The person occupies a position within or in relation to a relevant organisation; and
- b. There is a substantial risk that a child (aged under 16) under the care, supervision or authority of the organisation will become a victim of sexual offence committed by an adult associated with the organisation

And

- c. The person knows that the risk exists; and
- d. By reason of their position, the person has the power or responsibility to reduce or remove that risk; and
- e. The person negligently fails to reduce or remove that risk

This criminal offence is commonly known as "Failure to Protect". Although its full title is "Failure by a person in authority to protect a child from a sexual offence".

In The College context, the offence covers failures to protect a student aged under 16 from sexual offences committed by any adult staff member, Volunteer or Contractor at The College.

Students aged 18 or over and parents/carers (other than parent volunteers), are not considered adults "associated with" The College for the purposes of the Failure to Protect offence. However, if a student aged 18 or over, a parent/carer and other family member of students poses a reasonably foreseeable risk of sexually abusing a student, the common law duty to protect students still applies.

The Failure to Protect offence means that action must be taken:

- a. by any Staff, Volunteer or Contractor who has to power or responsibility to do so,
- b. to protect students aged under 16,
- c. from a known substantial risk of the student becoming the victim of a sexual offence by an adult staff member, Volunteer or Contractor at The College.

It does not matter if the student, the person who poses the substantial risk or the person who has the power or responsibility to act are outside of Victoria, so long as the student was in Victoria at any time while the substantial risk existed or so long as the sexual offence was at risk of occurring in Victoria.

4.1 Who has the Power or Responsibility to Act to Protect Students?

Whether a staff member, Volunteer or Contractor at The College has "power or responsibility to reduce or remove the risk" to the student will depend on their role at The College and on the source of the risk.

The Principal and members of the Senior/Executive Management would always have the necessary degree of supervision, power and responsibility to remove or reduce a risk posed by another adult working at The College.

However, on a day-to-day basis, and on tours, excursions, or camps others at The College may have the requisite power and responsibility.

Examples of other people who may have the power and responsibility, by reason of their position, to act could include:

- a. Teachers
- b. Volunteers or Direct Contractors where they are in a position of supervision

4.2 When Action Should be Taken?

The Failure to Protect offence means that any staff member, Volunteer or Contractor who has the requisite power or responsibility must act when they know that an adult associated with The College poses a substantial risk that a student or students may become the victim of a sexual offence.

In addition, it is The College's policy that any staff member, Volunteer or Contractor who has the requisite power or responsibility must act when they know that any adult associated with The College poses a foreseeable risk of abuse or other harm to a student.

Action must be taken as soon as the risk becomes known.

4.3 Actions That Can be Taken to Reduce or Remove the Risk

Where any staff member, Volunteer, or Contractor becomes aware that an adult associated with The Geelong College poses a substantial risk of committing a sexual offence, or a foreseeable risk of child abuse or other harm, against a student or students under their care, they should immediately:

- a. take any and all reasonable immediate steps to remove or reduce the risk to the student or students
- b. report the matter to the Principal (or the Chair of The Geelong College Council if the allegation is about the Principal), as soon as practicable
- c. record the report according to our Child Protection Record Keeping procedures
- d. report to external authorities, if appropriate

Appropriate action that can be taken to protect students from a substantial risk of a sexual offence or a foreseeable risk of child abuse or other harm may include, for example:

- a. immediately removing a staff member, Direct Contact Volunteer or Direct Contact Contractor who is known to pose a substantial risk of a sexual offence to students, from all contact with students and reporting to external authorities
- b. banning a parent who is known to pose a risk of physical or emotional abuse to students from attending excursions as a parent helper

Whenever there are concerns that a student is in immediate danger call the Police on 000.

The College maintains records of these reportable allegations, written reports and reportable conduct investigation findings indefinitely.

4.4 Record Keeping Obligations

Effective record keeping about child safety and wellbeing at The College is one of the key strategies that The College implements to manage its child safe organisation and child safety and wellbeing obligations, including child protection issues and the fulfillment of our duty of care.

It is through such record keeping that The College can ensure that, should there ever be a need for evidence of The College's child safe culture, including precautions and preventative measures taken in response to the risk of child abuse or other harm, or of The College's response to particular child safety incidents or concerns, The College has well-documented and easily accessible records.

For The College records keeping obligations relating to child protection incidents, refer to our General Records Management Policy.

5. Mandatory Reporting to Child Protection

5.1 Who is a Mandatory Reporter?

Mandatory Reporters are listed in section 182 of the CYFA.

This means at The College, the following people are Mandatory Reporters:

- a. All teachers
- b. The principal
- c. Medical practitioners
- d. Nurses
- e. School counsellors
- f. Registered Psychologists
- g. Early Childhood Workers
- h. Chaplains

5.2 Reporting by Non-Mandatory Reporters

Mandatory Reporters who reasonably believe that a child (aged under 17) may be in need of protection for reasons other than physical or sexual abuse, or whose concerns arose other than in the course of their work, can still report externally.

Staff, Volunteers or Contractors who are not Mandatory Reporters can also report externally if they reasonably believe that a child (aged under 17) is in need of protection.

Under section 183 of the CYFA, these reports can be made to either Child Protection or to the Police.

All College Staff, Volunteers or Contractors who have child safety concerns about a student notify [Child Protection Officer](#) as soon as possible to discuss their concerns.

5.2.1 Non-Mandatory Reporting to Child Protection

Staff should make a Non-Mandatory Report only if they do not have an obligation to report under Mandatory Reporting to Child Protection.

All Staff must comply with the [FOUR Critical Actions](#) which sets out circumstances in which these reports must be made by Staff.

All staff members must either make a report to Child Protection under sections 28, 183 or 185 of the CYFA, or take specific alternative action, in the following circumstances:

| Type of Report | What must be reported | Action required |
|--------------------------------|---|--|
| Wellbeing Report | Significant concerns, formed in the course of your work, for the wellbeing of a student aged under 17. | Report to Child Protection or follow the procedures in Responding to Other Concerns About the Wellbeing of a Student |
| Protective Intervention Report | Belief on reasonable grounds, formed in the course of your work, that a student aged under 17 is in need of protection for any reason. | Report to Child Protection or Police |
| Therapeutic Treatment Report | Belief on reasonable grounds, formed in the course of your work, that a student aged under 18 is in need of therapeutic treatment because they are exhibiting sexually abusive behaviour. | Report to Child Protection |

**** Each type of report, and when/why it should be made, is described further below.***

[Child Protection Officer](#) make all of the above reports regardless of whether they form the required belief or concern in the course of their work or otherwise.

Concerns or beliefs that do not fall into these requirements (for example, because the relevant child is not a student or because – for Staff other than [Child Protection Officer](#) – the concern or belief did not arise in the course of their work), may still be reported.

5.2.2 Application to Students Aged 17 or Over

The legislative provisions that enable non-mandatory reporting to Child Protection apply only with respect to children aged 16 or under (except for children who may require therapeutic treatment due to exhibiting sexually abusive behaviours or children who are under a child protection order).

Therefore, a reasonable belief that a student aged 17 years or older has suffered or is likely to suffer significant harm, even as a result of physical injury or sexual abuse, cannot be

reported to Child Protection and should instead be reported to the Police. Reporting to Police for students aged 18 and over can only occur, however, if the student consents to the report or, if they do not consent, to lessen or prevent a serious or imminent threat to an individual's life, health, safety or welfare.

You should also consider whether a referral to a support service is required.

It is The Geelong College's policy that all child safety incidents and concerns involving a student, including those involving students aged 17 and over, must be reported internally. Therefore, even if an external report is not required, staff members have the same internal reporting obligations with respect to a reasonable belief of significant harm to a student aged 17 or over as they do for students aged 16 or under.

5.2.3 When to Make a Wellbeing Report

A wellbeing report may be made when you form a significant concern for the wellbeing of a child.

This may occur if you have concerns that a child is at risk of being harmed (or has been harmed) and the harm has had, or is likely to have, a serious impact on the child's safety, stability or development.

These concerns could include:

- a. significant parenting problems that may be affecting the child's development
- b. family conflict, including family breakdown
- c. families under pressure due to a family member's physical or mental illness, substance abuse, disability or bereavement
- d. young, isolated and/or unsupported families
- e. significant social or economic disadvantage that may adversely impact on a child's care or development

A wellbeing report can be made even if the child is not in need of protection (for example because the child's parent is likely to protect the child from the harm).

Instead of making a wellbeing report you may follow the procedures for making a referral to a community support service (such as Child FIRST or the Orange Door) or take other action as set out in Responding to Other Concerns About the Wellbeing of a Student.

To help you decide whether or not you should make a wellbeing report or instead make a referral to a community support service or take other action, you should discuss your concerns with a [Child Protection Officer](#) or you may contact Child Protection or Child FIRST for advice.

5.2.4 When to Make a Protective Intervention Report

A protective intervention report may be made when you form a belief on reasonable grounds that:

- a. a child (under the age of 17) is in need of protection; and
- b. the child's parents have not protected, or are unlikely to protect, the child from harm.

A protective intervention report should be considered if you form the view that a child is in need of protection because:

- a. the harm or risk of harm has a serious impact on the child's immediate safety, stability or development; or
- b. the harm or risk of harm is persistent and entrenched and is likely to have a serious impact on the child's safety, stability and development; and
- c. the child's parents cannot or will not protect the child from harm.

It is The Geelong College's policy that, where a protective intervention report is to be made, it must be made without delay as soon as the belief on reasonable grounds that a child is in

need of protection has been formed. This must be done regardless of any other action you take in relation to the child.

To help you decide whether or not you should make a protective intervention report, you should discuss your concerns with a [Child Protection Officer](#) or you may contact Child Protection for advice.

You may also refer to:

- a. the Victorian Department of Education's [Step-by-Step Guide to Making a Report to Child Protection or Child FIRST](#)
- b. the joint protocol published by Child Protection, Department of Education and Early Childhood Development, Licensed Children's Services and Victorian Schools Protecting the Safety and Wellbeing of children and young people.

5.2.5 When to Make a Therapeutic Treatment Report

A therapeutic treatment report may be made when you form a belief on reasonable grounds that a child is in need of therapeutic treatment because they are exhibiting sexually abusive behaviours.

It is The Geelong College's policy that, where a therapeutic treatment report is to be made, it must be made without delay as soon as the belief on reasonable grounds that a child is in need of therapeutic treatment has been formed. This must be done regardless of any other action you take in relation to the child (and in particular, any Reporting to Police under Responding to Incidents of or Concerns About Student Sexual Offending).

To help you decide whether or not you should make a therapeutic treatment report, you should discuss your concerns with a [Child Protection Officer](#) or you may contact Child Protection for advice. You may also refer to Child Protection's publication [Problem Sexual Behaviour or Sexually Abusive Behaviour](#).

5.4 When to Make a Mandatory Report

If you are a Mandatory Reporter, you must make a Mandatory Report when, in the course of your work or duties for The College, you form a belief on reasonable grounds that:

- a. A child is in need of protection because they have suffered or are likely to suffer significant harm as a result:
 - i. Physical injury; or
 - ii. Sexual abuse; and
- b. The child's parents have not protected, or are unlikely to protect, the child from harm of that type

To help you decide whether you should make a report to Child Protection, you may refer to:

- a. The Victorian Department of Education's [Step-by-Step Guide to Making a Report to Child Protection or Child FIRST](#)
- b. The joint protocol published by Child Protection, Department of Education and Early Childhood Development, Licensed Children's Services and Victorian Schools Protecting the Safety and wellbeing of children and young people
- c. Child Protection's [Mandatory Reporting to Child Protection in Victoria - frequently asked questions](#)

A Mandatory Reporter must make a report even if you have discussed the matter with one of The College's [Child Protection Officer](#) the 'Head' of The School and they do not share your belief that a report must be made.

5.5 What if My Concern is Not About Physical or Sexual Abuse or if I am Unsure if I Have a 'Reasonable Belief'?

It is The College policy that if you are a Mandatory Reporter and you have a reasonable belief that a child is in need of protection for reasons other than physical or sexual abuse, you must still make a report to Child Protection.

If a child safety incident or concern does not meet the requirement for Mandatory reporting (for example because the concern is not about physical or sexual abuse or because the child's parents have protected or are likely to protect the child from the harm), you must still follow other relevant procedures set out in the Child Protection Program, including Reporting a Child Safety Incident or Concern Internally, and keeping records of observations.

If you are concerned that a student may be experiencing physical or sexual abuse, but you are unsure whether your concern rises to the level of 'a belief on reasonable grounds' that the child is in 'need of protection', you should immediately raise your concerns with one of The College's [Child Protection Officer](#).

Our [Child Protection Officer](#) are able to assist you in clarifying your concerns and managing the next steps.

5.6 How to Make a Mandatory Report to Child Protection

Whenever there are concerns that a child is in immediate danger the Police should be called on 000.

Under the CYFA, Mandatory Reports must be made to a 'protective intervenor'. Protective intervenors are defined in the CYFA as the Secretary of Child Protection (or their delegate) and all Police officers.

If you have contacted the Police, either as a result of Responding to an Emergency or Reporting to Police, then you have made your Mandatory Report.

If you have not contacted Police, you must report to Child Protection. You must do this by:

- a. during business hours (8:45am-5:00pm, Monday to Friday), telephoning the Child Protection intake service for the local government area where the child resides, listed [here](#).
- b. after hours, telephoning Child Protection on 13 12 78.

Reports to Child Protection cannot be made via the Child Protection website or email, as staff who monitor the Child Protection website are not delegated officers of the Child Protection Secretary.

You should provide as much of the following information as you can:

- a. details – the child's or young person's name, age and address
- b. indicators of harm – the reason for believing that the injury or behaviour is the result of abuse or neglect
- c. reason for reporting – the reason why the call is being made now
- d. safety assessment – assessment of immediate danger to the child or children. For example, information may be sought on the whereabouts of the alleged abuser or abusers
- e. description – description of the injury or behaviour observed
- f. child's whereabouts – the current whereabouts of the child or young person
- g. other services – your knowledge of other services involved with the family
- h. family information – any other information about the family
- i. cultural characteristics – any specific cultural or other details that will help to care for the child, for example, cultural origins, interpreter, or disability needs

5.7 What happens after a report is made?

After receiving a report, 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.

If the matter progresses to investigation, Child Protection officers will observe and speak with the child or young person and their parents. They may also speak with relevant professionals, information holders and other significant people in the child's life who can inform the investigation or provide information to assist Child Protection to assess if the child is in need of protection. In circumstances involving physical and sexual abuse and serious neglect, investigations may be conducted jointly with Victoria Police.

If the matter does not progress to investigation, Child Protection may provide advice to the Mandatory Reporter, refer the family to support services in the community (such as Child FIRST or The Orange Door), or they may decide to take no further action.

In most cases, Child Protection will inform the reporter of the outcome of the report.

For more information, refer to Child Protection's [Mandatory Reporting to child protection in Victoria - frequently asked questions](#).

5.8 Mandatory Reporting to Child Protection and Other Reporting Obligations

Although a reasonable belief that a child aged under 16 has been sexually abused would normally require Reporting to Police, you do not need to report to Police if you make a Mandatory Report to Child Protection. This is because Child Protection notifies the Police of all allegations of child sexual abuse that it receives. However, you may still need to make a Report to Police if you have further information. You will also need to report this internally.

A reasonable belief that a child has been physically or sexually abused by a staff member, Volunteer or Contractor must be reported to Child Protection as a Mandatory Reporter as well as both internally and externally in accordance with Reportable Conduct. If the staff member is a teacher, The College must also report to the Victorian Institute of Teaching.

Overseas Students

The College must notify the VRQA if the alleged physical or sexual abuse relates to an overseas student and The College 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.

6. Reporting to Police

The obligation to report sexual offences against children to Police applies to anyone aged 18 years or over, including all Staff, Volunteers, Contractors and students aged 18 and over.

6.1 What must be reported?

Any person aged 18 or over (whether in Victoria or elsewhere) who forms a reasonable belief that a sexual offence has been committed by an adult (a person aged 18 years or over) against a child aged under 16 must report that information to the Police.

Sexual offences committed against a student aged under 16 by another student who is aged under 18 are not legally required to be reported under the Failure to Disclose offence. However, this must still be reported to the Police under other obligations.

If a report about the sexual offence has been made to Department of Families, Fairness and Housing (Child Protection) in accordance with Mandatory Reporting to Child Protection, an additional report to the Police will not usually be required unless further information is obtained.

For example:

- a. the criminal offence of grooming a child could occur "in Victoria" if a person who is in Victoria grooms a child who is located elsewhere, or if a child who is in Victoria is groomed by a perpetrator who is located elsewhere
- b. a sexual offence against a child could occur in Victoria, but an adult could form a reasonable belief about it when they are themselves located elsewhere (for example, by receiving a disclosure while they are on an interstate camp or excursion)

6.2 Reasonable Excuse for Not Reporting to Police

You will not need to report to the Police if you have a reasonable excuse for not doing so. Under the Crimes Act, a reasonable excuse includes:

- a. fear for safety: you fear on reasonable grounds for the safety of any person (other than the offender), and do not disclose due to those circumstances

- b. victim requests confidentiality: a victim, who is now aged 16 or over, told you about the sexual offence (directly or indirectly) and the victim requested that the information not be disclosed. This excuse does not apply if the victim has an intellectual disability and does not have the capacity to make an informed decision about confidentiality
- c. information already disclosed: you believe on reasonable grounds that the information has already been disclosed to the Police (for example if you or someone else has made a Mandatory Report to Child Protection) and you have no further information to add

Unacceptable reasons for not reporting include if you are concerned about the interests (including the reputation, legal liability, or financial status) of:

- a. the person involved in the sexual offence
- b. any organisation (such as The College)

7. Related Documents

[Statement of Commitment to Child Safety](#)

[Child Safety Code of Conduct](#)

[Student Code of Conduct Guideline](#)

[Student Bullying and Harassment Policy](#)

[Equal Opportunity and Inclusivity student Policy](#)

[Student Wellbeing Policy](#)

[Child Protection, Environment and Safety Policy](#)

[Staff and Student Professional Boundaries](#)

[Responding to and Reporting Child Safety Incident Concerns](#)

[EL & OSHC 2.9 Delivery and Collection of Children Policy](#)

[EL & OSHC 5.1 Interactions with children Policy](#)

[EL & OSHC 2.6 Child Safety Environment Policy](#)

[EL & OSHC 2.24 Supervision of Children Policy](#)

[Child Safety & Wellbeing 2022](#)

[Child Info Sharing 2022](#)

[Who Can I ask For help Poster JS](#)

[Who Can I ask For Help Poster MS](#)

[Who Can I ask For Help Poster SS](#)