



Castlemaine Steiner School and Kindergarten

Prevention of child sexual abuse policy

1. Relevant legislation

Crimes Act 1958 (Vic)

Crimes Amendment (Protection of Children) Act 2014 (Vic)

2. Related School policies

Mandatory Reporting of child sexual abuse

3. Purpose

The purpose of this document is to provide clear guidelines to employees, contractors and other visitors ('individuals') to the School regarding expectations when interacting with students and other children.

Castlemaine Steiner School and Kindergarten is committed to fulfilling its duty of care to all students and specifically students under the age of 16 in relation to the *Crimes Act 1958 (Vic)*, which was amended in 2014 to include offences of: (i) failing to disclose a sexual offence; (ii) grooming for sexual conduct; and (iii) failing to protect a child from sexual offence. This policy is underpinned by the *Crimes Act 1958 (Vic)*.

4. Application

Through the application of this policy, the School aims to:

- Ensure all reasonable steps are taken so that students are safe from abuse, including sexual abuse, and they feel safe at all times.
- Enable School Board members, all persons in positions of authority, care or supervision, all employees of the School to understand their role and responsibility in protecting the safety and wellbeing of children and young people under the age of 16 in accordance with the Crimes Act 1958 (Vic).
- Ensure all members of the School community aged 18 and over understand their reporting obligations in accordance with the Crimes Amendment (Protection of Children) Act 2014 (Vic).
- Provide clear guidelines to employees, contractors and other visitors ('individuals') to the School regarding expectations when interacting with students and other children.

Instruction

5. General guidance

This policy requires individuals to demonstrate a duty of care to take all reasonable steps to prevent incidents which may expose a student or another child to harm (in accordance with Mandatory Reporting Guidelines).

The School recognises that children and students have a right to be treated with dignity and respect, free from emotional and physical danger, abuse (including sexual abuse) and neglect.

In addition, the policy is intended to protect the reputation and wellbeing of supervising adults from allegations or misunderstandings. It applies to both appropriate workplace behaviour and behaviour expected when outside the workplace while in the employment of the School.

If further explanation of any of the instructions provided here is required, it should be sought from the Principal.

As an overarching principle, the Principal must be kept informed of any issue relating to potential or actual risk to the protection of students and children (in circumstances where it impacts upon the School) and / or reputational risk to supervising adults or the School at all times

6. Responsibilities

6.1. The Principal (or equivalent role) will

- Ensure students aged 18 and over, School Board members and the School parent community are aware of the *Crimes Act* 1958 (Vic) and have access to a copy of this policy;
- Ensure that all adults within the School community are aware of their obligation to report suspected sexual abuse of a child under 16 years to the police; and
- Provide support for staff in undertaking their responsibility in this area.

All staff members will:

6.2. All staff members will

- Be aware of the School's Child Protection Policy (this policy) and the related Mandatory Reporting Policy;
- Report any reasonable belief of child abuse (including sexual abuse) to the police or fulfil their obligation as Mandatory Notifiers (if applicable); and
- Provide an educational environment that is supportive of all children's emotional and physical safety.

6.3. All parents/caregivers/volunteers over 18 will

- Be aware of the School's Child Protection Policy (this policy) and the related Mandatory Reporting Policy; and
- Understand their obligations to report reasonable belief of child sexual abuse to the police.

7. Protection of Children against sexual abuse: specific offences

7.1. Failure to disclose

Reporting child sexual abuse is a community-wide responsibility. The failure to disclose offence imposes a clear legal duty upon all adults aged 18 and over to report information about child sexual abuse to police.

Definition

Under section 327 of the *Crimes Act*, any person (including any staff member) of or over the age of 18 years who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child under 16 years of age must disclose that information to police, as soon as it is practicable to do so. Failure to disclose the information to police is a criminal offence, except in limited circumstances such as where the information has already been reported to DHS Child Protection.

The offence applies to **all adults** in Victoria, not just professionals who work with children.

Forming a 'reasonable belief'

A 'reasonable belief' or a 'belief on reasonable grounds' is not the same as having proof but is more than mere rumour or speculation. 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 if:

- 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 professional to form a belief that the child has been sexually abused or is likely to be abused; and
- signs of abuse lead to a belief that the child has been sexually abused.

Procedure

Procedure

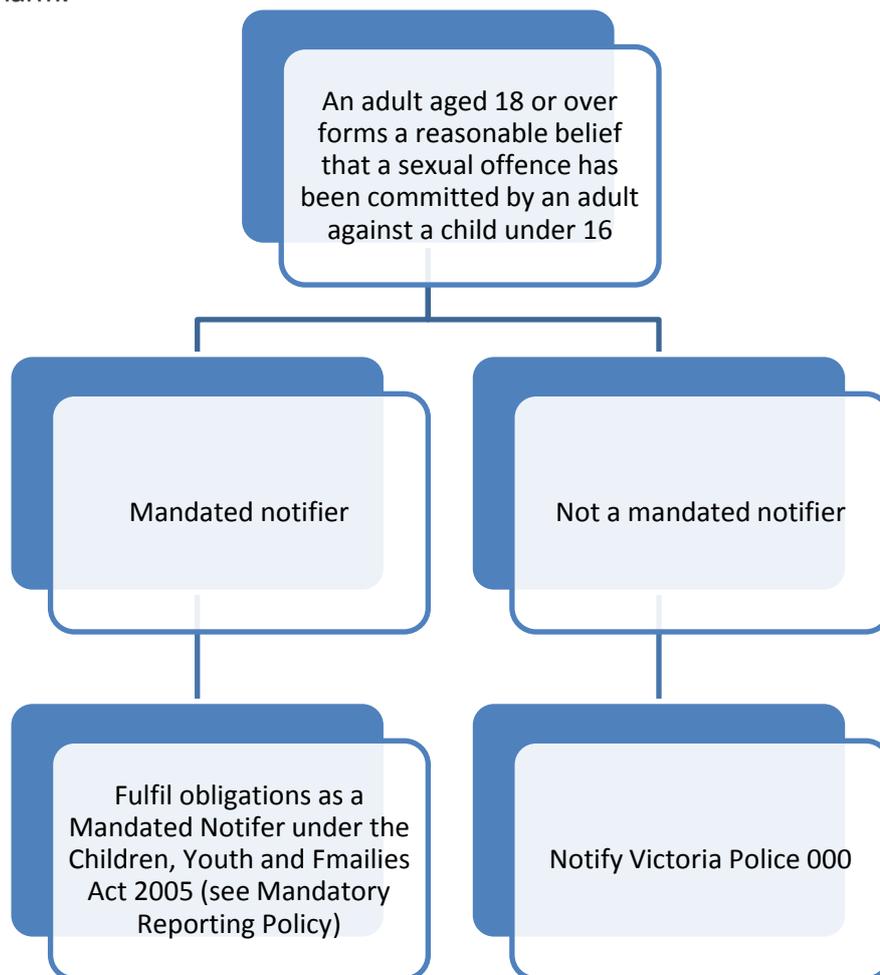
Any adult aged 18 or over who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child under 16 must report that information to Victoria Police by dialling 000 (or otherwise to a Member of the police force of Victoria).

An adult will not be guilty of an offence if they do not report 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 Department of Human Services (DHS) 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.



Mandatory reporting involves informing the Department of Human Services of conduct involving a child 17 years and under that would constitute abuse (physical, emotional or sexual), neglect or exploitation. In the case of students who are over the age of 18, the required contact point will be Police.

The protection of children is regulated by the *Children, Youth and Families Act* 2005. Section 182 specifies that a person registered under the *Education Training and Reform Act* 2006 or who has been granted permission to teach under that act is designated as a *mandatory reporter*

As such, it is an offence on behalf of an individual teacher and / or the School to fail to notify the Department of Human Services (the Department) of concerns if they have formed the belief on reasonable grounds that:

- A child has suffered or is likely to suffer, significant harm as a result of physical injury and the child's parents have not protected, or are unlikely to protect, the child from harm of that type;
- A child has suffered, or is likely to suffer, significant hardship as a result of sexual abuse and the child's parents have not protected, or are unlikely to protect the child from harm of that type.

The sexual conduct must constitute an indictable sexual offence. This includes offences such as sexual penetration of a child, indecent assault and indecent act in the presence of a child. It does not include summary offences, such as indecent behaviour in public.

If the individual teacher or the School notifies the Department in good faith, based on having reasonable grounds for forming the view that the child is at risk, it will not be considered unprofessional conduct by the teacher or the School.

In every case, where it may be necessary to report a matter to the Department or Police, the Principal (or equivalent role) must also be notified as a matter of urgency; he will assist the teacher or other employee in making the report and ensure that they are provided with support.

7.2. Grooming

Section 49B of the Crimes Act relates to the offence of "Grooming for sexual conduct with a child under the age of 16 years." The offence targets predatory conduct designed to facilitate later sexual activity. The offence can be committed by any person aged 18 years or over.

Definition

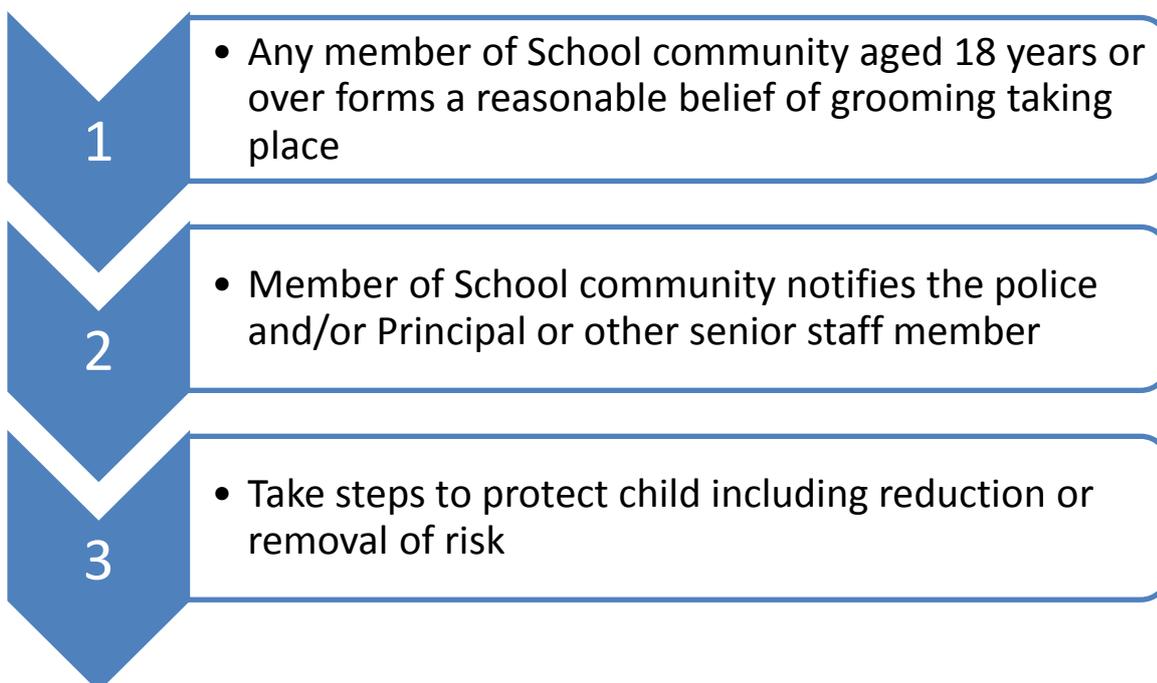
The offence of grooming concerns predatory conduct undertaken to prepare a child for sexual activity at a later time. The offence applies where an adult communicates, by words or conduct, with a child under the age of 16 years or with a person who has care, supervision or authority for the child with the intention of facilitating the child's engagement in or involvement in sexual conduct, whether with the groomer or another adult.

Grooming does not necessarily involve any sexual activity or even discussion of sexual activity – for example, it may only involve establishing a relationship with the child, parent or carer for the purpose of facilitating sexual activity at a later time.

Procedure

Should any member of the School community aged 18 and over become aware of grooming behaviour by a person aged 18 years or over, they should notify the police and/or the Principal (or equivalent role) immediately.

It is the responsibility of the Principal (or equivalent role) and/or others associated with the School with authority or responsibility, to take action upon becoming aware of grooming behaviour to protect (so as to reduce or remove a substantial risk) in accordance with the 'failure to protect' offence (see below).



7.3. Failure to protect offence

Section 49C of the Crimes Act states that it is a criminal offence in Victoria for a person in authority to fail to protect a child under the age of 16 from criminal sexual abuse. This applies where there is substantial risk that a child under the care, supervision or authority of an organisation (including schools) will become a victim of a sexual offence by an adult associated with the School. The person in a position of authority may be guilty of an offence if they know of the risk of abuse and have the power or responsibility to reduce or remove the risk, but negligently fail to do so.

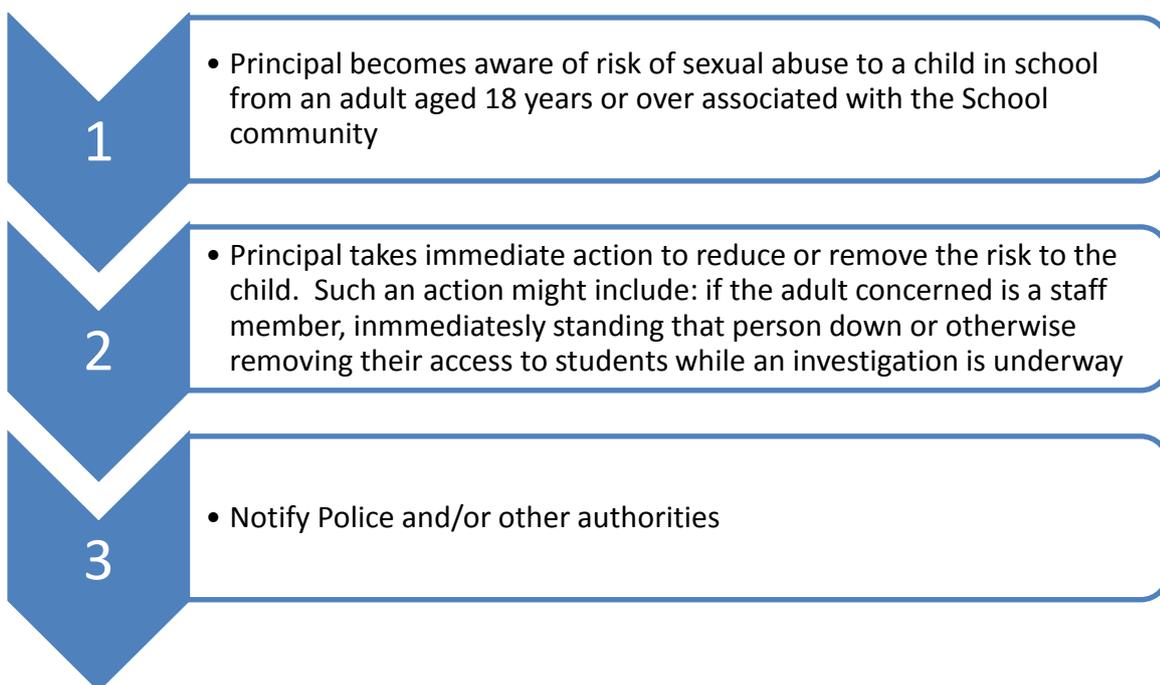
Definition

If a person associated with the School who by reason of their position has the power or responsibility to reduce or remove a substantial risk that a child will become a victim of a sexual offence committed by an adult associated with the School, they must not negligently fail to reduce or remove the risk. That is, as soon as a person in authority becomes aware of a risk of child sexual abuse, they will be under a duty to take steps to remove or reduce that risk.

A person who has the power or responsibility to reduce or remove a risk will include the Principal (or equivalent role), School Board members and senior staff, as well as teachers by virtue of their responsibilities. For the avoidance of doubt, any member of staff or person associated with the School who knows of a substantial risk that a child will become a victim of a sexual offence should notify the Principal (or equivalent role) as soon as is reasonably practicable.

Procedure

When aware of a substantial risk of criminal sexual abuse to a child in the School from an adult aged 18 or over associated with the School, the Principal (or equivalent role) will act to reduce or remove the risk. The person will be removed from any child-related role pending an investigation.



8. General Expectations

It is expected that every employee will:

- Take all reasonable steps to avoid placing themselves, students or other children in circumstances which may reasonably be considered a risk to their safety or wellbeing;

- Consider what they do and say in terms of the potential for (in interacting with a student or child) misunderstanding, allegations, misinterpretation or innuendo;
- Avoid being alone (without reasonable visibility from outside the room) with a student or child;
- Comply fully with preventative supervisory practices (as set out below);
- Take an active role to ensure the protection of students and other children on Castlemaine Steiner School and Kindergarten premises and elsewhere;
- Report any conduct or event which poses a risk to the safety and wellbeing of a student, child, supervising adult or the School the Principal (or equivalent role) without delay;
- Maintain strict confidentiality of information relating to events or individuals in regard to allegations of unwelcome or inappropriate conduct (except to report it as required to managers and external authorities);
- Fully cooperate with any investigation, formal or informal, which occurs as a consequence of allegations or misunderstandings regarding conduct being brought to the School's attention;
- Refrain from activities, conduct or communication involving students or children that would reasonably be seen to have a negative impact on the reputation of the School or employees or students of the School.

8.1. Professional Conduct

It is expected that any person interacting with children and students at Castlemaine Steiner School and Kindergarten will comply with the School's expectations in terms of professional conduct. In addition, teaching staff are expected to adhere to the principles of the Teaching Profession Code of Conduct issued by the Victorian Institute of Teaching

Expected conduct in respect to the protection of students and other children includes:

- Staff condoning and developing only appropriate relationships and conduct toward students and other children;
- Staff complying with the above instruction whether at School or not;
- Staff maintaining appropriate relationships and interactions with parents, guardians and caregivers, focused on the pastoral and educational interests of the student;
- Staff accepting that their behaviour out of work hours may impact on their professional standing, the reputation of the School, their ability to fulfil the inherent requirements of their contract and subsequently to be able to work at Castlemaine Steiner School and Kindergarten;
- Staff compliance with legal requirements (and the School's directions) in respect of matters such as mandatory reporting, privacy, occupational health and safety, negligence, discrimination, harassment and vilification.

These expectations also apply outside working hours to the extent that the conduct or consequences of the conduct would have an impact on the staff member's ability to fulfil the inherent requirements of their role.

If a staff member is charged by Police or is under investigation for matters regarding the protection of students and children, the School will consider the nature of their normal duties to determine whether it is possible for the individual to fulfil the inherent requirements of their normal role while such matters are dealt with.

If their normal duties would involve interaction with Castlemaine Steiner School and Kindergarten students the School reserves the right to suspend or exclude the staff member from the workplace while the matter is resolved.

If this were to occur, the School would take all reasonable steps to protect the rights and reputation of the individual and to provide access to external and internal support for the individual's wellbeing.

Any steps of this nature would be at the discretion of the Principal (or equivalent role).

In cases where allegations against a staff member are found to have no merit, the staff member shall be protected from potential victimisation as a consequence of any investigation.

8.2. Conduct Expectations in terms of Student Protection

In terms of the conduct expected of employees (in addition to matters specified elsewhere in this policy), staff must:

- conduct themselves at all times in a manner which upholds the values and enhances the reputation of Castlemaine Steiner School and Kindergarten; this expectation extends to social, sporting and other outside activities at which the employee may be associated with the School;
- comply with reasonable and lawful instructions in regard to the supervision of students and other children;
- consider their conduct (and possible interpretations of that behaviour) and the conduct of other staff around them in terms of obligations regarding student protection;
- follow preventative supervisory practices when interacting with students and other children (as set out below);
- conduct themselves in a lawful manner and consistent with the principles of 'mutual trust and confidence' underpinning their employment relationship with Castlemaine Steiner School;
- refrain from social visits to a student in his home or outside School unless the visit relates to School business;
- ensure that a parent or guardian of a student (under 18 years of age) is present when a staff member visits the home on School business or for any other reason.

Note: Definition of a 'Student'

For the sake of clarity, a 'Student of Castlemaine Steiner School and Kindergarten' shall be considered to be a current student of Castlemaine Steiner School and Kindergarten until they withdraw from the School and are no longer enrolled. However it is also expected that employees of Castlemaine Steiner School and Kindergarten will not socialise or visit at home past students of the School who are younger than 18 years of age without the presence of a parent of the student.

9. Preventative Supervisory Practices

It is understood that academic, sporting and co-curricular aspects of an individual's work may bring them into situations where they may be in close or regular contact with students

and or other children, and may develop rapport or may have incidental contact with students outside the context of their duties at School.

It is expected that the following principles (based on the prevention of situations or events which might lead to allegations or misunderstandings between staff and students or other children) will be observed:

- Whenever required to be in a one to one situation with a student or child, the individual will ensure that the door is open or that another adult is in attendance;
- Whenever possible, individuals will avoid 'one to one' situations with students and children;
- Will only work within the scope of their professional expertise and the requirements of their position description;
- Will take a balanced and fair approach to managing relationships with students (no 'favourites' or special arrangements which might be construed to be inappropriate);
- Language and subject matter used in the presence of or in communicating with students and children will be appropriate;
- Behaviour (either observed or by the individual) that would constitute bullying or manipulation is not to be tolerated, trivialised or ignored;
- Behaviour which would constitute bullying or manipulation of students or other children does not occur (and could not be construed);
- Relationships and interactions are not overly familiar nor intimate;
- Attempts by students or other children to build relationships which would be inappropriately familiar or intimate are discouraged and must be reported to the Principal (or equivalent role).

10. Record Keeping and Independent Verification

The Business Manager will conduct a sample audit annually to ensure that all aspects of this policy are being adhered to across all target groups in the School Community. The audit report will be presented to the Governance and Risk Committee on an annual basis.

11. Breach

Breach of this policy shall be considered either misconduct, serious misconduct or gross misconduct (depending on the circumstances) and may result in disciplinary action (see Disciplinary Policy for further definitions) which may lead to termination of employment and / or reporting to relevant authorities.

12. Related Policies

Mandatory Reporting Policy

Resources **Resources**

[Department of Justice: Betrayal of Trust Factsheet: The new 'failure to disclose' offence.](#)

[Department of Justice: Betrayal of Trust Factsheet: The new 'grooming' offence.](#)

[Department of Justice: Betrayal of Trust Factsheet: The new 'failure to protect' offence.](#)

Version	Date	Author	Nature of Amendment
1.0	April 2016	J.Staley	New drafting to split previous policy "Prevention of Paedophilia and Mandatory Reporting of Child Sexual Abuse"

13.Approval

Management Transition Chair

On behalf of the Management Transition Sub-Committee



Date: 26 April, 2016