



Policy Information		Mandatory Reporting								
Policy Number	1030	Date Drafted		July 2005			Date Implemented		July 2005	
Revision Dates	3/15	7/15	5/17	6/21	3/22					
Next Revision Date	5/24									

### Rationale

All students have a right to be safe and as a result, be free to study, interact and develop to their potential. It is, therefore, incumbent on the Principal and teaching staff to engage in their legal and moral responsibility. This means they are to respond to serious incidences involving abuse and neglect of any student with whom they have contact. They are mandated to report instances of physical, emotional and sexual abuse or neglect.

The staff at Grace Christian College is committed to providing a safe environment for students and to deal with reports of alleged abuse promptly and appropriately. Protecting students against all forms of child abuse is the shared responsibility of the whole college community as well as the wider community. However, colleges have a key responsibility in the prevention and reporting of student abuse and neglect under the Children, Youth and Families Act 2005.

### Purpose

The purpose of this policy is to protect all students from all forms of child abuse and neglect. This is done by ensuring staff:

1. Understand their mandatory reporting responsibilities and duty of care obligations in protecting students from all forms of child abuse including physical and sexual abuse
2. Know how to make a mandatory report to the Department of Families, Fairness and Housing (DFFH) Child Protection when they have formed a belief on reasonable grounds that a student or young person is at risk of significant harm
3. Are able to identify and be aware of the indicators of abuse.
  - See Appendix 1: Flowchart: *A step-by-step guide to making a report to Child Protection or Child FIRST.*

This policy provides the requirements and procedures in relation to student protection at Grace Christian College. It relates to suspected or reported cases of abuse against students by staff, parents, other students, or by other persons outside the college. Such abuse can also constitute sexual harassment. Therefore, this policy is to be read in conjunction with the college's Sexual Harassment Policy.

This policy is consistent with the following Mission of the College:

- To create safe relationships through being just and fair according to Biblical principles.
- To be compassionate and merciful as God is to us.
- To develop curriculum which explicitly addresses relational issues and empowers students to speak out or seek help where abuse is occurring.

### Guidelines

- **Mandated Reporters**

- Mandatory reporting refers to the legal requirement of certain groups of people to report a reasonable belief of child physical or sexual abuse to child protection authorities. The following groups of people are Mandated Reporters in Victoria:
  - registered medical practitioners
  - nurses
  - midwives
  - registered teachers and early childhood teachers
  - school principals
  - school counsellors

- police officers
  - out of home care workers (excluding voluntary foster and kinship carers)
  - early childhood workers
  - youth justice workers
  - registered psychologists
  - people in religious ministry.
- All staff at GCC are required to abide by the mandatory notification requirements as set out in the Child, Youth and Families Act 2005. This means:
    - All staff are to report cases of suspected abuse to the Principal
    - All mandated staff must report cases of suspected abuse to Child Protection as well as the Principal
    - All mandated staff must report cases of suspected abuse to Child Protection even if that belief is not shared by the Principal
    - Mandated staff may make a report on behalf of another teacher or mandated reporter. The teacher must be satisfied that the report is made promptly and that all grounds for forming the belief have been reported.
    - Non-mandated staff must report their concerns to the Class Teacher or the Principal.
    - The Principal and/or Deputy Principal are to be advised by staff if they believe a notification to the Department of Families, Fairness and Housing is required
    - Staff members will inform the Principal and/or Deputy Principal of the concerns that have led them to form a reasonable belief that abuse has occurred or is likely to occur
    - Reports to Child Protection are to be made in a timely manner
      - It is preferable that the notification be made on the same day when a student discloses sexual or physical abuse
  - The college will ensure that regular and appropriate training will take place to ensure that all staff [whether mandated or non mandated] understand their obligations to notify under the CFYA
  - Accurate documentation will be kept concerning reports made about possible student abuse, details of notification, actions within the college resulting from notification, and other details related to reported cases of abuse.
  - Where risk is suspected, teaching staff are to:
    - Complete and forward the form, Mandatory Report.<sup>1</sup> The Mandatory Report to the Principal includes a checklist of questions that are a guide to help the staff member and the Principal come to a sound conclusion. All information is declared to be confidential so as to protect all parties concerned including the staff member who reports the incident, or advise orally
    - In the case where staff suspect the Principal is the perpetrator, they are to complete and forward the form, Mandatory Report, to the Board Chairman.
  - The Principal and all teaching staff are mandated to notify Child Protection if they form a belief that a student has suffered or is likely to suffer physical or sexual abuse.
  - Each occasion of abuse is to be reported to Child Protection based on reasonable grounds of belief
  - In the case of international students, the Principal may notify the International Education Division of the Department on (03) 9637 2990 to ensure that appropriate support is arranged for the student. This is not mandatory for non-government colleges.
  - In the case of Koorie students, the Principal may notify the Regional Office to ensure that the regional Koorie Support Officer can arrange appropriate support for the student. This is not mandatory for non-government colleges.

### **Conditions of Compliance**

Child abuse as defined in the Education and Training Reform Act 2006 means all forms of child abuse including any act committed against a child involving:

- a sexual offence or an offence committed under section 49M(1) of the Crimes Act 1958 ;
- the infliction on a child of physical violence or serious emotional or psychological harm;
- and the the serious neglect of a child.

In Victoria, a child or young person is a person under seventeen years of age.

Under sections 28 and 31 of the Children, Youth and Families Act 2005 (Vic.), any person may make a report to the Department of Families, Fairness and Housing or to family services such as Child FIRST and Child Protection. However, section 182 of the Act lists those professionals who are obliged to notify protective services if they form a belief, based on reasonable grounds, that a child has suffered, or is likely to suffer significant harm as a result of physical

injury or sexual abuse, or if the child's parents or guardians have not protected or are unlikely to protect the child from harm of that type. Professionals who are legally required to report child physical and sexual abuse are registered principals and teachers (including pre-service and visiting teachers).<sup>2</sup>

#### *Principles*

- In every action related to student abuse the best interest of the student is of paramount consideration
- The value of the family unit for parental education of students is to be respected but not to the detriment of the well being of the student
- In proceeding to take action under the relevant Acts, college staff must satisfy themselves that they are acting on reasonable grounds
- All persons involved in situations where abuse is suspected or disclosed are to be treated with sensitivity, dignity and respect
- Staff who have access to information regarding suspected or disclosed student abuse are to observe strict confidentiality in relation to the entire matter
- The Principal and staff members who have breached this policy will be summarily dismissed from employment.
- This policy and procedures will be re-examined on a systematic basis each year.

#### *Types of Student Abuse*

Student abuse can have a significant effect on a student's physical or emotional health, development and wellbeing. The younger a student is the more vulnerable they are and the more serious the consequences are likely to be. Types of student abuse include:

- Physical
- Emotional
- Neglect
- Medical neglect
- Sexual Abuse
- Family Violence
- Human Trafficking
- Female Genital Mutilation
- Risk-taking Behaviour.
- Risk to Unborn Student
- Student or Young Person Exhibiting Sexually-Abusive Behaviours<sup>3</sup>

A child [Under 17] is generally deemed to have been abused or neglected when he or she has suffered physical abuse, psychological or emotional abuse, sexual abuse, or neglect.

#### **What is Reportable?**

Outcomes or actions from which children are in need of protection include:

- Neglect
- Physical abuse
- Sexual abuse
- Domestic violence
- Psychological harm.

These are all reportable offences.

#### **Responsibilities of Mandated Reporters:<sup>4</sup>**

- Mandated reporters who believe, in good faith, that a child is in need of protection, must make a report to Child Protection without delay. Seeking assistance or advice should not hold-up the reporting process. Furthermore, attempts are to be made to file the report on the same day as the belief is formed.
- Mandated reporters who have some general concerns for the wellbeing of the child but have assessed that the child is not at immediate risk of harm, can make a referral to Child FIRST.
- Mandated reporters are required to notify Department of Families, Fairness and Housing each time they become aware of any further reasonable grounds for their belief.

## Mandatory Reporting

- Mandated reporters do not have to be able to prove that the child has been abused to notify The Department of Families, Fairness and Housing.
- College staff do not require the permission of parents, carers or guardians to make a report to Child Protection, nor are they required to tell parents, carers or guardians that they have done so. However, often it is going to be good practice and/or necessary to discuss any concerns prior to making a report a referral, and it would be normal to raise the possibility of making a report or referral during such discussions. Consent should not be sought if a belief is held that it will put the mandated reporter or the child at risk.
- It is the mandated reporters responsibility to report their belief. It is not the responsibility of their supervisor or principal.
- If the Principal does not share the belief of the mandated reporter that a student or young person is in need of protection, the mandated reporter must still notify The Department of Families, Fairness and Housing of their belief. However, it is recommended that mandated reporters inform the Principal that they have made a report.
- Only one mandated person needs to make a report if a group of mandated professional share the belief, based on reasonable grounds, that a student or young person is in need of protection from physical or sexual abuse. However, the group must be satisfied that the report is made promptly and that all of the reasonable grounds are included in the notification.
- Staff are not legally required to notify Child First or Child Protection if they form a reasonable belief that a child is in need of protection in their private life or when they are working in a capacity that is not directly related to the professional affiliation under which they are mandated, however such reports can be made voluntarily.
- Details of a mandatory report should remain confidential.
- Children can only be reported under the age of 17.

## Standards and Procedures

Staff are legally compelled to make a report to Child Protection if they form a belief on reasonable grounds that a student is in need of protection from physical injury (s. 162(c), CYFA) or sexual abuse (s. 162(d), CYFA).<sup>5</sup>

### *Student Interviews in Cases reported to DFFH*

In relation to reportable cases of abuse where DFFH has been notified, officers of DFFH and the VIC Police Service may wish to carry out student interviews, sometimes jointly, at college. No student will be interviewed at the College against the wishes of the student and it is the Principal's responsibility to inform the student of this.

At the commencement of the interview, the Principal should ask the investigating officers to explain to the student, in the presence of the Principal, the purpose of the interview and their role. The Principal will inform the student of his or her right to choose a supportive adult to be present at the interview. DFFH or Police Officers are responsible for communicating with parents about any matters related to an interview. If the student nominates a person, the interview must not commence until that person has arrived. What takes place in the interview becomes part of the investigation and must remain confidential.

Except in cases that involve a member of the family, it is expected that a parent of the student concerned will be present at any interview with the student.

## Procedures

Staff are to follow the procedures outlined in the *DEECD Child Protection - Mandatory Reporting Policy and A Step-by Step Guide to Making a Report to Child Protection or ChildFIRST* [See Appendix 1]

## When to Report<sup>6</sup>

Type of Reporting	By Whom	To Whom
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## Mandatory Reporting

<p><i>Mandatory Reporting - DFFH Child Protection</i></p> <p>Mandatory reporters must make a report as soon as practicable if, in the course of practising their profession or carrying out their duties, they form a belief on reasonable grounds that a child or young person is in need of protection, as a result of physical injury or sexual abuse, and the child's parents are unable or unwilling to protect the child.</p>	<p><i>Mandatory reporters</i></p> <ul style="list-style-type: none"> <li>• Teachers registered to teach or who have permission to teach pursuant to the <i>Education and Training Reform Act 2006 (Vic)</i></li> <li>• Principals of government and non-government colleges</li> <li>• Registered medical practitioners</li> <li>• Nurses</li> <li>• All members of the police force</li> </ul>	<p>DFFH Child Protection</p>
<p><i>Child in need of protection</i></p> <p>Any person may make a report if they believe on reasonable grounds that a child is in need of protection for any of the following reasons:</p> <ul style="list-style-type: none"> <li>• The child has been abandoned and there is no other suitable person who is willing and able to care for the child.</li> <li>• The child's parents are dead or incapacitated and there is no other suitable person who is willing and able to care for the child.</li> <li>• The child has suffered or is likely to suffer significant harm as a result of physical injury and the parents are unable or unwilling to protect the child.</li> <li>• The child has suffered or is likely to suffer significant harm as a result of sexual abuse and their parents are unable or unwilling to protect the child.</li> <li>• The child has suffered or is likely to suffer emotional or psychological harm and the parents are unable or unwilling to protect the child.</li> <li>• The child's physical development or health has been, or is likely to be significantly harmed and the parents are unable or unwilling to provide basic care, or effective medical or other remedial care .</li> </ul>	<p>Any person</p>	<p>DFFH Child Protection Victoria Police Phone (000)</p>
<p><i>Child in need of therapeutic treatment</i></p> <p>Any person may make a report if they believe on reasonable grounds that a child who is 10 years of age or over, but under 15 years of age, is in need of therapeutic treatment because he or she has exhibited sexually-abusive behaviours.</p>	<p>Any person</p>	<p>DFFH Child Protection</p>
<p><i>Significant concerns about wellbeing of a child</i></p> <p>Any person may make a report if they have significant concerns for the wellbeing of a child.</p>	<p>Any person</p>	<p>DFFH Child Protection Child FIRST</p>

<p><i>Reasonable belief that a sexual offence has been committed by an adult against a child under 16.</i></p> <p>Any adult 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 police. You will not be guilty of an offence if you do not report in the following circumstances:</p> <ul style="list-style-type: none"> <li>• 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</li> <li>• The victim has disclosed the information in confidence in the course of a therapeutic relationship with you as a registered medical practitioner or counsellor.</li> <li>• The victim turned 16 years of age before 27 October 2014.</li> </ul> <p>Reasonable excuses for failing to comply with the requirement include:</p> <ul style="list-style-type: none"> <li>• A reasonable belief that the information has already been reported to police or DFFH Child Protection disclosing all of the information</li> <li>• A reasonable fear that the disclosure will place someone (other than the alleged perpetrator) at risk of harm</li> </ul>	<p>Any person aged 18 or over</p>	<p>Victoria Police Phone (000)</p>
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## Making a Mandatory Report [DET Student Protection - Mandatory Reporting]

Who	Details
<p><b>Mandated staff:</b></p> <ul style="list-style-type: none"> <li>• Principals</li> <li>• All teachers</li> <li>• School Counsellors</li> <li>• College nurses</li> </ul>	Must report to DFFH Child Protection as soon as practicable after forming a belief on reasonable grounds that a student or young person is at risk of significant harm, and the student's parents are unable or unwilling to protect the student.
<p><b>Non-mandated college staff</b> (section 183, CYFA 2005)</p>	<ul style="list-style-type: none"> <li>• Any person who believes on reasonable grounds that a student is in need of protection may make a protective report regarding their concerns to DFFH Child Protection.</li> <li>• College staff who form a belief on reasonable grounds should inform the Principal of any concerns.</li> </ul>

<p><b>All college staff:</b> Forming a belief on reasonable grounds</p>	<p>A belief is formed when a person has:</p> <ul style="list-style-type: none"> <li>• More than a suspicion</li> <li>• Is more likely to believe rather than disbelieve that a student is at risk.</li> </ul> <p>Note: If a staff member has unresolved suspicions that do not lead them to form a belief, they should initially consult with the Principal, a member of the college's leadership team or DFFH Child Protection. A referral to Student First may also be appropriate to engage support for the family.</p> <p>Reasonable grounds are established when:</p> <ul style="list-style-type: none"> <li>• A student or young person states that they have been physically or sexually abused</li> <li>• A student or young person states that they know someone who has been physically or sexually abused (sometimes the student may be talking about themselves)</li> <li>• Someone who knows the student or young person states that the student or young person has been physically or sexually abused.</li> <li>• A student shows signs of being physically or sexually abused</li> <li>• The staff member is aware of persistent family violence or parental substance misuse, psychiatric illness or intellectual disability that is impacting on the student and young person's safety, stability or development</li> <li>• The staff member observes signs or indicators of abuse, including non-accidental or unexplained injury, persistent neglect, poor care or lack of appropriate supervision</li> <li>• A student's actions or behaviour may place them at risk of significant harm and the student's parents are unwilling or unable to protect the student.</li> </ul>
<p>College staff seeking consultation</p>	<p>Consult with:</p> <ul style="list-style-type: none"> <li>• College leadership or specialist staff</li> <li>• Network support staff (Student Support Services)</li> <li>• Regional wellbeing staff</li> <li>• DFFH Student Protection</li> <li>• Student Critical Incident Advisory Unit on (03) 9637-2934 or (03) 9637-2487.</li> <li>• See: <i>Flowchart: A step-by-step guide to making a report to Student Protection or Student FIRST</i> within Resources below</li> </ul>
<p>Teacher &amp; Principal actions</p>	<p>Teachers should:</p> <ul style="list-style-type: none"> <li>• Only gather enough information to form the belief</li> <li>• Use open ended questions when talking to the student.</li> </ul> <p>Teachers should not:</p> <ul style="list-style-type: none"> <li>• Conduct their own investigation</li> <li>• Ask leading questions that suggest the abuse took place</li> <li>• Interview witnesses</li> <li>• Take statements</li> <li>• Collect evidence</li> <li>• Conduct a physical examination.</li> </ul> <p>College staff should keep comprehensive, chronologically ordered notes that describe the source of their concerns, e.g. from obvious injuries, behaviours or comments made outlining related events, actions taken and further considerations determine the need for help. Notes should also reflect who the staff member has been in contact with.</p>

Information required when making a report to Child Protection	<p>The following information is required to make the report:</p> <ul style="list-style-type: none"> <li>• Name of family and student</li> <li>• Addresses, language spoken and student's date of birth</li> <li>• Factual and specific reason for concern</li> <li>• The reporter's involvement with the family</li> <li>• Any other people or agencies involved</li> <li>• Concerns about a student protection workers safety in visiting the family</li> <li>• Best time to find the parents/guardians at home</li> <li>• If the family knows the report is being made.</li> </ul> <p><b>Note:</b> An inability to provide all of this information should not delay the making of the report. Further information can be provided after the initial report is made.</p>
Professional Protection for Reporters	<p>Teachers and principals making mandatory reports:</p> <ul style="list-style-type: none"> <li>• Are protected against legal, professional and civil actions by the CYFA as long as they are acting in good faith or for the best interests of the student</li> <li>• Cannot be held to have acted unprofessionally.</li> </ul>
Confidentiality of identity	<p>Information about the identity of a person making a report to Child Protection must be kept confidential unless the reporter consents to it being disclosed.</p>
Reports involving Koorie students	<p>Where any report to the DFFH, Child Protection involves a Koorie student, the Principal must advise the Regional Office. The Regional Office, with the regional Koorie support officer, ensures support is arranged.</p>
Information Sharing	<p>Teachers and principals making reports or providing information to Child Protection, Child FIRST and Victoria Police Sexual Offences and Student Abuse Investigation Teams (SOCIT) are specifically protected against legal, professional and civil actions by the CYFA provided they are "acting in good faith" in the interests of the student.</p> <p>College staff are allowed to share information with Child Protection that may help them to make an initial assessment about a student. Any information that is relevant to the protection or development of a student when Child Protection is investigating a report, or during subsequent child protection intervention is allowed to be shared.</p> <p>See: Resources below</p>
Referral to Child First	<p>A referral to Child FIRST is the best way of connecting students, young people and their families to the services they need. College staff should make a referral to Child FIRST where college staff have concerns about a student's wellbeing but do not believe the student is in need of protection.</p> <p><b>Note:</b> <i>Protecting the safety and wellbeing of children and young people</i> provides full information for college staff about mandatory reporting, responsibilities of colleges and college staff and the roles and responsibilities of other agencies see: Resources below.</p>

**Investigation: This table describes responsibilities for external agencies during an investigation.**

<b>Who</b>	<b>Responsibility</b>
Department of Families, Fairness and Housing	Determine if the circumstances: <ul style="list-style-type: none"><li>• Warrant an investigation</li><li>• Should be referred to Child FIRST.</li></ul>
Police	Investigate the circumstances. <ul style="list-style-type: none"><li>• May ask teachers or principals for a statement relating to:<ul style="list-style-type: none"><li>• Mandatory reports</li><li>• Allegations of student sexual assault.</li></ul></li></ul>

**Implementation**

The Principal and Teaching Staff are responsible for the implementation of this policy.

**Resources**

Information regarding child protection and family support can be found on the The Department of Families, Fairness and Housing web site.

## **A Step-by Step Guide to Making a Report to Student Protection or ChildFIRST**

### **Protective Concerns**

You are concerned about a student because you have:

- Received a disclosure from a student about abuse or neglect
- Observed indicators of abuse or neglect
- Been made aware of possible harm via your involvement in the community external to your professional role

At all times remember to:

- Record your observations
- Follow appropriate protocols
- Consult notes and records
- Consult with appropriate colleagues if necessary
- Consult with other support agencies if necessary

### **Step 1. Responding to Concerns**

1. If your concern relates to a student in need of immediate protection; or you have formed a belief that a student is at significant risk of harm<sup>7</sup>.

#### **Go to Step 4**

2. If you have significant concerns that a student and their family need a referral to ChildFIRST for family services.

#### **Go to Step 3**

3. In all other situations

#### **Go to Step 2**

### **Step 2. Forming a Belief on Reasonable Grounds**

1. Consider the level of immediate danger to the student. Ask yourself:

[a] Have I formed a belief that the student has suffered or is at risk of suffering significant harm?

**YES/NO**

And

[b] Am I in doubt about the student's safety and the parent's ability to protect the student?

**YES/NO**

2. If you answered yes to [a] and [b]

#### **Go to Step 4**

3. If you have significant concerns that a student and their family need a referral to ChildFIRST for family services

#### **Go to Step 3**

### **Step 3. Student Wellbeing Referral**

1. Contact your local ChildFIRST provider

2. Have notes ready with your observations and student and family details.

### **Step 4. Make a Report to Student Protection**

#### **Mandatory/Protective Report**

1. Contact your local Child Protection Intake provider immediately

- **After Hours Student Protection Emergency Services: 131278**

- *Non-Mandated staff members who believe on reasonable grounds that a student is in need of protection are able to report their concerns to Student Protection.*

2. Have notes ready with your observations and student and family details.

## **Protocol for responding to allegations of suspected child abuse.**

Accurate documentation will be kept concerning reports made about possible student abuse, details of notification, actions within the college resulting from notification, and other details related to reported cases of abuse.

- All staff are to report any cases of suspected abuse to the Principal.
- Non mandated staff should report their concerns to the class teacher or the principal. But are able to make a notification themselves if they choose to.
- Reports to Child Protection are to be made in a timely manner -preferably on the same day as the disclosure.

In relation to this policy the following should be taken as guiding principles:

- In every action related to student abuse the best interest of the student is of paramount consideration;
- The value of the family unit and the Biblical responsibility for parental education of the student is to be respected but not to the detriment of the well being of the student;
- In proceeding to take action under the relevant Act, college staff must satisfy themselves that they are acting on reasonable grounds;
- All persons involved in situations where abuse is suspected or disclosed are to be treated with sensitivity, dignity and respect;
- Staff who have access to information regarding suspected or disclosed student abuse are to observe strict confidentiality in relation to the matter;

The college provides for the support of students, families and staff directly involved with the issue of student abuse through the pastoral care and counselling structures of the college.

This policy is consistent with the following Mission of the College:

- To create safe relationships through being just and fair according to Biblical principles.
- To be compassionate and merciful as God is to us.
- To develop curriculum which explicitly addresses relational issues and empowers student and young people to speak out or seek help where abuse is occurring.

## **Appendix 5: Department of Families, Fairness and Housing Child Protection Contact List**

Metropolitan Regions				
Intake Unit		Regional Office		
Eastern	1300 360 391	Box Hill	[03] 9843 6000	
Northern and Western	1300 664 977	Preston	1300 664 977	
		Footscray	1300 360 462	
Southern	1300 655 795	Dandenong	[03] 9213 2111	
Rural Regions				
Intake Unit		Regional Office		
Hume	1800 650 227	Melbourne	[03] 9843 6000	
		Wodonga	[02] 6055 7777	
AFTER HOURS Student PROTECTION EMERGENCY SERVICES [AHPES]				
BUSINESS HOURS [24 HOURS, 7 DAYS A WEEK]: 131 278				

## Glossary

### **Mandated Professionals**

The Principal and teaching staff are mandated reporters under s.182, CYFA.<sup>8</sup>

### **Forming a Belief**

To form a belief, the reporter must be aware of matters and hold any opinions in relation to those matters that lead them to reasonably believe a student is in need of protection (s. 186, CYFA).<sup>9</sup>

### **Reasonable Grounds**

A 'belief on reasonable grounds' is formed if a reasonable person in the same position would have formed the belief on the same grounds. (s. 184(4), CYFA).<sup>10</sup> Examples of reasonable grounds are when:

- A student states that they have been physically or sexually abused
- A student states that they know someone who has been physically or sexually abused (sometimes the student may be talking about themselves)
- Someone who knows the student states that the student has been physically or sexually abused
- Professional observations of the student's behaviour or development leads the mandated professional to form a belief that the student has been abused or is likely to be abused
- Signs of physical or sexual abuse leads to a belief that the student has been abused.

### **Reporting a Belief**

Section 184(1), CYFA, requires the Principal and teaching staff to report their belief, when the belief is formed in the course of practising their profession. A report must be made as soon as practicable after forming the belief, and on **each occasion** on which they become aware of any further reasonable grounds for the belief.

There may be times when a teacher and the Principal have formed a belief about the same student on the same occasion. In this situation it is sufficient that only one of the mandated professionals make a report. The other is obliged to ensure that the report has been made and that all the grounds for their own belief were included in the report made by the other person (s. 184(2)).

In the case where one mandated professional directs another mandated professional not to make a report, and one professional continues to hold the belief that a student is in need of protection, then that professional is legally obliged to make a report to Child Protection.

### **Protection for Reporters**

If a report is made in good faith (s. 189, CYFA), then:

- It does not constitute unprofessional conduct or a breach of professional ethics
- The reporter cannot be held legally liable
- It does not constitute a breach of s. 141 of the Health Services Act or s. 120A of the Mental Health Act

A reporter who makes a report in accordance with the legislation is not liable for the eventual outcome of any investigation.

### **Confidentiality for Reporters**

Confidentiality is provided for reporters in the CYFA (ss.90 and 191), and prevents the disclosure of the name or any information likely to lead to the identification of a person who has made a report in accordance with the legislation except in very specific circumstances.

The identity of a reporter must remain confidential, unless:

- The reporter chooses to inform the student or family of the report
- The reporter consents in writing to their identity as the reporter being disclosed
- A court or tribunal decides that it needs this information in order to ensure the safety and wellbeing of the student
- A court or tribunal decides that in the interests of justice the evidence needs to be given.

### **Failure to Report**

The Principal and teaching staff liable to be prosecuted under s.184(1), CYFA if they fail to report a 'belief based on reasonable grounds that a student is in need of protection' because of physical or sexual abuse.

**Grace CHRISTIAN College**  
Mandatory Report

Mandatory Report to:	Principal	<input checked="" type="radio"/>	To the Board in Case of Allegations Against the Principal	<input type="radio"/>
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Report Date	Reporting Staff Member	Class Teacher	Student	Gender
				M <input type="radio"/> F <input checked="" type="radio"/>

Student D.O.B	Student Address		

Is the student an overseas student?	Y <input type="radio"/> N <input checked="" type="radio"/>	Is the student Indigenous?	Y <input type="radio"/> N <input checked="" type="radio"/>
Parent/Guardian Contact Details		Parents Live Together	Y <input type="radio"/> N <input checked="" type="radio"/>

Parent 1	Name		
Telephone		Mobile	
Home Address			
Email Address			
Parent 2	Name		
Telephone		Mobile	
Home Address			

In completing this report, staff must be aware that it may be difficult to determine whether the level and the nature of any risk is such that the student is in need of protection. The following questions are designed to simply obtain a picture that may help determine the need for action

<b>Reporting Staff Observations</b>
What specifically has happened to the student that has caused your concerns?
What is the impact on their safety, stability, health, wellbeing and development?
Please note any previous incidents

Mandatory Reporting

Mandatory Report, continued ...		
How vulnerable is the student?	Not Very <input type="radio"/>	Very <input type="radio"/>
Is there a history or pattern of significant concerns with this student or other children in the family?	Yes <input type="radio"/>	No <input type="radio"/>
Are the parents aware of the concerns, capable and willing to take action to ensure the student's safety and stability, and promote their health, wellbeing and development?	Yes <input type="radio"/>	No <input type="radio"/>
Are the parents able and willing to use support services to promote the student's safety, stability, wellbeing and development?	Yes <input type="radio"/>	No <input type="radio"/>
Is this student subject to abuse, past and present from a staff member?	Yes <input type="radio"/>	No <input type="radio"/>
Is this student subject to abuse, past and present from the Principal?	Yes <input type="radio"/>	No <input type="radio"/>
Have you sought opinions from other staff regarding the staff member's alleged abuse?	Yes <input type="radio"/>	No <input type="radio"/>
Have you sought opinions from other staff regarding the Principal's alleged abuse?	Yes <input type="radio"/>	No <input type="radio"/>
Has a Bullying Incident Report been submitted by the student, their parents or staff?	Yes <input type="radio"/>	No <input type="radio"/>
Have you verbally voiced your concerns regarding the staff member to the Principal?	Yes <input type="radio"/>	No <input type="radio"/>
Have you verbally voiced your concerns regarding the Principal to the Board Chairman?	Yes <input type="radio"/>	No <input type="radio"/>

**Principal or Board Chairman's Comments**

**Principal or Board Chairman's Recommendations**

**Reasons for Not Contacting DFFH**

DFFH Contact Name		Date Contacted	
Date Report Forwarded to DFFH		DFFH Contact Telephone No	
This form is to be completed in conjunction with the college's Mandatory Reporting Policy			

## Failure to Disclose

### Failure to Disclose Offence

All adults are required to disclose to Victoria Police if they know or reasonably believe that a sexual offence has been committed by an adult against a child under the age of 16. Failure to disclose is an offence. This applies to adults to may not currently be subject to mandatory reporting requirements.<sup>11</sup>



## The new ‘failure to disclose’ offence

Reporting child sexual abuse is a community-wide responsibility. Accordingly, a new criminal offence has been created in Victoria that imposes a clear legal duty upon all adults to report information about child sexual abuse to police.

Any adult who forms a reasonable belief that a sexual offence has been committed by an adult against a child under 16 has an obligation to report that information to police. Failure to disclose the information to police is a criminal offence.

### 1. What is a ‘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 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
- signs of sexual abuse leads to a belief that the child has been sexually abused.

### 2. Are there any excuses for not reporting child sexual abuse to police?

A person will not be guilty of the offence if he or she has a **reasonable excuse** for not disclosing the information. A reasonable excuse includes:

- fear for safety
- where the information has already been disclosed.

#### ➤ Fear for safety

A reasonable excuse exists in cases where a person has a reasonable fear for their own safety or the safety of another person (such as a child or another family member) and they do not report to police due to those circumstances.

This defence may apply, for example, if a mother decides not to disclose information about her partner sexually abusing her child due to fear of violence to her or her child.

The person’s fear must be subjectively reasonable, that is, it must be reasonable from the perspective of that person in those circumstances. This recognises that the person in question is best placed to judge whether their safety is in danger.

The court or jury will consider whether it was reasonable for the person not to report in the circumstances.

#### ➤ Where the information has already been disclosed

It is a reasonable excuse to not disclose where a person believes on reasonable grounds that the information has already been disclosed to police and they have no further information to add.

## Failure to Protect

### 1. What is the offence of failing to protect a child from a sexual offence?

The offence provides that a person who:

1. by reason of the position he or she occupies within a relevant organisation, has the power or responsibility to reduce or remove a substantial risk that a relevant child will become the victim of a sexual offence committed by a person of or over the age of 18 years who is associated with the relevant organisation; and
2. knows that there is a substantial risk that the person will commit a sexual offence against a relevant child - must not negligently fail to reduce or remove that risk.

### 2. What is a 'relevant organisation'?

The offence applies to people in authority within a relevant organisation. A relevant organisation is one that exercises care, supervision or authority over children, whether as part of its primary function or otherwise. Grace Christian College is a relevant organisation.

### 3. Who is a person in authority in an organisation?

A person in authority is someone whose position within a relevant organisation, means that they have the power or responsibility to reduce or remove a substantial risk that a child under the age of 16 years, who is under their care, supervision or authority, may become the victim of sexual abuse committed by an adult associated with the organisation.

Whether someone is considered to be a person in authority will depend on the degree of supervision, power or responsibility the person has to remove or reduce the substantial risk posed by an adult associated with the organisation. People in authority will usually have the ability to make management level decisions, such as assigning and directing work, ensuring compliance with the organisation's volunteer policy and other operational arrangements.

Examples of people in authority may include residential house supervisors, CEOs, board, council or committee members, school principals, service managers and religious leaders. It may also apply to people with less formal involvement in an organisation. For example, a volunteer parent coach responsible for the supervision of a junior sports team may be a person in authority, even if their role is informal or limited.

### 4. Who is a relevant child?

A person in authority will commit an offence if he or she negligently fails to reduce or remove a substantial risk to a relevant child, or children. A 'relevant' child is a child under the age of 16 who is, or may come, under the care, supervision or authority of a relevant organisation.

The child does not need to be identified. This means that the risk is not that a particular child will become the victim of sexual abuse. Instead, the substantial risk could be posed to any child who is, or who may be in the future, under the organisation's care, supervision or authority.

### 5. Who is a 'person associated with' an organisation?

The offence requires a person in authority to act if they know that a person associated with their organisation poses a substantial risk to a relevant child. This may include a person who is an officer, office holder, employee, manager, owner, volunteer, contractor or agent of the organisation. This definition does not include a person who solely receive services from the organisation.

For example, a parent of a child who is involved with receiving child protection services or who has a child in out-of-home care, and who may pose a risk of sexual abuse to a child, would not be considered to be 'associated with' the Department of Families, Fairness and Housing (DFFH) under the offence. Similarly, parents of children attending a school or service will generally only be 'associated with the organisation' if they are also engaged as a volunteer, for example to assist in the classroom or attend an excursion or camp.

The offence relates to risk of sexual abuse by adults. Children under the age of 18 who pose a risk of sexually abusing other children are not covered by this offence.

### 6. What is a 'substantial risk'?

The offence requires a person in authority to reduce or remove a known 'substantial' risk that an adult associated with the organisation may commit a sexual offence against a relevant child. It does not make it a criminal offence to fail to address every possible risk that a sexual offence may be committed against a child.

There are a number of factors that may assist in determining whether a risk is a substantial risk. These include:

- the likelihood or probability that the child will become the victim of a sexual offence
- the nature of the relationship between a child and the adult who may pose a risk to the child
- the background of the adult who may pose a risk to the child, including any past or alleged misconduct
- any vulnerabilities particular to a child which may increase the likelihood that they may become the victim of a sexual offence

- any other relevant fact which may indicate a substantial risk of a sexual offence being committed against a child.

When determining whether a risk is substantial, the courts will consider a variety of factors, which may include those listed above. The courts will consider all the facts and circumstances of the case objectively, and will consider whether a reasonable person would have judged the risk of a sexual offence being committed against the child abuse as substantial. It is not necessary to prove that a sexual offence, such as indecent assault or rape, was committed.

*7. When does a person 'know' there is a risk of child sexual abuse?*

This offence requires a person in authority to act if they know that there is a substantial risk that a child may become the victim of a sexual offence. A person is generally taken to know that there is a risk if he or she is aware that it exists or will exist in the ordinary course of events. This is more than merely holding a tentative belief or suspicion.

However, it is expected that a person in authority will take steps to follow up on a suspicion or belief that children in their organisation were at risk of harm.

*8. When does a person negligently fail to reduce or remove a substantial risk?*

Under the offence, a person is taken to have negligently failed to reduce or remove a substantial risk if that failure involves a great falling short of the standard of care that a reasonable person would exercise in the same circumstances. The offence does not require a person in authority to eliminate all possible risks of child sexual abuse. For example, a person in authority who knows that an adult associated with the organisation poses a substantial risk to children, and moves that adult from one location in an organisation to another location where they still have contact with children, is likely to be committing the offence. Another example is where a person in authority employs someone in a role that involves contact with children, when the person in authority knows the employee left their last job because of allegations of sexually inappropriate behaviour involving children.

*9. Does this criminalise mistakes made by adults who are caring for or working to protect children?*

This law is aimed at protecting children and compelling those in authority to remove or reduce known substantial risks that children may become victims of sexual abuse.

As previously noted, the offence applies to a person in authority whose failure to protect a child from sexual abuse involves a great falling short of the standard of care that a reasonable person would exercise in the same circumstances.

The offence is unlikely to be committed where a person takes reasonable steps to protect a child from the risk of sexual abuse, for example, where an allegation is reported to appropriate authorities and the individual is removed from any role involving unsupervised contact with children pending an investigation.

*10. What should a person in authority do to reduce or remove the risk of child sexual abuse posed by an adult associated with their organisation?*

A person in authority in an organisation must take reasonable steps to reduce or remove a known substantial risk that an adult associated with their organisation will commit a sexual offence against a child.

For example:

- A current employee who is known to pose a risk of sexual abuse to children in the organisation should be immediately removed from contact with children and reported to appropriate authorities and investigated.
- A community member who is known to pose a risk of sexual abuse to children should not be allowed to volunteer in a role that involves direct contact with children at the organisation.
- A parent who is known to pose a risk of sexual abuse to children in a school should not be allowed to attend overnight school camps as a parent helper.

If you want to report a child in immediate risk or danger of a sexual offence please call Triple Zero (000).