



# Child Safeguarding Program

## Reporting to Police

Key terms in this Policy are **bolded**, and their definitions are listed at the end of this page.

This Policy must be read in conjunction with the Definitions and Key Indicators of Child Abuse and Other Harm, Reporting a Child Safety Incident or Concern Internally, Duty to Protect/Failure to Protect, Non-Mandatory Reporting to Child Protection, Mandatory Reporting to Child Protection and Reportable Conduct. Fulfilling the roles and responsibilities contained in this Policy does not displace or discharge any of these other obligations that arise if a person reasonably believes that a child is at risk of child abuse or other harm.

## Failure to Disclose: Mandatory Reporting (of Sexual Offences Against Children) to Police

### Source of Obligation

Under section 327 of the Crimes Act 1958 (Vic) (Crimes Act) anyone aged 18 years or over (whether in Victoria or elsewhere) must make a report to the Police, as soon as it is practicable to do so, if they form a reasonable belief that a sexual offence has been committed in Victoria against a child under the age of 16 years (including the sexual offence of grooming of a person who has the care, supervision or authority of the child), by a person aged 18 years or over.

Failure to make a report without reasonable excuse is an offence and carries a prison term.

This criminal offence is commonly known as “Failure to Disclose”, although its full title is “Failure to disclose sexual offence committed against a child under the age of 16 years”.

This obligation to report sexual offences against children to Police applies to anyone aged 18 years or over.

We call this obligation “Mandatory Reporting (of Sexual Offences Against Children) to Police”.

## Who At the school Must Report to Police?

Mandatory Reporting (of Sexual Offences Against Children) to Police applies to all Staff, Volunteers, Contractors, parents/carers and students aged 18 or over, whether they are in Victoria or elsewhere.

## What Must be Reported?

All information that leads you to form 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 be reported to 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. For more information, refer to [Responding to Incidents of or Concerns About Student Sexual Offending](#).

## Scope of the Failure to Disclose Offence

For the purposes of the Failure to Disclose offence, it does not matter whether the child, the perpetrator of the offence, or the person who has information about a sexual offence against the child are themselves in Victoria or not, as long as the offence itself was committed in Victoria.

For example:

- 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
- 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).

## 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:

- 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
- 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
- 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.

This means that an additional Mandatory Report (of Sexual Offences Against Children) is usually not required 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](#).

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

- the person involved in the sexual offence
- any organisation (such as the school).

## Mandatory Reporting (of Sexual Offences Against Children) to Police and Other Reporting Obligations

The Mandatory Reporting to Police obligations covered in this Policy are separate and distinct from other external reporting obligations such as reporting to Child Protection, (refer to [Mandatory Reporting to Child Protection](#) and [Non-Mandatory Reporting to Child Protection](#)), reporting obligations under the Reportable Conduct Scheme (refer to [Reportable Conduct](#)) and obligations to report to the Victorian Institute of Teaching (refer to [Reporting Teacher Misconduct to the Victorian Institute of Teaching](#)).

## Non-Mandatory Reporting to Police

Although not required by law, it is the school's policy that all Staff, Volunteers and Contractors **must** report the following to the Police:

- sexual offences committed by a student under the age of 18 against another person (refer to [Responding to Incidents of or Concerns About Student Sexual Offending](#))
- concerns for a student's immediate safety (refer to [Responding to an Emergency](#))
- knowledge or suspicions that a student aged 18 or over is being abused or harmed, but only 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 (refer to [Information Sharing with Consent](#))
- concerns that a student is partaking in illegal activity that is extreme in nature or poses a high risk to the student (refer to [Responding to Other Concerns About the Wellbeing of a Student](#)).

Other situations in which a report **may** be made to Police are set out in [Responding to Other Concerns About the Wellbeing of a Student](#).

## How to Report to Police

- In emergencies, or if the crime is happening now or has just happened and the suspected offender may still be in the area: call 000
- All other matters: call your local police station, the details of which you can find [here](#).

## Record Keeping about Reports to Police

When a Report to Police is made in response to a child safety incident or concern, this must be recorded on:

- [PROTECT Recording your actions: Responding to suspected child abuse - A Template for Victorian Schools](#) or
- [PROTECT Responding to Suspected Student Sexual Offending - a Template for All Victorian Schools](#).

For more information on how to record reports to Police, refer to [Child Safeguarding Record Keeping](#).

## Key Definitions

### Reasonable Belief

A reasonable belief is formed if a reasonable person in the same circumstances would believe that an adult had sexually abused a child, for the same reasons that you believe this.

For example, you may form a reasonable belief that an adult has committed a sexual offence against a child if:

- a child aged under 16 tells you that they are being or have been sexually abused
- a young person aged 16 or over tells you that they were sexually abused when under the age of 16
- a child or young person tells you that they know someone who is being or has been sexually abused (sometimes they may be talking about themselves)
- someone who knows the child or young person tells you that the child or young person is being or has been sexually abused
- you observe signs of sexual abuse in a child or young person that lead you to believe that the child or young person is being or has been sexually abused
- you are a qualified professional who observes a child or young person's behaviour or development, which leads you to believe the child or young person has been sexually abused.

Rumours or unfounded suspicions do not rise to the level of a reasonable belief.

## **Sexual Offence**

The Crimes Act sets out what is a sexual offence. This includes:

- rape
- indecent assault
- incest
- sexual penetration
- grooming a child, or a person who has the care, supervision or authority of a child (aged under 16) for sexual conduct with the child
- encouraging a child to engage in, or be involved in, sexual activity.

A sexual offence includes an attempted sexual offence.