



# DOBCEL PROTECT: Reportable Conduct Scheme Policy

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Next Review: 2022

## Background

The Diocese of Ballarat Catholic Education Limited (DOBCEL) Board is committed to:

- zero tolerance of child abuse;
- listening to and empowering children and young people; and
- keeping children and young people safe.

The DOBCEL Board maintains governance oversight of DOBCEL Schools. DOBCEL maintains a management arm to ensure that DOBCEL Schools are safe for children and young people and are places where children and young people can flourish.

The DOBCEL Board is committed to supporting schools to take a proactive role in the care, wellbeing and protection of children and young people.

The Board has particular responsibilities for the safeguarding of children and young people as required by Ministerial Order No. 870: Child Safe Standards – Managing the Risk of Child Abuse in Schools (MO 870). This places accountability for managing the risk of child abuse with the Board. Consistent with MO 870 the Board requires schools governed by DOBCEL to have appropriate arrangements to regulate the conduct and decisions of school staff for the benefit of its students. These arrangements include implementing and complying with the DOBCEL Child Safe Policies and having clear and comprehensive procedures and reporting mechanisms. The objective is for the Board and the wider school community to be confident in the school's capacity to make and implement appropriate decisions, with child safety as a guiding principle.

The DOBCEL Board is cognisant of the National Principles for Child Safe Organisations (National Principles) that has been endorsed by the Council of Australian Governments (COAG). The Board understands that the Victorian Government is currently reviewing the Victorian Standards to better align with the National Principles, however in the interim the Ministerial Order 870: Child Safe Standards – Managing the risk of child abuse in schools (MO 870) remain in operation and mandatory for schools in Victoria. Therefore, our Child Safety Standards policies and procedures reflect the current requirements in force in Victoria being the MO 870.

## Reportable Conduct Scheme

The *Child Wellbeing and Safety Act 2005 (Vic)* (the Act) requires DOBCEL to investigate and report to the Commission for Children and Young People (CCYP) allegations of 'employee' reportable conduct or misconduct that may involve reportable conduct.

The Board has developed this policy which sets out the procedures for enabling persons to report reportable conduct and for such reports to be investigated and responded to.

The CCYP's [website](#) provides additional guidance and materials which assist DOBCEL schools to understand and meet their obligations under the Act.

## Who is an Employee?

For the purposes of the Act, 'employee' is defined as a person aged 18 years or over who is:

- employed by DOBCEL whether that person is employed in connection with any work or activities of a DOBCEL School that relate to children; or
- engaged by DOBCEL to provide services, including as a volunteer, contractor, office holder or officer, whether the person provides services to children.

A minister or religion or a religious leader is also an employee.

Of relevance to DOBCEL, the following people are considered employees:

- Board Members;
- DOBCEL Executive Director
- Catholic Education Ballarat staff and management
- Principals of DOBCEL schools;
- Staff members of DOBCEL schools;
- School Advisory Council (SAC) members;
- Volunteers;
- Third Party Contractors;
- and External Education Providers.

**For the purposes of this policy, all of the above are referred to collectively as "staff" or "staff members".**

## What is Reportable Conduct?

Reportable conduct is defined in the *Child Wellbeing and Safety Act 2005 (Vic)* to mean:

- a sexual offence committed against, with or in the presence of, a child, whether a criminal proceeding in relation to the offence has been commenced or concluded;
- sexual misconduct committed against, with or in the presence of, a child;

- physical violence committed against, with or in the presence of, a child;
- any behaviour that causes significant emotional or psychological harm to a child; or
- significant neglect of a child.

**Sexual misconduct** includes:

- behaviour, physical contact or speech or other communication of a sexual nature, for example
- 'sexting';
- inappropriate touching or physical contact;
- grooming behaviour; and
- voyeurism.

**Sexual offence** for the purposes of the Reportable Conduct Scheme means a serious sexual offence as set out in Clause 1 of Schedule 1 of the Sentencing Act 1991 (Vic), which includes rape, attempted rape, sexual assault, incest, indecent act with a child, persistent sexual abuse of a child, grooming and the production or possession of child pornography.

**Significant** means in relation to emotional or psychological harm or neglect, that the harm is more than trivial or insignificant, but need not be as high as serious and need not have a lasting permanent effect.

The CCYP has provided guidance on how to identify physical violence, behaviour that causes emotional or psychological harm to a child and neglect.

Physical violence includes an act that causes physical injury or pain. Examples of physical violence can include:

- hitting/kicking/punching;
- pushing/shoving/grabbing/throwing/shaking;
- using an object to hit or strike; and
- using inappropriate restraint/excessive force.

Physical violence does not include:

- reasonable steps taken to protect a child from immediate harm, such as taking a child's arm
- to stop them from going into oncoming traffic; or
- medical treatment given in good faith by an appropriately qualified person, such as a first aid officer administering first aid.

Behaviour that causes emotional or psychological harm to a child requires a clear link between the alleged conduct and the significant harm suffered (significant is defined above).

Signs that a child may have been emotionally or psychologically harmed may include:

- patterns of out of character behaviour;
- regression in behaviour;
- distress and anxious behaviours; and
- other physical symptoms, such as self-harm.

The exacerbation or aggravation of an existing mental health disorder may also cause emotional or psychological harm. Examples of emotional or psychological harm may include:

- exposure to violence or threats of violence;
- self-destructive behaviour;
- antisocial behaviour;
- persistent hostility/rejection;
- humiliation/belittling; and
- scapegoating.

It will not be reportable conduct if:

- a person takes reasonable steps to protect a child from immediate harm;
- a person with responsibility for discipline takes lawful and reasonable disciplinary action, such as sending a child to sit in 'time out' for a period of time (refer to Student Discipline Policy) ; or
- an appropriately qualified person gives medical treatment in good faith such as a first aid officer administering first aid.

Neglect occurs when a person does not meet their obligations and responsibilities to keep a child safe and well. The neglect:

- must be more than minor and insignificant;
- does not need to have a lasting or permanent effect; and
- may be an ongoing situation or a one-off incident if it is not minor in nature.

The DOBCEL Safeguarding Children and Young People Code of Conduct outlines the acceptable and unacceptable behaviours for employees. Teachers are also bound by the Victorian Institute of Teaching (VIT) Teaching Profession [Code of Conduct](#). These codes, and similar for other professions, outline expected standards of behaviour of all staff, volunteers, and third-party contractors at DOBCEL schools. It is important to note that a breach of these Codes will not always constitute an incident of reportable conduct. Such breaches can often be dealt with at the school level and do not need to be reported to the CCYP. For example, reasonable discipline of a student would not amount to behaviour that causes emotional or psychological harm to a child and therefore is not reportable conduct.

## What must be notified?

Under the *Child Wellbeing and Safety Act 2005 (Vic)*, the DOBCEL Executive Director as the Head of Entity (see Appendix 8.1) must notify the CCYP of a reportable allegation against a staff member. Reportable allegation is defined in the Act to mean any information that leads a person to form a reasonable belief that an employee (member of staff) has committed:

- reportable conduct; or
- misconduct that may involve reportable conduct – whether the conduct/misconduct is alleged to have occurred in the course of the person's employment at a school.

Guidance from the CCYP states that reasonable belief is more than a suspicion. There must be some objective basis for the belief. However, it is not the same as proof and does not require certainty.

## Who must notify?

Any person may disclose a reportable allegation to the CCYP by using an online form available from the CCYP's website, by phone or by letter (section 16L of the Act).

While any person may disclose a reportable allegation, the Head of Entity must notify the CCYP of a reportable allegation (section 16M). Principals must notify the Executive Director, via the Manager Safeguarding and Standards, if they suspect Reportable Conduct has occurred to discuss this. The Head of Entity has distinct responsibilities under the Reportable Conduct Scheme. DOBCEL is the governing authority and legal proprietor of DOBCEL Schools. The Executive Director of DOBCEL is understood to be the Head of Entity, with primary responsibility for DOBCEL Schools' compliance with the Victorian Reportable Conduct Scheme.

The DOBCEL Executive Director may authorise the Manager Safeguarding and Standards to:

- notify and update the CCYP of reportable allegations concerning DOBCEL employees and/or
- ensure investigations are undertaken into all reportable allegations made against employees and/or
- comply with all obligations of the Head of Entity under the Scheme.

It is a criminal offence for the Head of Entity to fail to disclose a reportable allegation to the CCYP without a reasonable excuse. The Act doesn't define what a reasonable excuse may be but section 16M(5) provides an exemption if the Head of Entity honestly and reasonably believed that another person had notified the CCYP.

The report must be made using an online form available from the CCYP's website.

Where the reportable allegation involves the Principal, the DOBCEL Executive Director may authorise the Assistant Director People and Development to;

- notify and update the CCYP of reportable allegations concerning DOBCEL employees and/or
- ensure investigations are undertaken into all reportable allegations made against employees and/or
- comply with all obligations of the Head of Entity under the Scheme.

## Fulfilling the Principal's Responsibilities

Principals of DOBCEL Schools are responsible for ensuring that schools comply with the reportable conduct obligations under the *Child Wellbeing and Safety Act 2005 (Vic)*. However, the CCYP does not expect the Principals to practically carry out their responsibilities alone. They may seek help from other people within the school or Catholic Education Ballarat. This may include creating and developing systems or conducting investigations on the behalf of the Principal.

## Reportable Conduct and Other Reporting Obligations

The Reportable Conduct obligation covered in this policy is separate and distinct from the:

- **Mandatory Reporting** obligation under the Children, Youth and Families Act 2005 (Vic);
- **Obligation to Report a Sexual Offence** obligation under (Vic);
- **Obligation to Report a Sexual Offence** obligation under the Crimes Act 1958 (Vic); and
- **Conduct that is Reportable to the Victorian Institute of Teaching** under the *Education and Training Reform Act 2006 (Vic)*.

The threshold for reporting allegations of reportable conduct is much lower than these other reporting obligations.

**Any allegations of criminal conduct, including physical violence, significant emotional or psychological abuse, sexual offences and significant neglect must be reported to the Victorian Police as the first priority. A Police investigation will take priority over any investigation conducted by the DOBCEL under this policy.**

### How to report allegations of reportable conduct

The table below describes the information to be included when **an allegation of reportable conduct** is made about an employee (persons engaged by the entity such as volunteers, contractors, office holders, school board members and officers of a religious body) at the school. The Reportable Conduct Scheme is in addition to a school staff member's mandatory reporting or criminal reporting obligations.

Any allegations of criminal conduct, including physical violence, significant emotional or psychological abuse, sexual offences and significant neglect must be reported to Victoria Police as the priority. However, school staff members may find they also need to make an allegation of reportable conduct for the same incident.

DOBCEL school staff are required to notify the principal or, if the principal is the subject of the allegation, must be reported to the Assistant Director: People and Development on (03) 5337 7189 or [safeguarding@ceob.edu.au](mailto:safeguarding@ceob.edu.au) if they have a reportable conduct allegation.

The principal must notify the Manager Safeguarding and Standards on (03) 5337 7175 or [safeguarding@ceob.edu.au](mailto:safeguarding@ceob.edu.au) of the allegation of reportable conduct as soon as possible.

The Reportable Conduct Scheme does not change mandatory reporting or other reporting obligations, including internal reporting and reporting criminal behaviour to Victoria Police. Reportable conduct reporting should be done in addition to these other reporting obligations.

For further support and advice regarding reporting conduct in DOBCEL Schools under the Reportable Conduct Scheme, contact the DOBCEL Manager Safeguarding and Standards on (03) 5337 7175 or [safeguarding@ceob.edu.au](mailto:safeguarding@ceob.edu.au).

<b>Making an Allegation of Reportable Conduct</b>	
<b>Action</b>	<b>Description</b>
<b>1. Keep notes</b>	<p>Comprehensive notes must be kept, dated, and include the following information:</p> <ul style="list-style-type: none"> <li>• a description of the concerns (e.g. physical injuries, student behaviour)</li> <li>• the source of those concerns (e.g. observation, report from child or another person)</li> <li>• any actions taken as a result of the concerns (e.g. consultation with the principal, report to DHHS Child Protection, etc.).</li> </ul>

<b>2. Make the report</b>	<p>If a reasonable belief is formed that an employee (persons engaged by the entity such as volunteers, contractors, office holders, school board members and officers of a religious body) at the school has engaged in conduct or misconduct that is construed as reportable conduct, this allegation must be reported to the school’s principal or, if the principal is involved in the allegation, a member of the Leadership Team who will notify the DOBCEL Assistant Director: People and Development on (03) 5337 7135 or by email <a href="mailto:safeguarding@ceob.edu.au">safeguarding@ceob.edu.au</a></p>
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**What should a principal in a DOBCEL school do about a reportable allegation?**

Below are the steps that a principal should take if there is a potential reportable allegation. These steps are in *general* order of priority, but the guidance may change depending on the circumstances.

<p><b>If a student or another child provides information concerning of a reportable allegation</b></p>	<p><b>If a staff member or another adult provides information concerning a reportable allegation</b></p>
<p>1. The first step should always be to ensure the student/child is safe. If a child seems to be facing immediate danger or risk of harm, Victoria Police must be contacted on 000.</p>	
<p>2. The principal needs to be aware that the child has spoken to them because they can be trusted. Therefore, the principal needs to:</p> <ul style="list-style-type: none"> <li>• give the child or young person full attention.</li> <li>• listen calmly and empathically.</li> <li>• Reassure the child or young person that it is right to tell.</li> </ul>	<p>2. The person should be thanked for raising the matter of the allegation. They are to be offered support and assistance, as necessary. If they are a staff member, they are to be referred to the Employee Assistance Program (EAP), where this is available.</p>
<ul style="list-style-type: none"> <li>• accept that the child or young person will disclose only what they are comfortable disclosing and recognise the bravery/strength of the child for talking about something that is difficult.</li> <li>• allow the child or young person to take their time.</li> <li>• let the child or young person use their own words.</li> <li>• refrain from make promises they can't keep.</li> </ul> <p>3. The principal must tell the child or young person what they plan to do next.</p>	<p>3. The person making the report needs to be made aware that the school will manage the concern confidentially and, to protect all parties, they should not discuss the matter.</p>



4. A record of the allegations must be made. If appropriate, *Protect: Responding to Suspected Child Abuse: A Template for all Victorian Schools* can be used. It is advisable also to diarise the happenings. If a staff member, parent / care giver or other adult was present, they should be requested to make a record as well.
5. The matter may need to be referred the matter to Victoria Police or DHHS Child Protection. If necessary, it is to be reported in accordance with the actions documented in *Protect: Identifying and Responding to All Forms of Abuse in Victorian Schools and Four Critical Actions for Schools: Responding to Incidents, Disclosures and Suspicions of Child Abuse*, using *Protect: Responding to Suspected Child Abuse: A Template for all Victorian Schools*.
6. If relevant the child's parent / care givers are to be notified following advice in *Protect: Identifying and Responding to All Forms of Abuse in Victorian Schools* and *Four Critical Actions for Schools: Responding to Incidents, Disclosures and Suspicions of Child Abuse*.
7. As soon as practicable The Manager Safeguarding and Standards DOBCEL is to be contacted on (03) 5337 7175 for advice (including guidance as to whether the alleged conduct is reportable), support and assistance to discuss the circumstances, and notify the DOBCEL Executive Director.
8. If the matter does involve a reportable allegation, the Manager Safeguarding and Standards will notify the CCYP with authorisation from the DOBCEL Executive Director.
9. A risk assessment is to be conducted with the assistance of the Manager Safeguarding and Standards DOBCEL to determine any measures that should be put in place to manage the person against whom allegations have been made, and to protect the student(s)/child(ren) against whom reportable conduct may have occurred.

## Reporting to the CCYP: DOBCEL Executive Director or an authorised person.

Where the Executive Director receives a reportable allegation from any person they, or a person authorised by the Executive Director, must notify the CCYP **within three business days**.

Where the reportable allegation involves the Principal, the person making the reportable allegation must notify the DOBCEL Executive Director or the Assistant Director People and Development. The DOBCEL Executive Director, or a person authorised by the Executive Director, must then notify the CCYP within three business days.

There are two stages of reporting.

DOBCEL Executive Director or a person authorised by the Executive Director, acting on his/her behalf must notify the CCYP in writing of:

- The reportable allegations as soon as possible, and in any event within three business days of the Head of Entity being notified of the reportable allegation (Stage One Report); and
- The proposed next course of action (see below), as soon as practicable, and within 30 days of becoming aware of the reportable allegation (Stage Two Report).

## Stage One Report

The report to the CCYP must state:

- that a reportable allegation has been made against a staff member;
- the name (including any former name and alias, if known) and date of birth, if known, of the staff member;
- whether the Victoria Police has been contacted about the reportable allegation;
- the name, address and telephone number of the school; and
- the name of the Principal.

An online form available on the CCYP's [website](#) must be used for the Stage One Report.

If the staff member is a registered teacher and the misconduct involves a charge, conviction or finding of guilt of a sexual offence, the Executive Director must notify the Victorian Institute of Teaching (VIT) immediately under Conduct that is Reportable to the VIT. The timing of making a Stage One Report to the CCYP under this policy will coincide with the timing of a report made to the VIT.

## Stage Two Report

The report to the CCYP must state:

- detailed information about the reportable allegation;
- whether or not the school proposes to take any disciplinary or other action in relation to the staff member and the reasons why it intends to take, or not to take, that action; and
- any written submissions made to the Executive Director or a person authorised by the Executive Director, or Principal concerning the reportable allegation that an employee wished to have considered in determining what, if any disciplinary or other action should be taken in relation to the staff member.

**Any allegation of child abuse, including physical violence, significant emotional or psychological abuse, sexual offences or significant neglect, must be reported to the Victorian Police. A Police investigation will take priority over any investigation conducted by DOBCEL under this policy.**

## What happens after a Report to the CCYP is made?

After the Executive Director (or other authorised person under this policy) has made a report to the CCYP, they must ensure that an appropriate investigation of the reportable allegation is conducted.

The Executive Director may appoint, directly or via another authorised person under this policy, an independent investigator.

The Executive Director or the Manager, Safeguarding and Standards must notify the CCYP of who will be conducting the investigation.

The investigation must be conducted in accordance with the rules of procedural fairness and natural justice. For example, the investigation should be conducted without bias and the person against whom the allegation is made should be given the right to respond. Refer to the CCYP's [Information Sheet 4 Investigation Overview](#) for more information on what to consider when conducting an investigation.

A Police investigation into any matter takes priority over an investigation by DOBCEL or the school. On becoming aware that the Police are investigating a reportable allegation:

- DOBCEL should consult with the Police before commencing an investigation to find out if the Police are, or will be, conducting an investigation; or
- the DOBCEL/school investigation should be put on hold until the Police investigation is complete.

The Executive Director or a person authorised by the Executive Director must give the CCYP:

- a copy of the findings of the investigation and the reasons for those findings;
- details of any disciplinary or other action that the Executive Director or a person authorised by the Executive Director proposes to take in relation to the staff member and the reasons for that action; and
- if the Executive Director or a person authorised by the Executive Director does not propose to take any disciplinary or other action in relation to the staff member, the reasons why no action is to be taken.

Under the Act, a staff member may seek a review by the CCYP of a finding made at the conclusion of an investigation.

## Information Sharing: Children and Parents/Carers

Under the Act, the Executive Director or a person authorised by the Executive Director may disclose:

- information about the progress of the investigation;
- the findings, reasons for the findings and the recommendations made at the conclusion of investigation;
- an action taken in response to those finding;

to:

- the child who is the subject of the reporting allegation;
- a parent/carer; or
- the DHHS if the child is under its care

## Information Sharing: Schools, the CCYP and Others

Under the Act, the Executive Director or a person authorised by the Executive Director may disclose information in relation to:

- a reportable allegation;
- a concern that reportable conduct has been committed;
- the investigation of a reportable allegation or concern about reportable conduct;
- the findings of an investigation and the reasons or recommendations made at the conclusion of the investigation; or
- any action taken in response to those findings;

to:

- the CCYP;
- the head of another entity governed by the Act, such as another school; a regulator;
- the Chief Commissioner of Police;
- if necessary for the purposes of an investigation, an independent investigator;
- if necessary for the purposes of a Working with Children Check, the Secretary to the Department of Justice and Regulation; and
- a relevant Minister.

## Publication of Information

DOBCEL Schools must not publish information that would enable the identification of:

- a person who notified the CCYP;
- a child in relation to whom a reportable allegation was made or a finding of reportable conduct was made.

The Act provides more information on the meaning of 'publish', which includes making the information publicly available in writing or email.

## Powers of the CCYP

The CCYP has broad powers under the Act in relation to investigating a reportable allegation at DOBCEL Schools. The CCYP may visit schools, inspect documents, and interview staff members or children involved in the reportable allegation.

DOBCEL Schools must assist the CCYP in all reasonable aspects of its investigation.

## Breaches of this policy

If you believe that DOBCEL or a DOBCEL school has breached its obligations, please contact the Executive Director in writing or by telephone. DOBCEL and/or the school will investigate your notification and will inform you of the outcome as soon as is practicable after a decision has been made. A breach of this Policy may lead to disciplinary action including possible termination of employment or appointment and/or referral to the appropriate authorities.

## References

- DOBCEL Child Safe Governance Policy
- DOBCEL Child Safe School Policy
- DOBCEL PROTECT: Reporting and Responding Obligations Policy
- [Insert School Name] PROTECT: Reporting and Responding Obligations Procedures for Schools
- DOBCEL Safeguarding Children and Young People: Code of Conduct
- [DHHS Mandatory reporting to Child Protection Fact Sheet](#)
- [CCYP Reportable Conduct Scheme Information Page](#)