

## Mandatory Reporting Policy

### Rationale

Luther College is a Christian school under the auspices of the Lutheran Church of Australia, and as such endeavours to create a climate of acceptance, care, love, dignity, courtesy, respect and support for each member of the College community. The College is committed to providing and maintaining a safe, supportive and ethical school environment for all students.

### Scope

This policy applies to all members of the College community for all issues of suspected/known harm, abuse and neglect to students.

### Guiding Documents

- Lutheran Church of Australia: Safe Place Policy and Procedures
- Lutheran Church of Australia: Valuing Safe Communities Program
- Victorian Department of Education and Training: Child Protection - Reporting Obligations:  
<http://www.education.vic.gov.au/school/principals/spag/safety/Pages/childprotection.aspx>

### Legislation

Both federal and state legislation is relevant to the concepts discussed in this policy. The legislation includes:

- *Children, Youth and Families Act 2005*
- *Crimes Act 1958*
- *Crimes Amendment (Protection of Children) Act 2014*
- *Crimes Amendment (Grooming) Act 2014*
- *Education and Training Reform Act 2006*
- *Victorian Institute of Teaching Act 2001*

### Definitions

<b>Child</b>	In Victoria, under the Children Youth and Families Act 2005 a child or young person is a person under eighteen years of age in relation to a person who is alleged to have committed an offence. In any other case a child is a person who is under 17 years of age. In relation to Failure to Protect or Failure to Disclose a child is defined as being under 16 years of age.
<b>Adult</b>	An adult is any person aged 18 years or over.

<b>Emotional Abuse</b>	Emotional abuse occurs when a child's parent or caregiver repeatedly rejects the child or uses threats to frighten the child. This may involve name calling, put downs or continual coldness from the parent or caregiver, to the extent that it significantly damages the child's physical, social, intellectual or emotional development.
<b>Failure to Disclose Offence</b>	A new criminal offence came into effect on 27 October 2014 for adults who fail to disclose child sexual abuse to police, under Section 327 of the <i>Crimes Act 1958 (Vic)</i> . The new offence applies to all adults, not just professionals who work with children.  Any adult who holds a reasonable belief that a <i>sexual offence</i> has been committed by an adult against a child in Victoria must report that belief to police, unless they have a reasonable excuse for not reporting.
<b>Failure to Protect Offence</b>	A new criminal offence came into effect on 1 July 2015 for failing to protect a child under the age of 16 from a risk of sexual abuse, under Section 49C of the <i>Crimes Act 1958 (Vic)</i> .  The offence will apply where there is a substantial risk that a child under the age of 16 under the care, supervision or authority of a relevant organisation will become a victim of a sexual offence committed by an adult associated with that organisation. A person in a position of authority in the organisation will commit the 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.
<b>Grooming Offence</b>	The <i>Crimes Amendment (Grooming) Act 2014</i> , which commenced in Victoria on 9 April 2014, introduces the offence of Grooming for sexual conduct with a child under the age of 16 years. This offence targets predatory conduct designed to facilitate later sexual activity with a child.
<b>Mandatory Reporter</b>	Under section 182 of the <i>Children, Youth and Families Act 2005</i> , a person registered under the <i>Education Training and Reform Act 2006, updated in Feb. 2020</i> , or who has been granted permission to teach under that Act, is designated as a mandatory reporter: that is, a person who holds Victorian Institute of Teaching registration.  In addition, professionals who are legally required to report include registered medical practitioners, nurses, midwives, school counsellors, police officers, out of home care workers (excluding voluntary foster and kinship carers), early childhood workers, youth justice workers, registered psychologists and people in religious ministry.
<b>Neglect</b>	Neglect is the failure to provide the child with the basic necessities of life, such as food, clothing, shelter, medical attention or supervision, to the extent that the child's health and development is, or is likely to be, significantly harmed.
<b>Non-mandated Staff</b>	Non-teaching staff including administration, canteen staff or maintenance staff; social workers; speech pathologists; and aides.
<b>Physical Abuse</b>	Physical abuse occurs when a child suffers or is likely to suffer significant harm from an injury inflicted by a child's parent or caregiver. The injury may be inflicted intentionally or may be the

	inadvertent consequence of physical punishment or physically aggressive treatment of a child. The injury may take the form of bruises, cuts, burns or fractures.
<b>Reasonable Grounds</b>	There must be reasonable grounds for forming the belief that the child has suffered, or is likely to suffer, harm. This means that the adult does not have to be absolutely certain, but genuinely believe, on the basis of the evidence, that the child might have been abused.  A reasonable belief can be formed on different types of evidence. That evidence could be a dramatic change in the behaviour of a student, a drop in grades, withdrawing from social contact, signs of physical abuse.
<b>Sexual Abuse</b>	Sexual abuse occurs when a person uses power or authority over a child to involve the child in sexual activity and the child's parent or caregiver has not protected the child. Physical force is sometimes involved. Child sexual abuse involves a wide range of sexual activity. It includes fondling of the child's genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger or other object, or exposure of the child to pornography.

## Purpose

To define the roles and responsibilities of College staff in protecting the safety and wellbeing of children and to enable staff to:

- identify the indicators of a child who may be in need of protection;
- make a report of a child who may be in need of protection;
- comply with reporting obligations under child protection law and criminal law.

## Principles

Luther College will report to and co-operate with all relevant State Authorities, under this policy and the law.

### ***Mandatory Reporting of Child Protection Concerns (excluding sexual abuse)***

Mandatory reporters ( as defined above), who believe on reasonable grounds that a child is in need of protection from physical injury or abuse, must report their concerns to Department of Health and Human Services (DHHS) Child Protection as soon as practicable after forming the belief and after each occasion on which he or she becomes aware of any further reasonable grounds for the belief.

All other school staff who are not registered teachers with Victorian Institute of Teaching (VIT) (*non-mandated staff*) who believe on reasonable grounds that a child:

- is in need of protection, are encouraged to report their concerns to DHHS Child Protection or Victoria Police (with the exception of sexual abuse, as per *Failure to Disclose Offence* below).
- is displaying sexually abusive behaviours and is in need of therapeutic treatment, are encouraged to report their concerns to DHHS Child Protection.

Whilst non-mandated staff are not required to make a report to DHHS Child Protection or Victoria Police (with the exception of sexual abuse, as per *Failure to Disclose Offence* below), they should, however, discuss any concerns with the Principal.

All staff members are required to notify the Principal of the lodgement of any report, using the *Luther College Mandatory Reporting Record*. This will ensure all reports are recorded on the Luther College Mandatory Reporting log, kept by the Principal.

### ***Failure to Disclose Offence – Reporting Sexual Abuse***

Any adult (including mandatory reporters and non-mandated staff) who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child under 16 must disclose that information to police. Failure to disclose the information to police is a criminal offence: “Failure to Disclose offence”.

#### **How does this differ from mandatory reporting?**

This offence differs from mandatory reporting under the Children, Youth and Families Act because:

- it applies to all adults, not just certain professionals who work with children;
- it is limited to the reporting of sexual abuse. Mandatory reporters are required to report suspected physical and sexual abuse;
- it requires the person to report a suspected crime to police, rather than reporting a concern about a child needing protection to DHHS (Child Protection); and
- the suspected sexual offence must be reported even if the child’s parents are acting to protect the child.

**Where there is a reasonable belief that a sexual offence has been committed by an adult against a child in Victoria, that belief must be reported to Victoria Police.**

For further information, please refer to the [Department of Health and Human Services Betrayal of Trust Fact Sheet for Failure to Disclose](#).

Staff should notify the Principal of the lodgement of any report. This will ensure all reports are recorded on the Luther College log.

### ***Grooming Offence***

Section 49B of the *Crimes Act 1958 (Vic)* 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.

- 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.
- 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 ‘upskirting’ and indecent behaviour in public.

**Where there is a reasonable belief that grooming behaviour is being committed by an adult against a child in Victoria, that belief must be reported to Victoria Police.**

For further information, please refer to the [Department of Health and Human Services Betrayal of Trust Fact Sheet for Grooming](#).

Staff should notify the Principal of the lodgement of any report. This will ensure all reports are recorded on the Luther College log.

### ***Failure to Protect Offence***

Section 49C of the *Crimes Act 1958 (Vic)* makes it 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.

If a person associated with the College, 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 College, 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, governing body 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 College who knows of a substantial risk that a child will become a victim of a sexual offence should notify the Principal as soon as is reasonably practicable.**

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 College, the Principal and/or Governing Body will act to reduce or remove the risk. The person will be removed from any child-related role pending an investigation.

For further information, please refer to the [Department of Health and Human Services Betrayal of Trust Fact Sheet for Failure to Protect](#).

## 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 physically or sexually abused
- a child states that they know someone who has been physically or sexually abused (sometimes the child may be talking about themselves)
- someone who knows a child states that the child has been physically or sexually abused
- professional observations of the child's behaviour or development leads a professional to form a belief that the child has been physically or sexually abused or is likely to be abused
- signs of abuse lead to a belief that the child has been physically or sexually abused.

## Child Abuse and Indicators of Harm

Child abuse can have a significant effect on a child's physical or emotional health, development and wellbeing. The younger a child the more vulnerable he/she is and the more serious the consequences are likely to be.

There are many indicators of child abuse and neglect. The presence of a single indicator, or even several indicators, does not prove that abuse or neglect has occurred. However, the repeated occurrence of an indicator, or the occurrence of several indicators together, should alert teachers to the possibility of child abuse and neglect.

**Note:** For full definitions for all of the types of child abuse and a comprehensive list of the indicators of harm, see: *Appendix 2 in Protecting the safety and wellbeing of children and young people* accessed at [Department resources](#).

## Training

All College staff are required to participate in *Valuing Safe Communities* training as mandated by Lutheran Education Australia.

In addition, mandated staff are required to complete the Department of Education & Training mandatory reporting eLearning module.

## Further Information

Please refer to the [Luther College Mandatory Reporting Procedures](#) for further information.

## Review

This policy will be reviewed every five years, or as required by legislation.

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