



**Luther
College**

Mandatory Reporting Policy

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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.

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.

Scope

This policy applies to all members of the College community .

Definitions

Adult	An adult is any person aged 18 years or over.
Child	A child is a person under eighteen years of age (including a student of that age).
Child abuse	Child abuse includes: • any act committed against a child involving a sexual offence or grooming • inflicting physical violence, or serious emotional or psychological harm on a child • the serious neglect of a child.
Emotional or psychological harm	A child can be significantly emotionally or psychologically harmed by behaviour, such as sexual offences, sexual misconduct, physical violence and significant neglect. However, other types of behaviours can also cause significant emotional and psychological harm to a child, for example, severe or sustained instances of: • verbal abuse • coercive or manipulative behaviour • hostility towards, or rejection of, a child

	• humiliation, belittling or scapegoating.
Mandatory Reporter	For the purposes of mandatory reporting obligations under section 182 of the <i>Children, Youth and Families Act 2005</i>, the following are mandatory reporters: • School Principal • Registered teachers • Persons with permission to teacher from VIT • Early childhood workers • Registered school nurses • Registered psychologists • Registered medical practitioners • School counsellors • A person in religious ministry.
Neglect	Neglect occurs when a person does not meet their obligations and responsibilities to keep a child safe and well. Examples of neglect include: • supervisory neglect, which is the absence or inattention of a person which places the child at risk of physical harm or injury, sexual abuse or allows other criminal behaviour towards the child • physical neglect, which is the failure to provide basic physical necessities for a child, such as adequate food, clothing and housing.
Significant	‘Significant’ in relation to emotional or psychological harm or neglect, means that the harm or neglect is more than trivial or insignificant, but need not be as high serious and need not have a lasting permanent effect.

Principles

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

Mandatory reporting

A mandatory reporting obligation arises under the *Children, Youth and Families Act 2005* if a mandatory reporter, who forms the belief on reasonable grounds that, in the course of carrying out their duties as an employee of Luther College, a child is in need of protection.

A child is in need of protection if they have suffered, or is likely to suffer, significant harm as a result of physical injury or sexual abuse and the child's parents have not protected, or are unlikely to protect, the child from the harm.

A mandatory reporter is obliged to report their reasonable belief, and the grounds for the belief, to **Child Protection** (Department of Families, Fairness and Housing) as soon as practicable after forming the belief that the child needs protection.

All other school staff who are not mandatory reporters who believe on reasonable grounds that a child is in need of protection may also make a report of their reasonable belief, and the grounds for the belief, to Child Protection.

Any staff member, whether a mandatory reporter or not, may discuss any concerns they have with the Principal about whether they should or are required to make a report to Child Protection.

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

'Failure to Disclose' Offence – Reporting Sexual Abuse

Obligation to report information to Victoria police

Any adult (including mandatory reporters and non-mandated staff) who have information that leads them to form a reasonable belief that a sexual offence has been committed in Victoria by another adult against a child under the age of 16 must disclose that information to Victoria police as soon as it is practicable to do so.

The obligation to report a reasonable belief to the police does not concern rumour or speculation about another person or a small piece of information that may be relevant. The obligation concerns the failure of an adult to disclose information of a sufficient quality to would lead that adult to form a reasonable belief that a relevant sexual offence has been committed.

Unless an adult has a reasonable excuse for not doing so, it is an offence to fail to make such a disclosure to the police (section 327, Crimes Act 1958). The offence carries a maximum imprisonment term of 3 years.

What is a reasonable excuse for not making a report?

The circumstances in which an adult will have a reasonable excuse for failing to disclose information to the police include the following:

- Where the adult may reasonably fear for their safety, or the safety of the child or another person (other than the alleged offender), if the offender was to find out that the offence had been disclosed to the police and the failure to disclose the information was a reasonable response in the circumstances.
- Where the adult believes on reasonable grounds that the information has already been disclosed to the police and the adult has no further information to add.
- The victim, now being over 16 years of age, requests that the information not be disclosed to the police (unless the victim has an intellectual disability and does not have the capacity to make an informed decision).

If any staff member has concerns about whether they are required to disclose information to the Victoria police you should speak to the Principal as soon as possible so that assistance can be provided to you in relation to your obligations.

Protection for making a report

A disclosure to Victoria police that is made in good faith does not constitute unprofessional conduct or a breach of professional ethics and the person making the disclosure will not be liable in any way for doing so. Further, the person's identity will be confidential unless they disclose their identity themselves, they consent to it being disclosed or a Court considers it necessary for them to be identified.

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.

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 Mandatory Reporting Register kept by the Principal.

Grooming Offence

Grooming by an adult of a child under the age of 16 years is a criminal offence (section 49M, Crimes Act 1958).

The offence involves predatory conduct designed to facilitate a child's engagement or involvement in a sexual offence. The offence can be committed by any person aged 18 years or over.

- The offence of grooming includes predatory conduct undertaken to prepare a child for sexual activity at a later time.
- Grooming is 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 a sexual offence, whether with the groomer or another adult.
- Grooming can occur whether any sexual activity or even discussion of sexual activity has taken place – 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 with the child.
- The sexual offence in which the child is sought to be involved 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 Mandatory Reporting Register kept by the Principal.

‘Failure to Protect’ Offence

It is a criminal offence in Victoria for a person in authority to fail to act to remove or reduce a substantial risk that a sexual offence will be committed against a child under the age of 16 (section 49O, Crimes Act 1958) .

This applies where there is substantial risk that a child under the age of 16 under the care, supervision or authority of an organisation (including schools such as Luther College) 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 under the age of 16 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 that a sexual offence will be committed against a child in the school by an adult who is associated with the College, the Principal and/or Governing Body will act as they consider it appropriate to reduce or remove the risk.

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

Reportable Conduct Scheme – reporting conduct to the CCYP

Reporting conduct to the CCYP

The Principal is responsible for reporting to the Commission of Children and Young People (CCYP), and investigating, any reportable allegation.

A reportable allegation is any information that leads a person to form a reasonable belief that an employee of Luther College has committed reportable conduct or misconduct that may involve

reportable conduct, whether the conduct or misconduct is alleged to have occurred within the course of the person's employment or engagement by Luther College.

For the purpose of the Reportable Conduct Scheme, 'employee' is defined as a person aged 18 years or over, who is:

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

The following are considered 'employees' of the school for the purposes of the Reportable Conduct Scheme:

- members of the School Board;
- Principal;
- staff members;
- volunteers;
- contract service providers and their employees
- external education providers.

Reportable Conduct

Reportable conduct is:

- a sexual offence committed against, with or in the presence of a child;
- 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, inappropriate touching, grooming behaviour and voyeurism.

Forming a Reasonable Belief

An obligation to report suspected child abuse arises in many instances when a person has reasonable grounds, or a reasonable belief, that the abuse has or will occur.

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 they are 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 Department of Education Policy and Advisory Library.

Training

Child Safety training for all staff and volunteers will be conducted annually and is mandatory.

Staff are also required to participate in *Valuing Safe Communities* training as mandated by Lutheran Education Australia.

Further Information

Please refer to the Luther College Mandatory Reporting Procedures for further information.

Guiding Documents

- Lutheran Church of Australia: Safe Place Policy and Procedures
- Lutheran Church of Australia: Valuing Safe Communities Program

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*

Review

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

DOCUMENT CONTROL

Policy Category	Governing Policy	Review Frequency	5 years
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Document Availability		Policy Socialisation	
☒ ELT Policy Drive ☒ Diligent Policy Library ☒ Staff Policy Library – Omnia ☒ Student and Parent Policy Library – Omnia ☒ Website		☒ Staff policy receipt and acknowledgement ☒ Staff Briefing and/or Meeting ☐ Student Assembly ☐ Principal's Page	



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