

CHILD PROTECTION: FAILURE TO PROTECT POLICY

INTRODUCTION

Victory Christian College is committed to creating and maintaining a child-safe and child-friendly environment, where children and young people are safe and feel safe. It is vital that we are diligent ambassadors for child safety as an expression of our Christian values and ethos.

SCOPE

This policy applies to the whole school community in supporting safe environments for all children and young people. It concerns the new criminal offence under the Victorian Crimes Act, introduced in 2014, of *'failure to protect'*, which provides that a person who:

- Because of the position the person 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
- 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.

Note: In determining whether an offence of 'failure to protect' has taken place it is not necessary to prove that a sexual offence was committed.

The offence applies only to **adults in a position of authority** within an organisation. People in authority include- but are not limited to- principals, senior school leaders, business managers, College Board managers and church leaders.

This policy is enacted to sustain child-safe schools, and to inform all those occupying such positions are aware that they may be subject to the criminal offence of 'failure to protect' if they negligently fail to reduce or remove risks to children associated with that organisation, and to provide guidance in fulfilling their responsibilities.

KEY PRINCIPLES

A safe environment is required to protect children and young people from harm and to prevent staff from abusing their position of authority and trust.

The child and young person's ongoing safety and well-being must be the primary focus of all decision-making. School leaders and staff must be fully self-aware of, and comply with, their professional obligations and responsibilities.

The commitment to protecting children is embedded in the organisation's culture and responsibility for acting is understood and accepted at all levels of the organisation.

DEFINITIONS

- **Child**
For the purposes of this offence, a child is a person under the age of 16 years. A young person is any person who comes under or may come under the care, supervision or authority of the school.
- **Person in Authority:**
A person in authority is someone who, because of their position within a relevant organisation, has 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. The role may be a formal, management role but may also apply to less formal roles such as a volunteer coach for a sports team. People in authority include- but are not limited to- principals, senior school leaders, business managers,

College Board managers and church leaders.

- **Reasonable Belief:**

A 'reasonable belief' is formed if a reasonable person in the same position would have formed the belief on the same grounds. A 'reasonable belief' is not the same as having proof.

- **Sexual Abuse of a Child:**

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, including physical activity and/or exposure of the child to pornography.

IMPLEMENTATION

This policy applies to the school community in supporting a safe environment for all children and young people.

- It applies to all persons in positions of authority- they must understand their role and responsibility in protecting the safety and wellbeing of children and young people.
- This policy and its requirements will be communicated annually to senior staff.
- This policy and its requirements will be communicated to new leaders during induction.
- Victory Christian College students will be educated on their obligations to disclose once they are over 18 years of age.
- Prompt and full responses to any allegations will be undertaken with well-documented records retained securely and confidentially.

Allegations of misconduct against a staff member, contractor or volunteer, which meet the Reportable Conduct Scheme criteria must be reported by the Principal to the Commission for Children and Young People, within three business days of the report to DFFH Child Protection being made.

Identifying Substantial Risk

The following considerations must be taken into account when determining whether there is a substantial risk to the child:

- 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.

People in authority must take all reasonable steps to remove or reduce the risk of sexual abuse posed by an adult associated with the school. If the responsible person fails to take reasonable steps in these circumstances, this may amount to the person committing a criminal offence.

LEGISLATION

- Crimes Amendment (Protection of Children) Act 2014, online http://www.austlii.edu.au/au/legis/vic/num_act/caoca201436o2014417
- Children, Youth and Families Act (Vic) 2005 http://www.austlii.edu.au/au/legis/vic/consol_act/cyafa2005252/index.html
- Victorian Parliamentary Inquiry into the Handling of Child Sexual Abuse by Religious and Other Non-Government Organisations, Final Report, Betrayal of Trust, November 2013.
- <http://www.parliament.vic.gov.au/fcdc/article/1788>

RESOURCES

- ['Failure to Protect'](#), Department of Justice and Community Safety

ASSOCIATED POLICIES AND PROCEDURES

This policy should be read in conjunction with the other policies and procedures of Victory Christian College concerned with Child Safety:

- Bullying and Harassment Policy
- Child Protection: Failure to Disclose Policy
- Child Protection: Grooming Policy
- Child Protection: Mandatory Reporting Policy
- Child Protection Student Fact Sheet
- Child Safety and Wellbeing Policy
- Child Safety Code of Conduct
- ICT and Internet Acceptable Use Policy
- Privacy Policy
- Screening Checks Procedure for Working with Children