

## CHILD PROTECTION: FAILURE TO PROTECT POLICY

### INTRODUCTION

Victory Christian College has an overarching priority that all children in its care are safe, feel safe and that child abuse is non-existent in our community.

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:

1. 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
2. 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, including roles such as, but not limited to, canonical administrators, principals, senior school leaders, business managers.

This policy is enacted to sustain child safe schools, 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 wellbeing 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

#### **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.

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.

#### **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.

## 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.

## 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, to understand their role and responsibility on 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 of their obligations to disclose once they are over eighteen years of age.
- Prompt and full responses to any allegations will be undertaken with well documented records retained securely and confidentially.

## LEGISLATION

- Crimes Amendment (Protection of Children) Act 2014, online, [http://www.austlii.edu.au/au/legis/vic/num\\_act/caoca201436o2014417](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](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>