

MSA Ltd Child Protection – Victorian Responding And Reporting Obligations Policy

Background

Marist Schools Australia Ltd (“MSA Ltd”) is a not-for-profit company limited by guarantee. It is a charity registered with the Australian Charities and Not-for-Profits Commission (ACNC), with the purpose of advancing education and advancing religion.

MSA Ltd aims to strengthen the governance of the Education Ministry of the Trustees of the Marist Brothers. MSA Ltd governs, manages and conducts registered non-government schools and school boarding premises in Australia and it is particularly focused on ensuring that the Colleges follow all principles of good governance to maintain compliance with Australian legislation including the Education Legislation and provide a safe environment for its students.

Purpose

The MSA Ltd Child Protection – Victorian Responding and Reporting Obligations Policy demonstrates the strong commitment of MSA Ltd to child safety in Victoria, and provides an outline of the policies and practices that have been developed to keep students at MSA Ltd’s Victorian Colleges safe, including from abuse or other harm.

The MSA Ltd Child Protection – Victorian Responding and Reporting Obligations Policy is an overarching policy that provides the key elements on which the full set of policies and procedures about responding to and reporting child safety incidents or concerns, and that MSA Ltd has approved for each of its Victorian Colleges, are based. Each College’s full set of approved responding and reporting policies and procedures are set out in the College’s Child Safeguarding Program.¹

The MSA Ltd Child Protection – Victorian Responding and Reporting Obligations Policy and its procedures assists MSA Ltd, its Victorian Colleges, and their Staff (which includes volunteers, contractors, other service providers and religious leaders including clergy) to:

- identify indicators of a child or young person being (or at risk of being) “abused,” “otherwise harmed”, “in need of protection”, or subjected to “Reportable Conduct”

¹ The “Child Safeguarding Program” is the name given to the full collection of policies and procedures that assist MSA Ltd’s Victorian Colleges

to be a child safe organisation and to meet the requirements of the Victorian Child Safe Standards, Ministerial Order 1359, the National Principles for Child Safe Organisations and – as a Catholic entity – the National Catholic Safeguarding Standards. It includes not only policies and procedures for responding and reporting child safety incidents and concerns, but also policies and procedures about:

- child safe human resources management (including WWC clearances)
- participation and empowerment of students
- informing and involving families and relevant communities in child safeguarding issues
- equity and diversity
- child safeguarding risk management strategies
- strategies for embedding a culture of child safety at the College and
- regular reviews and continuous improvement of child safeguarding policies, procedures and practices.

These other policies and procedures are summarised in MSA Ltd’s Child Safeguarding Policy (Victoria).

- understand how to tell the MSA Ltd and the College about students in these situations, and take action to protect and support the student and others who may be impacted
- comply with their duty to protect students (including obligations under the Failure to Protect offence)
- comply with their obligations (under the law and under MSA Ltd and College policy) to report child safety incidents or concerns to relevant external authorities, including:
 - mandatory reporting of physical and sexual abuse to the Department of Families, Fairness and Housing (Child Protection)
 - mandatory reporting of sexual offences against children (including grooming) to Police
- comply with their obligations under the Victorian Reportable Conduct Scheme
- comply with other laws, regulations, and relevant standards relating to recognising, reporting and responding to child safety incidents or concerns, including in particular Ministerial Order 1359 Implementing the Child Safe Standards – Managing the Risk of Child Abuse in Schools and School Boarding Premises (“MO 1359”).

Principles

MSA Ltd is committed to ensuring the safety, wellbeing, and participation of all students in its care.

The MSA Child Protection – Victorian Responding and Reporting Obligations Policy, and all of the policies and procedures for recognising, reporting and responding to child safety incidents or concerns that have been approved by MSA Ltd for each of its Victorian Colleges, are designed and implemented taking into account the diverse characteristics of its Victorian College communities.

Scope

The MSA Child Protection – Victorian Responding and Reporting Obligations Policy applies to all MSA Ltd employees in Victoria, as well as to all adults engaged by its Victorian Colleges including Staff, Volunteers, Contractors, and External Education Providers (i.e. “school staff” within the meaning of MO 1359).

These are referred to collectively as “the MSA community in Victoria.”

This Policy applies in all of MSA Ltd’s and its Victorian Colleges’ environments, both physical and online, and on-site and off-site College grounds (e.g. camps and excursions).

Definitions

Key definition: Child safety incident or concern

The MSA Child Protection – Victorian Responding and Reporting Obligations Policy (and each College’s Child Safeguarding Program) uses the phrase “child safety incident or concern” rather than the more limited concept of “child abuse”.

Child safety incidents or concerns can take many forms. These include not only “abuse” of a child or young person by their parents/carers, but also conduct by other people that can cause harm to a child or young person.

In Victoria, MSA Ltd and each of its Victorian Colleges define “child safety incidents or concerns” as:

- incidents of or concerns about **child abuse** as defined in MO 1359, the *Education and Training Reform Act 2006* (Vic) (ETR Act) and *Child Wellbeing and Safety Act 2005* (Vic) (CWS Act)
- incidents of or concerns about **other harm** (defined in **Additional Definitions**, below)
- incidents of or concerns about **Reportable Conduct** as defined in the CWS Act
- incidents of or concerns about a breach of the **MSA Child Safe Adult Code of Conduct** or the **Staff and Student Professional Boundaries Policy**, by MSA community members in Victoria, no matter how minor the breach
- incidents of or concerns about **child abuse or other harm** of a student by another student or by another person while at an MSA Ltd College or an MSA Ltd College event.

Definitions of all of the above terms are set out in the **Additional Definitions** section below.

Additional definitions

For definitions of all of the different types of child abuse and other harm, a comprehensive list of the indicators of these types of harm, and advice on identifying perpetrators of child sexual abuse, refer to the protocol [PROTECT Identifying and Responding to All Forms of Abuse in Victorian Schools](#).

Child Abuse

Child abuse is defined in MO 1359, the ETR Act and CWS Act as:

- any act committed against a child involving:
 - a sexual offence² or
 - a grooming offence under section 49M(1) of the Crimes Act 1958 (Vic)³
- the infliction, on a child, of—
 - physical violence or
 - “serious” emotional or psychological harm
- the “serious” neglect of a child.⁴

Other Harm

Because the definition of “child abuse” in the MO, the ETR Act and CWS Act is quite limited, reference to other kinds of harm to children and young people, that must be reported internally to each College and to MSA Ltd and that must be responded to in accordance with this policy and its procedures, is required.

² Sexual offences against children and young people include:

- sexual offences against children aged under 16
- sexual offences against children aged 16-17 who are under the care, supervision or authority of the offender
- grooming by an adult of children aged under 16
- encouragement by an adult of child aged under 16, or a child aged 16-17 under the care, supervision or authority of the adult, to engage in or be involved in sexual activity
- offences related to child abuse material, including making (including by involving a child in making), producing, distributing, possessing, and administering websites containing this material offences

³ This grooming offence involves grooming by an adult of another adult who has the child under their care, supervision or authority.

⁴ “Serious” emotional or psychological harm and “serious” neglect involve harm that has a lasting permanent effect.

Other harm includes:

- children and young people who may be “in need of protection”, as set out in the Children, Youth and Families Act 2005 (Vic) (CYF Act)⁵
- children and young people who may be “in need of therapeutic treatment for sexually abusive behaviours,” as set out in the CYF Act
- other situations in which there are significant concerns for the wellbeing of a child or young person such that a report should be made under the CYF Act.

Reportable Conduct

Reportable Conduct is defined in the CSW Act to include:

- a sexual offence or sexual misconduct committed against, with or in the presence of, a child (it does not matter whether or not a criminal proceeding in relation to the offence has been commenced or concluded)
- physical violence committed against, with or in the presence of, a child
- any behaviour that causes “significant” emotional or psychological harm to a child
- “significant” neglect of a child.⁶

It does not matter whether the Reportable Conduct is alleged to have occurred in the course of the employee’s engagement by the College.

It does not matter whether the child is a student at the College.

“Child Abuse and Other Harm”

We refer to all of above definitions and concepts relevant to “child abuse” and “harm” to a child or young person, that are set out in the multiple Victorian child protection laws, as “child abuse and other harm.”

Child abuse and other harm therefore includes:

- sexual offences and sexual abuse
- grooming behaviours, grooming offences (including grooming of an adult with care, supervision and authority for a child) and encouragement offences
- physical violence and physical abuse
- serious/significant emotional or psychological harm
- serious/significant neglect.

⁵ The grounds set out in the CYF Act for a child to be considered “in need of protection” include:

- abandonment by or death/incapacitation of their parents, and no suitable person can be found who is willing and able to care for the child
- the child has 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
- the child has suffered, or is likely to suffer, emotional or psychological harm of such a kind that the child's emotional or intellectual development is, or is likely to be, significantly damaged, and the child's parents have not protected, or are unlikely to protect, the child
- the child's physical development or health has been, or is likely to be, significantly harmed because the child's parents have not provided, arranged or allowed the provision of, or are unlikely to provide, arrange or allow the provision of, basic care or effective medical, surgical or other remedial care.

⁶ “Significant” emotional or psychological harm and “significant” neglect involve harm that is more than trivial or insignificant, but need not be as high as “serious” and need not have a lasting permanent effect

Roles and Responsibilities

General roles and responsibilities relevant to child safeguarding at MSA Ltd and its Victorian Colleges are set out in **MSA Ltd's Child Safeguarding Framework Policy (Victoria)**, available on its public website.

The following roles have additional responsibilities under this policy:

- **All MSA Ltd community members** are responsible for understanding their internal and external reporting requirements and for complying with this policy and its procedures
- Each Victorian College's **Child Safeguarding Officers** and **Principal** are responsible for:
 - receiving internal reports
 - providing assistance and advice to MSA community members about their obligations under this policy and its procedures
 - ensuring that all child safety incidents or concerns, including those that occur at or involve the School or that involve MSA community members, are taken seriously, escalated, reported and responded to
 - managing the College's response and
 - monitoring the College's compliance with this policy and its procedures.
- Where a particular child safety incident or concern involves the Principal at a Victorian College, the **MSA Regional Director for Victoria** undertakes these responsibilities.
- The MSA Regional Director for Victoria is responsible for notifying the National Director MSA about any child safety incident or concern that occurs at or involves a Victorian College.
- The MSA Child Safeguarding Officer is responsible for ensuring child safeguarding incidents are recorded in the MSA Child Protection Incident Reporting system and provides reports as required about child safeguarding incidents to the Regional Director, National Director and Professional Standards and Child Safeguarding Committee whose minutes are tabled at the next MSA Ltd Board meeting.
- **The Board of MSA Ltd** is the "governing authority" for each of its Victorian Colleges for the purposes of Ministerial Order 1359, and is responsible for approving this policy and its procedures, as well as for approving each College's full set of policies and procedures about responding to and reporting child safety incidents or concerns that implement this policy.

Additional responsibilities relevant to specific responding and reporting obligations are set out in the relevant sections of this policy.

MSA Ltd's Policy

1. The Four Critical Actions

MSA Ltd itself, and all MSA Ltd's Victorian Colleges, **must** display the **PROTECT Four Critical Actions for Schools: Responding to Incidents, Disclosures or Suspicions of Child Abuse** diagram (Four Critical Actions) (Appendix 1) in staffrooms and other strategic areas of the College to ensure that all MSA community members in Victoria are aware of the actions to take as soon as they witness a child safety incident or develop a child safety concern,

receive a disclosure or form a reasonable suspicion or belief that a child has been, or is at risk of being, abused or harmed.

2. MSA Community Members' Response to Child Safety Incidents or Concerns

All members of the MSA community in Victoria must follow the Four Critical Actions.

As required by the Four Critical Actions, MSA community members in Victoria **must**:

- meet their legal obligations to protect students from harm, and take action in response to any emergency situations involving child safety incidents or concerns, (including those that occur at the College or College events)
- report any and all child safety incidents or concerns involving its students to their College and/or MSA Ltd (including incidents or concerns that involve students aged 18 or over)
- make any and all reports to external authorities that are required by law or by the Four Critical Actions/School policy (these are explained further in the **Procedures for Responding and for Reporting to External Agencies** below)
- provide ongoing support to affected students and MSA community members in Victoria.

Reporting internally to or consulting with a Child Safeguarding Officer or the Principal, does not change any obligation under legislation to report to an external authority. MSA Ltd community members in Victoria **must** make reports to the relevant external authority if they form the required belief about the matter, even if the person they reported to internally at the College or at MSA Ltd does not share that belief.

3. MSA Ltd's and each College's Response to Internal Reports

MSA Ltd and each of its Victorian Colleges will take appropriate, prompt action in response to all child safety incidents or concerns, including all complaints, allegations or disclosures of abuse or other harm, when these are reported to the School, whether by MSA community members, students, parents/carers or anyone else.

MSA Ltd's own response will include, and it requires that each Victorian College's response must include:

- all matters that meet the required relevant thresholds being reported externally to Child Protection, the Police, the CCYP, and/or the Victorian Institute of Teaching, depending on the issues raised and consistent with [PROTECT Four Critical Actions](#)
- MSA Ltd and the Victorian College fully cooperating with any resulting investigation by an external agency
- protecting any student connected to the child safety incident or concern until it is resolved and providing ongoing support to those affected
- taking particular measures in response to child safety incidents or concerns about an Aboriginal or Torres Strait Islander student, a student from a culturally and linguistically diverse background, a student with a disability, a student who is unable to live at home or a student who identifies as lesbian gay, bisexual, transgender or intersex
- sharing information with, or requesting information from, external people or agencies as permitted or required under the Child Information Sharing Scheme and/or the Family Violence Information Sharing Scheme

- securing and retaining records of the child safety incident or concern and MSA Ltd's and the Victorian College's response to it.

Procedures

There are a number of legal obligations that MSA Ltd, its Victorian Colleges and MSA community members in Victoria must follow when responding to child safety incidents or concerns.

In addition to these legal obligations, MSA Ltd also requires MSA community members in Victoria to respond to and to report certain child safety incidents and concerns to external authorities in situations where this is not required by law.

These legal and policy-based obligations, and their procedures, align with [PROTECT Four Critical Actions](#) and are summarised below.

1. *Critical Action One: Respond to Emergencies*

11 *Becoming aware of a child safety incident or concern*

MSA community members in Victoria may become aware of a child safety incident or concern through:

- witnessing a child safety incident
- observing:
 - key indicators of child abuse or other harm in a child or young person
 - conduct towards a child or young person by an adult that breaches the MSA Child Safe Code of Conduct (if the adult is associated with the College) or the Staff and Student Professional Boundaries policy, or is otherwise indicative of child abuse or other harm
- being told about a child safety incident by the child or young person themselves (a disclosure), directly or indirectly through assignments, art work or other means
- being told about a child safety incident or concern by a third party, such as a friend, parent/carer, other family member or other person (including as part of complaint)
- being told, by a former student, about an historical child safety incident that occurred at or involved the School or its staff, volunteers or contractors, (including as part of a complaint).

For guidance on how to manage each of these situations, refer to the protocol [PROTECT Identifying and Responding to All Forms of Abuse in Victorian Schools](#) and the **Managing Your Initial Response to a Child Safety Incident or Concern guideline** in each Victorian College's Child Safeguarding Program.

12 *Responding to an Emergency*

If a student has just been or is at immediate risk of being harmed, all MSA community members in Victoria **must** ensure their safety by:

- separating alleged victims and others involved
- administering first aid
- calling 000 for urgent medical assistance or Police assistance to address immediate health and safety concerns

- briefing the Senior Child Protection Officer to be the future liaison with the Police on the matter.

When a child safety incident occurs at an MSA Ltd Victorian College or at a College event, MSA community members in Victoria **must** preserve evidence of the incident, if it is safe to do so, by:

- **Environment:** do not clean up the area, and preserve the sites where the alleged incident occurred.
- **Clothing:** take steps to ensure that the person who has allegedly committed the abuse and the child who has allegedly been abused remain in their clothing. If this is not possible, ensure the clothes are not washed, handled as little as possible and stored in a sealed bag.
- **Other physical items:** ensure that items such as weapons, bedding and condoms are untouched.
- **Potential witnesses:** reasonable precautions must be taken to prevent discussion of the incident between those involved in or witnesses of the alleged incident.

13 Failure to Protect/Duty to Protect

In Victoria, it is a crime if a person who occupies a position within or in relation to MSA Ltd or one of its Victorian Colleges:

- knows that there is a substantial risk that:
 - a child (aged under 16) who is under the care, supervision or authority of the College
 - will become a victim of a sexual offence committed by an adult associated with the College and
- has, by reason of their position, the power or responsibility to reduce or remove that risk and
- negligently fails to reduce or remove that risk.

This criminal offence is known as “Failure to Protect” and, in the MSA Ltd context, it covers failures to protect a student aged under 16 from sexual abuse by members of the MSA community who are adults (students aged 18 or over and parents/carers are not “adults associated with the College” for the purposes of the Failure to Protect Offence).

MSA Ltd and its Victorian Colleges also have a common law duty to protect **all** students from reasonably foreseeable risks of harm, including risks of **all** types of child abuse or other harm that may arise from **all** people associated with the College (including MSA community members, students aged 18 or over, parents/carers and other family members of students).

To help MSA community members in Victoria meet both their Failure to Protect and Duty to Protect obligations, MSA Ltd requires that:

- (a) if **an MSA community member in Victoria** knows that:
 - **any** adult associated with MSA Ltd or one of its Victorian Colleges (including Staff, Volunteers, Contractors, students aged 18 or over, parents/carers and other family members of students)
 - poses a substantial risk of sexually abusing a student or a reasonably foreseeable risk of any form of child abuse or other harm to a student

(b) they **must**:

- take any actions to reduce or remove that risk that are within their power or responsibilities to take
- report the matter to the Victorian College's Principal (or, if the adult who poses the risk is the Principal or an MSA Ltd employee, to the MSA Regional Director for Victoria.
- follow their obligations to make appropriate external reports as listed below.

Actions that could be taken to protect students include, but are not limited to:

- immediately removing the person from contact with students
- ensuring that the person is not left alone with a student
- if the person is a parent, not allowing them to act as a parent volunteer or to attend College events.

2. Critical Action Two: Report (Internally and to Authorities)

21 Internal Reporting of Child Safety Incident or Concerns

MSA Ltd requires that **all MSA community members in Victoria must** report any and all child safety incidents or concerns involving its students (including those involving students aged 18 or over) to a Victorian College Child Safeguarding Officer, the College's Principal or the MSA Regional Director for Victoria.

Contact details for each College's Child Safeguarding Officers are set out in the relevant College's Child Safeguarding Policy.

If the matter involves a College Principal, or if the MSA community member is an MSA Ltd employee, the internal report must instead be made to the MSA Regional Director for Victoria.

22 Mandatory Reporting to Child Protection

Although everyone has a moral and social responsibility to report concerns about child abuse or other harm, some professionals are legally required to make a report to the Department of Families, Fairness and Housing (Child Protection) in certain circumstances.

Who Are Mandatory Reporters at MSA Ltd and its Victorian Colleges?

Relevant to MSA Ltd and its Victorian Colleges, the following people are Mandatory Reporters:

- teachers
- Principals
- medical practitioners
- nurses
- school counsellors
- registered psychologists
- early childhood workers
- persons in religious ministry

MSA Ltd community members in Victoria who fall into the above categories are Mandatory Reporters regardless of whether they are engaged by MSA Ltd or its Victorian Colleges as a staff member, Volunteer or Contractor.

When Must a Mandatory Report be Made?

A Mandatory Report must be made if – during the course of their professional work or carrying out duties of their office, position or employment – a Mandatory Reporter:

- forms a belief on reasonable grounds
- that a child who is aged under 17 (or who is aged 17 but is under a child protection order) is “in need of protection” because:
 - the child has 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.

What is a Belief on Reasonable Grounds?

The concept of a “belief on reasonable grounds” requires you to consider whether another person, when faced with similar information, would also draw the same conclusion. It is a low threshold.

You may have a belief on reasonable grounds, such that a Mandatory Report should be made, if:

- you witness the physical or sexual abuse of a child
- a child tells you that they have been physically or sexually abused
- a child tells you that they know someone who has been physically or sexually abused
- someone who knows the child tells you that the child has been physically or sexually abused
- a child shows physical or behavioural signs of being physically or sexually abused.

How to Make a Mandatory Report

Mandatory Reports can be made either to Child Protection or to the Police.

If you have contacted the Police, either as a result of **Responding to an Emergency** above or **Reporting to Police** below, then you have made your Mandatory Report.

If you have not contacted the Police, you must report to Child Protection. You must do this by:

- during business hours (8:45am-5:00pm, Monday to Friday), telephoning the Child Protection intake service for the local government area where the child resides, listed **here**.
- after hours, telephoning Child Protection on **13 12 78**.

23 Non-Mandatory Reporting to Child Protection

Under the law, **anyone** can report the following to Child Protection:

- significant concerns for the wellbeing of a child aged under 17 (wellbeing reports)

- a child aged under 17 who the person believes on reasonable grounds to be in need of protection (protective intervention reports)
- a child (aged under 18) who the person believes on reasonable grounds is in need of therapeutic treatment because they are exhibiting sexually abusive behaviours (therapeutic treatment reports).

MSA Ltd refers to these reports as “Non-Mandatory Reports to Child Protection.”

All of these reports are voluntary under the law.

However, the Four Critical Actions requires that **all of its Victorian Colleges’ staff members** (including those who are not Mandatory Reporters) **must** make wellbeing reports, protective intervention reports and therapeutic treatment reports to Child Protection (or, in some circumstances, to the Police or ChildFirst/Orange Door).

Therefore, it is MSA Ltd’s policy that wellbeing reports, protective intervention reports and therapeutic treatment reports **must** be made by all its Victorian Colleges’ staff members to either Child Protection, Police or ChildFirst/Orange door.

For guidance on the different kinds of Non-Mandatory Reports and when to report/who to report to/how to report, refer to the protocol [PROTECT Identifying and Responding to All Forms of Abuse in Victorian Schools](#) and the **Non-Mandatory Reporting to Child Protection Guideline** in each College’s Child Safeguarding Program.

24 Failure to Disclose: Mandatory Reporting (of Sexual Offences Against Children) to Police

Victorian law requires that any adult (a person aged 18 or over) who forms a reasonable belief that a sexual offence has been committed by another adult against a child aged under 16 must report that information to the Police, except in certain circumstances.

MSA Ltd calls this “Mandatory Reporting (of Sexual Offences Against Children) to Police.”

Failure to do this is a criminal offence known as “Failure to Disclose.”

Who Must Make a Mandatory Report (of Sexual Offence Against Children) to Police?

All adults in Victoria, including all MSA community members in Victoria, **must** report to Police when they have the required belief.

When Must a Mandatory Report to Police be Made?

MSA community members in Victoria must make these reports when they have a **reasonable belief** that:

- an adult (including a staff member, Volunteer, Contractor, parent/carer or any other adult)
- has committed a sexual offence
- against a person who, at the time of the offence, was aged under 16 (including but not limited to current or former students).

It does not matter whether the other adult is associated with MSA Ltd or its Victorian Colleges.

Sexual offences committed against a child aged under 16 by a student at one of its Victorian

Colleges who is aged under 18 do not fall under the Failure to Disclose offence. However, this **must** still be reported to Police under MSA Ltd policy (see **Non-Mandatory Reporting to Police** below).

What is a Reasonable Belief?

A “reasonable belief” is formed if another person in the same position would have formed the same belief on the same grounds.

A “reasonable belief” might be formed when:

- a child tells you that they are being or have been sexually abused
- a person aged over 16 tells you that they were sexually abused when they were aged under 16
- a child tells you that they know someone who is being or has been sexually abused (sometimes the child may be talking about themselves)
- someone who knows a child tells you that the child is being or has been sexually abused
- signs of sexual abuse lead you to believe that a child is being or has been sexually abused.

How to Report to Police

- In emergencies, or if the crime is happening now or has just happened and the suspected offender may still be in the area: call 000
All other matters: call the local police station.

25 Non-Mandatory Reporting to Police

The Four Critical Actions, together with the protocol **PROTECT Four Critical Actions for Schools: Responding to Student Sexual Offending** (Student Sexual Offending Four Critical Actions, Schedule 2) requires, and therefore it is MSA Ltd’s policy, that **all MSA community members in Victoria must** report the following to Police, even though this is not required by law:

- sexual offences committed by a student aged under 18 against any other person (see **Responding to Student Sexual Offending** below).
- concerns for a student’s immediate safety (see **Responding to an Emergency** above)
- knowledge or suspicions that a student aged 18 or over is being abused or harmed, but only if the student consents to the report
- where a student is partaking in illegal activity that is extreme in nature or poses a high risk to the student (see **Responding to Other Concerns About the Wellbeing of a Student** below).

26 Reportable Conduct

Victorian law requires that the “head” of MSA Ltd report to the Commission for Children and Young People (CCYP) any allegation that an “**employee**” of MSA Ltd or its Victorian Colleges has committed “Reportable Conduct” or misconduct that may involve Reportable Conduct (a reportable allegation). They must also conduct an appropriate investigation into the matter, and report the outcome to the CCYP.

The “head” of MSA Ltd and of each of its Victorian Colleges is the National Director MSA. They have authorised the Principal of each of its Victorian Colleges to undertake the following functions required under the Reportable Conduct Scheme, to assist them in meeting their obligations:

- notifying and updating the CCYP of reportable allegations about the College’s employees
- ensure investigations are undertaken into all reportable allegations made against the College’s employees
- comply with all obligations of the “head” of MSA Ltd under the Reportable Conduct Scheme.

If the reportable allegation involves the Principal, then the National Director MSA has authorised the MSA Regional Director to undertake these functions.

What is Reportable Conduct?

Reportable Conduct is defined in **Additional Definitions**, above.

Who is an Employee?

For the purposes of the Reportable Conduct Scheme, an **employee** is anyone aged 18 or over who is:

- employed by the College, (i.e, all adult staff members)
- engaged by the College to provide services as a volunteer, contractor, office holder or other officer (i.e all adult Volunteers and all adult Contractors).

It does not matter whether their work or activities relate to or involve providing services to children.

Internal Reporting of Reportable Conduct

To enable the Principal (or MSA Regional Director for Victoria) to fulfil their authorised obligations (and therefore to enable the National Director MSA to meet their legal obligations under the Reportable Conduct Scheme), MSA Ltd requires that **MSA community members who are College staff members, Direct Contact Volunteers and Direct Contact Contractors** and who:

- form a reasonable belief that
- an employee at the College has engaged in Reportable Conduct or misconduct that may involve Reportable Conduct

must immediately report their concerns to the Principal (or to the MSA Regional Director for Victoria if the allegation involves the Principal).

They **must** also consider whether they are required to make a Mandatory or Non-Mandatory Report to Child Protection, a Mandatory or Non-Mandatory Report to Police, take any other action or make any other external reports.

Any other MSA community member in Victoria (e.g. MSA Ltd employees, or a College’s Regular and Casual Volunteers/Contractors) can also report concerns about reportable conduct by a College employee to the Principal (or to the MSA Regional Director if the allegation involves the Principal).

Any MSA community member in Victoria can also or instead make a report directly to the CCYP, by calling 1300 78 29 78 or emailing contact@ccyp.vic.gov.au .

MSA Ltd and the College's Response to Reportable Allegations

When they become aware of a reportable allegation (whether through receiving an internal report of Reportable Conduct, through receiving a complaint from a student, parent/carer or anyone else, or through any other means), the Principal (or the MSA Regional Director for Victoria if the allegation involves the Principal) **must**:

- notify the CCYP as soon as possible, and no later than 3 business days after becoming aware of the reportable allegation
- report the matter to Police if the reportable allegation involves possible criminal conduct
- take any necessary interim action to ensure the safety and wellbeing of the child/ren involved and students at the College
- notify the Regional Director for Victoria and record the incident in the MSA Child Protection Incident system.
- ensure that an appropriate internal investigation is conducted into the reportable allegation (subject to Police advice, if the matter has been reported to Police, and to consultation with Child Protection, if the matter has been reported to Child Protection) and notify the CCYP of the person who will be conducting the internal investigation
- provide the CCYP with an update about the College's response to the reportable allegation within 30 days of becoming aware of it
- if, as a result of the internal investigation, a finding is made that the reportable allegation is "substantiated", report this to relevant regulators such as the Victorian Institute of Teaching or Working With Children Check Victoria and, if the finding involves a criminal offence, to Police if a report has not already been made
- decide what, if any, measures should be put in place to minimise any further risk of harm to students at the College
- notify the CCYP of the outcome of the internal investigation as soon as practicable after it has concluded.

27 Teacher Misconduct that is Reportable to the Victorian Institute of Teaching (VIT)

Registered teachers in Victoria are exempt from the Working with Children Check (WWCC) scheme. To align teacher registration with the WWCC scheme, Victorian law requires that registered teachers notify the VIT if they are charged with, committed for trial for, or convicted or found guilty of certain criminal offences (that accord with those relevant to Working with Children Checks) or if they have been issued with a negative notice in relation to the Working with Children Check.

Victorian law also requires that the Victorian Colleges must notify the VIT if it becomes aware that a teacher has been charged with, or convicted or found guilty of, these criminal offences or has been given a negative notice.

The College **must** dismiss or remove from its employment or engagement any teacher who has been convicted or found guilty of these criminal offences or been given a negative notice.

The College **must** also notify the VIT if the College has taken **any** action against a registered teacher in response to allegations that raise concerns about the teacher's fitness to teach.

To enable each of its Victorian Colleges to fulfil their obligations, MSA Ltd requires that:

- **MSA community members in Victoria who are registered teachers must** inform the Principal (or, if they are the Principal, the MSA Regional Director for Victoria) if they are charged with, committed for trial for, or convicted or found guilty of a relevant offence or if they have been given a negative notice in relation to a WWCC
- **all MSA community members who are College staff members must** immediately report to the Principal (or, if the incident or allegation involves the Principal, to the MSA Regional Director for Victoria) any incident or allegation that raises concerns about a teacher's fitness to teach.

28 Responding to Sexual Behaviour in Children and to Student Sexual Offending

Knowing how to identify and respond to all sexual behaviour in students, whether it be age-appropriate, concerning, harmful or student sexual offending, helps MSA community members in Victoria to support the development of healthy sexuality and protect students from abuse and other harm.

Recognising and Responding to Sexual Behaviour in Children

MSA Ltd has approved specific policies and procedures relevant to recognising and responding to sexual behaviour in children for its Victorian Colleges, set out in each College's Child Safeguarding Program.

These policies and procedures reference the True Traffic Lights® Framework, set out in Schedule 4, to enable MSA community members in Victoria to identify, recognise and respond to all forms of sexual behaviour. The Traffic Lights® Framework categorises sexual behaviour as green, orange or red light.

As a general guide:

- **Red light sexual behaviours** are those that are problematic or harmful, including forceful, secretive, compulsive, coercive or degrading sexual behaviours. These behaviours signal the need to provide immediate protection and follow up support.
- **Orange light sexual behaviours** are those that are outside normal behaviour in terms of persistence, frequency or inequality in age, power or ability. These concerning behaviours signal the need to monitor and provide extra support.
- **Green light sexual behaviours** are those that are normal, age-appropriate, spontaneous, curious, mutual, light-hearted and easily diverted experimentation. These behaviours provide opportunities to talk, explain and support.

All green, orange and red light behaviours require some form of action and support.

Most red light (harmful) sexual behaviour by a student aged 10 or over that is directed at another person would be considered **student sexual offending**. Some orange light (concerning) behaviours could also be student sexual offending.

Orange and red light behaviours may therefore require external reporting, such as **Mandatory or Non-Mandatory Reporting to Child Protection** or **Non-Mandatory Reporting to Police** above.

To enable MSA Ltd and its Victorian Colleges to respond appropriately to students with concerning or harmful sexual behaviour, MSA Ltd requires that **MSA community members who are College staff members, Direct Contact Volunteers and Direct Contact Contractors**

must report orange light and red light sexual behaviours to a College Child Safeguarding Officer.

Responding to Student Sexual Offending

Student sexual offending refers to sexual behaviour that:

- is led by a student aged 10 or over
- is directed at another person and
- constitutes a sexual offence.

MSA Ltd requires that, when **MSA community members who are College staff members, Direct Contact Volunteers and Direct Contact Contractors** become aware of, or suspect, student sexual offending, or that a student is at risk of perpetrating or suffering student sexual offending, they **must** follow the **Student Sexual Offending Four Critical Actions**.

The Student Sexual Offending Four Critical Actions requires that incidents of or concerns about student sexual offending **must** be reported to Police, and that additional reports **must** be made, if relevant, to Child Protection or Child First/Orange Door.

- In emergencies, or if the student sexual offending is happening now or has just happened and the student offender may still be in the area: call 000
- All other matters: call the local police station. For guidance on identifying and responding to student sexual offending, refer to the protocol [PROTECT Identifying and Responding to Student Sexual Offending](#) and the **Recognising and Responding to Sexual Behaviour in Children and to Student Sexual Offending Guideline** in each College's Child Safeguarding Program.

29 Responding to Other Concerns About the Wellbeing of a Student

Any concerns about the wellbeing of a student, regardless of whether it has been caused by abuse or other harm, will be taken seriously and acted upon.

MSA Ltd, its Victorian Colleges and **MSA community members in Victoria who have students under their care** owe a duty of care to all students at its Victorian Colleges to ensure that they feel safe and are supported at the College.

Concerns about the wellbeing of a student, that do not appear to be the result of abuse or other harm, may still be reported by MSA community members in Victoria to:

- internally, one of the College's Child Safeguarding Officers or Principal
- Victoria Police
- Child Protection
- Child FIRST/the Orange Door

depending on the age of the student and the nature of the concern.

MSA community members in Victoria should also consider whether a referral to a support service may assist.

210 Child Safeguarding Record Keeping

All internal and external reports of child safety incidents and concerns, as well as any other responses by each of its Victorian Colleges, must be recorded using [PROTECT Recording your](#)

[actions: Responding to suspected child abuse - A Template for Victorian Schools](#) or, if the matter involves student sexual offending, using [PROTECT Responding to Suspected Student Sexual Offending: Template for all Victorian Schools](#).

MSA community members who are College staff members must complete the relevant sections of these forms. In the case of MSA community members who are Volunteers or Contractors at a College, this may instead be done by or with the assistance of a Child Safeguarding Officer or the Principal. Completed forms must then be provided to a Child Safeguarding Officer or the Principal (or to the MSA Regional Director for Victoria if the matter involves the Principal).

As the various responses of the College occur, these must be recorded in the relevant sections by the Child Safeguarding Officer the Principal or MSA Regional Director.

All child safeguarding incidents must be recorded in the MSA Child Protection Incident Reporting system by the Principal or delegate or if the matter involves the Principle by the Regional Director for Victoria. The Regional Director for Victoria and the MSA Child Safeguarding Officer receive an automatic alert that a matter has been reported. The incident remains open in the system until the incident has been resolved and it is then closed by the Regional Director

3. Critical Action Three: Contact Parents/Carers

3.1 Communicating with Parents/Carers About Internal and External Reports

It is usually critical that the parents/carers of a student who is the subject of a child safety incident or concern are notified as soon as practicable when an internal report has been received and/or that an external report has been or will be made. This enables the student's parents/carers to take steps to prevent or limit their child's exposure to further abuse or other harm and ensure that their child receives the support that is needed. However, this may not be appropriate in all circumstances.

- If a report has been or will be made to Child Protection or Police, then the **Principal or Senior** Child Safeguarding Officer **must** seek advice from Child Protection or Police (depending on who the report has been made to) before contacting parents/carers. They will advise whether it is appropriate to contact parents/carers at this stage and if so, what information can be shared with the parents/carers.
- If the matter involves an internal investigation of Reportable Conduct, then by law, the **Principal (or the MSA Regional Director for Victoria** if the matter involves the Principal) **can** share information about the progress of the investigation, its findings and recommendations, and actions taken, with the child and their parents/carers. They **must** take into account a number of factors when deciding whether, to what extent, and at what point in the investigation, information about the matter should be shared with the child and their parents/carers.

Where information about an external report can be shared with parents/carers, the **Principal or Senior Child Safeguarding Officer must** make sensitive and professional contact with the parents/carers as soon as practicable after the child safety incident or concern occurred or arose.

4. Critical Action Four: Provide Support

4.1 Support for Students, Families and Representatives Following Child Safety Incident or Disclosure

MSA Ltd and its Victorian Colleges employ a range of measures to support students affected by a child safety incident or concern, depending on the particular circumstances of the matter and of the student and their family:

- Child Safeguarding Officers may work with the student and their family to develop a Student Support Plan.
- Support strategies that could be considered for students and/or their families might include offering or organising referrals to internal or external support, such as the School counsellor, bi-cultural workers and/or translators, or an external support agency and/or child advocacy organisation which specialises in supporting children and young people impacted by abuse or other harm.

Former students who disclose historical child safety incidents or concerns from their time at one of the Victorian Colleges are also offered similar support by MSA Ltd.

Witnessing a child safety incident or receiving a disclosure of abuse or other harm can be a distressing experience for the Representatives involved. MSA Ltd and the Victorian Colleges assist impacted MSA community members to access necessary support.

Implementation

The MSA Ltd Child Protection – Victorian Responding and Reporting Obligations Policy is published on MSA Ltd's. Each Victorian College must have a Board approved policy contextualised to its own circumstances on its public website.

The policy is provided to new Staff, to Direct Contact and Regular Volunteers and to Direct Contact and Regular Contractors at induction. Training about The MSA Ltd Child Protection – Victorian Responding and Reporting Obligations Policy is also included in annual refresher training for Staff and relevant Volunteers and Contractors.

All Visitors to the Victorian Colleges, including Casual Volunteers and Casual Contractors, are provided with information about the MSA Child Protection – Victorian Responding and Reporting Obligations Policy (including in particular how to report child safety incidents or concerns to the College and to relevant external authorities) through information sheets or posters at the College reception.

The MSA Ltd Child Protection – Victorian Responding and Reporting Obligations Policy is also communicated to all of the Victorian Colleges' Staff, Volunteers, Contractors and other members of the MSA community in Victoria through other mediums such as Staff intranet, induction packs and handbooks for College Advisory Council members and Direct Contact Volunteers.

Breach of this Policy and Procedures

MSA Ltd enforces this policy and its procedures. In the event of any non-compliance, it will instigate a review that may result in a range of measures including (depending on the

severity of the breach):

remedial education

- counselling
- increased supervision
- the restriction of duties
- suspension or
- in the case of serious breaches, termination of employment, contract or engagement.

Source of Obligation

The MSA Ltd Child Protection – Victorian Responding and Reporting Obligations Policy implements:

- the **Victorian Child Safe Standards** and **MO 1359**
- the **National Principles for Child Safe Organisations**
- the **National Catholic Safeguarding Standards**.

Related Policies and Procedures

The MSA Ltd Child Protection – Victorian Responding and Reporting Obligations Policy is to be read and understood in conjunction with:

- the **MSA Ltd Child Safeguarding Framework Policy (Victoria)**
- the **MSA Child Safe Adult Code of Conduct**
- the **MSA Ltd Complaints Handling Policy**.

Related Forms and Documents

- Department of Education and Training, Catholic Education Commission of Victoria and Independent Schools Victoria, [PROTECT Recording your actions: Responding to suspected child abuse - A Template for Victorian Schools](#)
- Department of Education and Training, Catholic Education Commission of Victoria and Independent Schools Victoria, [PROTECT Responding to Suspected Student Sexual Offending: Template for all Victorian Schools](#)

References and Resources

- Department of Education and Training, Catholic Education Commission of Victoria and Independent Schools Victoria, [PROTECT Identifying and Responding to All Forms of Abuse in Victorian Schools](#), 2018
- Department of Education and Training, Catholic Education Commission of Victoria and Independent Schools Victoria, [PROTECT Identifying and Responding to Student Sexual Offending](#), 2018

Policy Review

The MSA Board is responsible for ensuring that this policy and its procedures are reviewed and updated as needed, and for approving this policy.

Version	2
Approved by	Board of MSA Ltd
Policy Owner	National Director MSA
Date Developed	September 2022
Next Review Date	September 2023

Schedule 1

Victorian Colleges

- (a) Assumption Catholic College, Kilmore VIC, ABN 85 917 803 177:
 - (i) Registered Non-Government School
 - (ii) associated Registered School Boarding Premises, registered under the Education and Training Reform Act 2006 (Vic) and the Education and Training Reform Regulations 2017 as amended from time to time
- (b) Lavalla Catholic College, Traralgon VIC, ABN 74 453 482 885
- (c) Marcellin Catholic College, Bulleen VIC, ABN 77 413 001 496
- (d) Marist College Bendigo, Bendigo VIC, ABN 48 218 856 996

Schedule 2

Department of Education and Training, Catholic Education Commission of Victoria and Independent Schools Victoria, PROTECT [Four Critical Actions for Schools: Responding to Incidents, Disclosures or Suspicions of Child Abuse](#), 2018

Schedule 3

Department of Education and Training, Catholic Education Commission of Victoria and Independent Schools Victoria, [PROTECT Four Critical Actions for Schools: Responding to Student Sexual Offending](#), 2018

Schedule 4

True Traffic Lights Indicators

Indicator	0 to 4 years	5 to 9 years	10 to 13 years	14 to 17 years
<p>RED</p> <p>Sexual behaviours which indicate or cause harm because they are:</p> <ul style="list-style-type: none"> excessive, compulsive, coercive, forceful, degrading or threatening secretive, manipulative or involve bribery or bribery not appropriate for the age and stage of development between children with a significant difference in age, developmental ability or power <p>These behaviours signal the need to provide immediate protection and follow up support.</p>	<ul style="list-style-type: none"> compulsive masturbation which may be self injurious, or of a persistent nature or duration persistent explicit sexual themes in talk, art or play disclosure of sexual abuse simulation of sexual touch or sexual activity persistently touching the genitals/private parts of others sexual behaviour between young children involving penetration with objects, masturbation of others, oral sex presence of a sexually transmitted infection 	<ul style="list-style-type: none"> compulsive masturbation e.g. self injuring, self harming, seeking an audience disclosure of sexual abuse persistent bullying involving sexual aggression e.g. pulling/lifting/removing other children's clothing, sexually threatening notes, drawing, text messages sexual behaviour with significantly younger or less able children accessing the rooms of sleeping children to touch or engage in sexual activity simulation of, or participation in, sexual activities e.g. oral sex, sexual intercourse presence of a sexually transmitted infection persistent sexual activity with animals using mobile phones and internet which includes giving out identifying details or sexual images 	<ul style="list-style-type: none"> compulsive masturbation e.g. self harming, seeking an audience engaging vulnerable others in a process to gain sexual activity by using grooming techniques e.g. gifts, lies, flattery force or coercion of others into sexual activity oral sex and/or intercourse with a person of different age, developmental ability and/or peer grouping presence of sexually transmitted infection or pregnancy deliberately sending and/or publishing sexual images of self or another person arranging a face to face meeting with an online acquaintance sexual contact with animals sexual activity in exchange for money or goods possessing, accessing or sending child exploitation materials e.g. photos of children naked or in sexual activities 	<ul style="list-style-type: none"> compulsive masturbation e.g. self harming, in public, seeking an audience preoccupation with sexually aggressive and/or illegal pornography sexual contact with others of significant age and/or developmental difference engaging others in a process to gain sexual activity by using grooming techniques e.g. gifts, manipulation, lies deliberately sending and/or publishing sexual images of another person without their consent arranging a meeting with an online acquaintance without the knowledge of a peer or known adult sexual contact with animals sexual activity in exchange for money, goods, accommodation, drugs or alcohol forcing or manipulating others into sexual activity possessing, accessing or sending child exploitation materials
<p>ORANGE</p> <p>Sexual behaviours which cause concern because of:</p> <ul style="list-style-type: none"> persistency, intensity, frequency or duration of behaviours real type of activity or knowledge for the age and stage of development inequality in age, size, power or developmental ability risk to the health and safety of the child or others unusual changes in a child's behaviour <p>These behaviours signal the need to monitor and provide extra support.</p>	<ul style="list-style-type: none"> masturbation in preference to other activities preoccupation with sexual behaviours persistently watching others in sexual activity, toileting or when nude explicit sexual talk, art or play following others into private spaces e.g. toilets, bathrooms to look at them or touch them pulling other children's pants down or skirts up against their will touching the genitals/private parts of other children in preference to other activities attempting to touch or touching adults on the breasts, bottom, or genitals in ways that are persistent and/or invasive touching the genitals/private parts of animals after redirection 	<ul style="list-style-type: none"> masturbation in preference to other activities, in public, with others and/or causing self injury explicit talk, art or play of sexual nature persistent questions about sexuality despite being answered persistently nudgy and/or exposing private parts in public places persistently watching or following others to look at or touch them pulling other children's pants down or skirts up against their will persistently mimicking sexual flirting behaviour too advanced for age, with other children or adults touching genitals/private parts of animals after redirection use of mobile phone and internet with known and unknown people which may include giving out identifying details 	<ul style="list-style-type: none"> masturbation in preference to other activities, in public and/or causing self injury persistent explicit talk, art or play which is sexual or sexually intimidating accessing age restricted materials e.g. movies, games, internet with sexually explicit content persistent expression of fear of sexually transmitted infection or pregnancy marked changes to behaviour e.g. older or adult flirting behaviours, seeking relationships with older children or adults in preference to peers engaging in sexual activities with an unknown peer e.g. deep kissing, mutual masturbation oral sex and/or intercourse with a known partner of similar age and developmental ability using mobile phones and internet with unknown people which may include giving out identifying details 	<ul style="list-style-type: none"> sexual preoccupation which interferes with daily function intentional spying on others while they are engaged in sexual activity or nudity explicit communications, art or actions which are obscene or sexually intimidating repeated exposure of private parts in a public place with peers e.g. flashing unsafe sexual behaviour, including unprotected sex, sexual activity while intoxicated, multiple partners and/or frequent change of partner presence of sexually transmitted infection or unplanned pregnancy oral sex and/or intercourse with known partner of more than two years age difference or with significant difference in development arranging a meeting with an online acquaintance accompanied by a peer or known adult using mobile phones and internet to send or receive sexual images of another person with their consent
<p>GREEN</p> <p>Sexual behaviours which are part of normal and healthy development and are:</p> <ul style="list-style-type: none"> spontaneously initiated, not coerced, easily diverted, enjoyable, mutual and consensual appropriate to the child's age and development activities or play among adults in terms of age, size and ability levels about understanding and gathering information, balanced with curiosity about other parts of life <p>These behaviours provide opportunities to talk, explain and support.</p>	<ul style="list-style-type: none"> comfort in being nude body touching and holding own genitals unselfconscious masturbation interest in body parts and functions wanting to touch familiar children's genitals during play, toilet or bath times participation in make believe games involving looking at and/or touching the bodies of familiar children e.g. "show me yours and I'll show you mine", playing "family" asking about or wanting to touch the breasts, bottoms or genitals of familiar adults e.g. when in the bath 	<ul style="list-style-type: none"> increased sense of privacy about bodies body touching and holding own genitals masturbation, usually with awareness of privacy curiosity about other children's genitals involving looking at and/or touching the bodies of familiar children e.g. "show me yours and I'll show you mine", playing "family" curiosity about sexuality e.g. questions about babies, gender, relationships, sexual activity telling stories or asking questions, using swear words, "toilet" words or names for private parts use of mobile phones and internet in relationships with known peers 	<ul style="list-style-type: none"> growing need for privacy masturbation in private curiosity and seeking information about sexuality use of sexual language interest and/or participation in girlfriend or boyfriend relationships hugging, kissing, touching with known peers exhibitionism amongst same age peers within the context of play e.g. occasional flashing or mooning use of mobile phones and internet in relationships with known peers 	<ul style="list-style-type: none"> need for privacy masturbation in private accessing information about sexuality viewing materials for sexual arousal e.g. music videos, magazines, movies sexually explicit mutual conversations and/or use of humor and obscenities with peers interest and/or participation in a one on one relationship with someone of the same or other sex sexual activity with a partner of similar age and developmental ability (ability to consent must be considered) use of mobile phones and internet in relationships with peers

Traffic lights adopted from the Child at Risk Assessment Unit (2000). Age Appropriate Sexual Play and Behaviour in Children. Canberra: Australian Capital Territory Government Community Care. 5/11.