



DOBCEL [PROTECT] Reportable Conduct Scheme Policy

Reviewed: 2022
Next Review: 2024

Background

The Diocese of Ballarat Catholic Education Limited (DOBCEL) Board is committed to:

- zero tolerance of child abuse
- listening to and empowering children and young people
- keeping children and young people safe.

The DOBCEL Board maintains governance oversight of DOBCEL schools. DOBCEL maintains a management arm to ensure that DOBCEL schools are safe for children and young people and are places where children and young people can flourish.

The DOBCEL Board is committed to supporting schools to take a proactive role in the care, wellbeing and protection of children and young people.

The Board has particular responsibilities for the safeguarding of children and young people as required by [Ministerial Order 1359: Implementing the Child Safe Standards – Managing the Risk of Child Abuse in Schools and School Boarding Premises](#). This ministerial order places accountability for managing the risk of child abuse with the Board. Consistent with MO 1359, the Board requires schools governed by DOBCEL to have appropriate arrangements to regulate the conduct and decisions of school staff for the benefit of students. These arrangements include implementing and complying with the DOBCEL child safe policies and having clear and comprehensive procedures and reporting mechanisms. The objective for the Board and the wider school community is to be confident in the capacity of schools to make and implement appropriate decisions, with child safety as the guiding principle.

Reportable Conduct Scheme

The *Child Wellbeing and Safety Act 2005* (Vic) (the Act) requires DOBCEL to investigate and report to the Commission for Children and Young People (CCYP) allegations of employee-reportable conduct or misconduct.

The Board has developed this policy, which sets out the procedures for enabling the reporting of reportable conduct and for these reports to be investigated and responded to in accordance with DOBCEL procedure.

The CCYP's [website](#) provides additional guidance and materials that will assist DOBCEL schools to understand and meet their obligations under the Act.

Who is an Employee?

For the purposes of the Act, an 'employee' is defined as a person aged 18 years or over who is:

- Employed by DOBCEL, whether or not that person is employed in connection with any work or activities of a DOBCEL school that relate to children

- Engaged by DOBCEL to provide services, including as a volunteer, contractor, office holder or officer, whether or not the person provides services to children.

For the purposes of Ministerial Order 1359, the Child Safe Standards and this policy, a minister of religion or a religious leader is also considered an employee.

Of relevance to DOBCEL, the following people are deemed covered by this policy:

- Board members
- DOBCEL Executive Director
- Catholic Education Ballarat staff and management
- Principals of DOBCEL schools
- Staff members of DOBCEL schools
- School advisory council (SAC) members
- Volunteers
- Third-party contractors
- External education providers

For the purposes of this policy, these employees are referred to collectively as 'staff' or 'staff members'.

What is Reportable Conduct?

Reportable conduct is defined in the *Child Wellbeing and Safety Act 2005 (Vic)* to mean the following:

- A sexual offence committed against, with or in the presence of, a child, whether or not a criminal proceeding in relation to the offence has been commenced or concluded
- 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
- Significant neglect of a child

Sexual misconduct includes behaviour, physical contact or speech or other communication of a sexual nature with a child – for example:

- 'Sexting'
- Inappropriate touching or physical contact
- Grooming behaviour
- Voyeurism.

A sexual offence for the purposes of the Reportable Conduct Scheme means a serious sexual offence as set out in Clause 1 of Schedule 1 of the *Sentencing Act 1991 (Vic)*, which includes rape, attempted rape, sexual assault, incest, committing an indecent act with a child, persistent sexual abuse of a child, grooming, and the production or possession of child pornography.

Significant means in relation to emotional or psychological harm or neglect, where the harm is more than trivial or insignificant, but need not be as high as serious and need not have a lasting permanent effect.

The Commission for Children and Young People (CCYP) has provided guidance on how to identify physical violence, behaviour that causes emotional or psychological harm to a child, and neglect.

Physical violence includes an act that causes physical injury or pain. Examples of physical violence can include:

- Hitting/kicking/punching
- Pushing/shoving/grabbing/throwing/shaking
- Using an object to hit or strike
- Using inappropriate restraint/excessive force.

Physical violence does not include:

- Reasonable steps taken to protect a child from immediate harm, such as taking a child's arm
- Stopping a child from stepping in front of oncoming traffic
- Medical treatment given in good faith by an appropriately qualified person, such as a first-aid officer administering first aid.

Behaviour that causes emotional or psychological harm to a child requires a clear link between the alleged conduct and the significant harm suffered (significant as defined previously).

Signs that a child may have been emotionally or psychologically harmed may include:

- Patterns of out-of-character behaviour
- Regression in behaviour
- Distress and anxious behaviour
- Other physical symptoms, such as self-harm.

The exacerbation or aggravation of an existing mental health disorder may also cause emotional or psychological harm. Examples of emotional or psychological harm may include:

- Exposure to violence or threats of violence
- Self-destructive behaviour
- Antisocial behaviour
- Persistent hostility/rejection
- Humiliation/belittling
- Scapegoating.

It will not be reportable conduct if:

- A person takes reasonable steps to protect a child from immediate harm
- A person with responsibility for discipline takes lawful and reasonable disciplinary action,

such as sending a child to sit in 'time out' for a period of time (refer to DOBCEL Behaviour Management Policy and Procedures)

- An appropriately qualified person gives medical treatment in good faith such as a first-aid officer administering first aid.

Neglect occurs when a person does not meet their obligations and responsibilities to keep a child safe and well. The neglect:

- Must be more than minor and insignificant
- Does not need to have a lasting or permanent effect
- May be an ongoing situation or a one-off incident if it is not minor in nature.

The DOBCEL Safeguarding Children and Young People Code of Conduct outlines the acceptable and unacceptable behaviours for employees. Teachers are also bound by the Victorian Institute of Teaching (VIT) [Code of Conduct](#). These codes, which are similar for other professions, outline the expected standards of behaviour for all staff, volunteers, and third-party contractors at DOBCEL schools. It is important to note that a breach of these codes will not always constitute an incident of reportable conduct. Such breaches can often be dealt with at the school level and do not need to be reported to the CCYP. For example, reasonable discipline of a student would not amount to behaviour that causes emotional or psychological harm to a child and therefore is not reportable conduct.

What Must be Notified?

Under the *Child Wellbeing and Safety Act 2005* (Vic), the DOBCEL Executive Director as the head of entity must notify the CCYP of a reportable allegation against a staff member. A reportable allegation is defined in the Act to mean any information that leads a person to form a reasonable belief that an employee (member of staff) has committed:

- An act of reportable conduct
- Misconduct that may involve reportable conduct – whether or not the conduct/misconduct is alleged to have occurred in the course of the person's employment at a school.

Guidance from the CCYP states that reasonable belief is more than a suspicion. There must be some objective basis for the belief. However, it is not the same as proof and does not require certainty.

Who Must Notify?

Any person may disclose a reportable allegation to the CCYP by using an online form available from the CCYP's website, by phone or by letter (section 16L of the Act).

While any person may disclose a reportable allegation, the Head of entity must notify the CCYP of a reportable allegation (section 16M). Principals must notify the Executive Director, via the Manager Safeguarding and Standards, if they suspect reportable conduct has occurred.

The Head of entity has clear and distinct responsibilities under the Reportable Conduct Scheme. DOBCEL is the governing authority and legal proprietor of DOBCEL schools. The Executive Director

of DOBCEL is the appointed Head of entity, with primary responsibility for DOBCEL schools' compliance with the Victorian Reportable Conduct Scheme.

The DOBCEL Executive Director may authorise the Manager Safeguarding and Standards to:

- Notify and update the CCYP of any reportable allegations concerning DOBCEL employees
- Ensure investigations are undertaken into all reportable allegations made against employees
- Comply with all the obligations of the Head of entity under the scheme.

It is a criminal offence for the Head of entity to fail to disclose a reportable allegation to the CCYP without a reasonable excuse. The Act does not define what a reasonable excuse may be but section 16M (5) provides an exemption if the Head of entity honestly and reasonably believed that another person had notified the CCYP.

The report must be made using an online form available from the CCYP's website.

Where the reportable allegation involves a principal, the DOBCEL Executive Director may authorise the Assistant Director People and Development to:

- Notify and update the CCYP of reportable allegations concerning DOBCEL employees
- Ensure investigations are undertaken into all reportable allegations made against employees
- Comply with all the obligations of the Head of entity under the scheme.

Fulfilling the Principal's Responsibilities

The principals of DOBCEL schools are responsible for ensuring that their schools comply with the reportable conduct obligations under the *Child Wellbeing and Safety Act 2005* (Vic). However, the CCYP does not expect principals to practically carry out their responsibilities alone. Principals are encouraged to seek support from Catholic Education Ballarat and report all suspected allegations to Manager Safeguarding and Standards.

Reportable Conduct and Other Reporting Obligations

The **reportable conduct** obligation covered in this policy is separate and distinct from the:

- **Mandatory reporting** obligation under the *Children, Youth and Families Act 2005* (Vic)
- **Obligation to report a sexual offence** obligation under the *Children, Youth and Families Act 2005* (Vic)
- **Obligation to report a sexual offence** obligation under the *Crimes Act 1958* (Vic)
- **Conduct that is reportable to the Victorian Institute of Teaching** under the *Education and Training Reform Act 2006* (Vic).

The threshold for reporting allegations of reportable conduct is much lower than for these other reporting obligations.

Any allegations of criminal conduct, including physical violence, significant emotional or psychological abuse, sexual offences and significant neglect must be reported to Victorian Police as the first priority. A police investigation will take priority over any investigation conducted by DOBCEL under this policy.

How to Report Allegations of Reportable Conduct

The table in this section describes the information to be included when an allegation of reportable conduct is made regarding an employee (persons engaged by the entity such as volunteers, contractors, office holders, school board members and officers of a religious body) at the school. The Reportable Conduct Scheme is in addition to a school staff member’s mandatory reporting or criminal reporting obligations.

Any allegations of criminal conduct, including physical violence, significant emotional or psychological abuse, sexual offences and significant neglect must be reported to Victoria Police as the priority. However, school staff members may find they also need to make an allegation of reportable conduct for the same incident.

DOBCEL school staff are required to notify their principal or, if the principal is the subject of the allegation, must be reported to the Assistant Director: People and Development on (03) 4344 4350 or safeguarding@dobcel.catholic.edu.au if they have a reportable conduct allegation.

The principal must notify the Manager Safeguarding and Standards on (03) 4344 4350 or safeguarding@dobcel.catholic.edu.au of the allegation of reportable conduct as soon as possible.

The Reportable Conduct Scheme does not change mandatory reporting or other reporting obligations, including internal reporting and reporting criminal behaviour to Victoria Police. Reportable conduct reporting must be done in addition to these other reporting obligations.

For further support and advice regarding reporting conduct in DOBCEL schools under the Reportable Conduct Scheme, contact the Manager Safeguarding and Standards on (03) 4344 4350 or safeguarding@dobcel.catholic.edu.au.

| Making an Allegation of Reportable Conduct | |
|--|---|
| Action | Description |
| 1. Keep notes | <p>Comprehensive notes must be kept, dated, and include the following information:</p> <ul style="list-style-type: none"> ▪ A description of the concerns (for example, physical injuries, student behaviour). ▪ The source of those concerns (for example, observation, report from child or another person). ▪ Any actions taken as a result of the concerns (for example, |

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|---------------------------|---|
| | consultation with the principal, report to DFFH Child Protection, etc.). |
| 2. Make the report | If a reasonable belief has been formed that an employee (persons engaged by the entity such as volunteers, contractors, office holders, school board members and officers of a religious body) at the school has engaged in conduct or misconduct that has been construed as being reportable conduct, this allegation must be reported to the school's principal or, if the principal is involved in the allegation, a member of the leadership team who will notify the Assistant Director: People and Development on (03) 4344 4350 or by email safeguarding@dobcel.catholic.edu.au |

What should a principal in a DOBCEL school do about a reportable allegation?

Outlined in the following table are the steps that a principal should take if they become aware of a potential reportable allegation. These steps are in *general* order of priority, but the guidance may change depending on the circumstances.

| If a student or another child provides information concerning a reportable allegation | If a staff member or another adult provides information concerning a reportable allegation |
|---|---|
| <p>1. The first step should always be to ensure the student/child is safe. If a child seems to be facing immediate danger or risk of harm, Victoria Police must be contacted on 000.</p> | |
| <p>2. The principal needs to be aware that the child has spoken to them because they can be trusted. Therefore, the principal needs to:</p> <ul style="list-style-type: none"> ▪ Give the child or young person their full attention ▪ Listen calmly and empathically ▪ Reassure the child or young person that it is right to tell ▪ Accept that the child or young person will disclose only what they are comfortable disclosing and recognise the bravery/strength of the child for talking about something that is difficult ▪ Allow the child or young person to take their time ▪ Let the child or young person use their own words ▪ Refrain from making promises they cannot keep. <p>3. The principal must tell the child or young person what they plan to do next.</p> | <p>2. The person should be thanked for raising the matter of the allegation. They are to be offered support and assistance, as necessary. If they are a staff member, they are to be referred to the Employee Assistance Program (EAP) where this is available.</p> <p>3. The person making the report needs to be made aware that the school will manage the concern confidentially and, to protect all parties, they should not discuss the matter.</p> |

| If a student or another child provides information concerning a reportable allegation | If a staff member or another adult provides information concerning a reportable allegation |
|--|--|
| <ol style="list-style-type: none"> 4. A record of the allegations must be made. If appropriate, the <u>Responding to Suspected Child Abuse</u> template can be used. It is advisable also to diarise the happenings. If a staff member, parent/care giver or other adult was present, they should be requested to make a record as well. 5. The matter may need to be referred to Victoria Police or DFFH Child Protection. If necessary, it is to be reported in accordance with the actions documented in <u>Protect: Identifying and Responding to All Forms of Abuse in Victorian Schools</u> and <u>Four Critical Actions for Schools: Responding to Incidents, Disclosures and Suspicions of Child Abuse</u>, using the <u>Responding to Suspected Child Abuse</u> template 6. If relevant, the child's parents/care givers are to be notified following the advice in <u>Protect: Identifying and Responding to All Forms of Abuse in Victorian Schools</u> and <u>Four Critical Actions for Schools: Responding to Incidents, Disclosures and Suspicions of Child Abuse</u>. 7. As soon as practicable the Manager Safeguarding and Standards is to be contacted on (03) 4344 4350 for advice (including guidance as to whether the alleged conduct is reportable), support and assistance to discuss the circumstances, and the DOBCEL Executive Director is to be notified. 8. If the matter does involve a reportable allegation, the Manager Safeguarding and Standards will notify the CCYP with authorisation from the Executive Director. 9. A risk assessment is required to be conducted, with the assistance of the Manager Safeguarding and Standards, to determine any measures that should be put in place to manage the person against whom allegations have been made and to protect the student(s)/child(ren) against whom reportable conduct may have occurred. | |

Reporting to the CCYP, DOBCEL Executive Director or an Authorised Person

Where the Executive Director receives a reportable allegation from any person, they, or a person authorised by the Executive Director, must notify the CCYP *within three business days*.

Where the reportable allegation involves the principal, the person making the reportable allegation must notify the Executive Director or the Assistant Director: People and Development. The Executive Director, or a person authorised by the Executive Director, must then notify the CCYP *within three business days*.

There are two stages of reporting. The Executive Director, or a person authorised by the Executive Director to act on their behalf, must notify the CCYP in writing of:

- The reportable allegations as soon as possible, and in any event within three business days of the Executive Director being notified of the reportable allegation (Stage One Report)
- The proposed next course of action as soon as practicable, and within 30 days of becoming aware of the reportable allegation (Stage Two Report).

Stage One Report

The report to the CCYP must state:

- That a reportable allegation has been made against a staff member
- The name (including any former name and alias, if known) and date of birth, if known, of the staff member
- Whether Victoria Police has been contacted about the reportable allegation
- The name, address and telephone number of the school
- The name of the principal.

The online form available on the CCYP's [website](#) must be used for the Stage One Report.

If the staff member is a registered teacher and the misconduct involves a charge, conviction or finding of guilt of a sexual offence, the Executive Director must notify the Victorian Institute of Teaching (VIT) immediately. The timing of making a Stage One Report to the CCYP under this policy will coincide with the timing of a report made to the VIT.

Stage Two Report

The report to the CCYP must state:

- Detailed information about the reportable allegation
- Whether or not the school proposes to take any disciplinary or other action in relation to the staff member and the reasons why it intends to take, or not to take, that action
- Any written submissions made to the Executive Director, or a person authorised by the Executive Director, or to the school's principal concerning the reportable allegation that an employee wished to have considered in determining what, if any, disciplinary or other action should be taken in relation to the staff member.

Any allegation of child abuse, including physical violence, significant emotional or psychological abuse, sexual offences or significant neglect, must be reported to Victorian Police. A police investigation will take priority over any investigation conducted by DOBCEL under this policy.

What Happens after a Report to the CCYP Is Made?

After the Executive Director (or other authorised person under this policy) has made a report to the CCYP, they must ensure that an appropriate investigation of the reportable allegation is conducted.

The Executive Director may appoint, directly or via another authorised person under this policy, an independent investigator.

The Executive Director or the Manager, Safeguarding and Standards must notify the CCYP of who will be conducting the investigation.

The investigation must be conducted in accordance with the rules of procedural fairness and natural justice. For example, the investigation should be conducted without bias and the person

against whom the allegation is made should be given the right to respond. Refer to the CCYP's [Information Sheet 4 Investigation Overview](#) for more information on what to consider when conducting an investigation.

A Victoria Police investigation into any matter takes priority over an investigation by DOBCEL or the school. On becoming aware that the police are investigating a reportable allegation:

- DOBCEL should consult with the police before commencing an investigation to determine if the police are, or will be, conducting an investigation
- The DOBCEL/school investigation should be put on hold until the police investigation is complete.

The Executive Director, or a person authorised by the Executive Director, must provide the CCYP with:

- A copy of the findings of the investigation and the reasons for those findings
- Details of any disciplinary or other action that the Executive Director, or a person authorised by the Executive Director, proposes to take in relation to the staff member and the reasons for that action
- The reasons why no action is to be taken if the Executive Director, or a person authorised by the Executive Director, has decided not to take any disciplinary or other action in relation to the staff member.

Under the *Child Wellbeing and Safety Act 2005* (Vic), a staff member may seek a review by the CCYP of a finding made at the conclusion of an investigation.

Information Sharing: Children and Parents/Carers

Under the *Child Wellbeing and Safety Act 2005* (Vic), the Executive Director, or a person authorised by the Executive Director, may disclose:

- Information regarding the progress of an investigation
- The findings, reasons for the findings, and the recommendations made at the conclusion of an investigation
- An action taken in response to those findings

to:

- The child who is the subject of the reportable allegation
- The child's parent/carer
- DFFH if the child is under its care

Information Sharing: Schools, the CCYP and Others

Under the *Child Wellbeing and Safety Act 2005* (Vic) (the Act), the Executive Director, or a person authorised by the Executive Director, may disclose information in relation to:

- A reportable allegation
- A concern that reportable conduct has been committed

- An investigation of a reportable allegation or concern regarding reportable conduct
- The findings of an investigation and the reasons or recommendations made at the conclusion of the investigation
- Any action taken in response to those findings

to:

- The CCYP
- The Head of another entity governed by the Act, such as another school or a regulator
- The Chief Commissioner of Victoria Police
- An independent investigator if necessary for the purposes of an investigation
- The secretary to the Department of Justice and Regulation if necessary for the purposes of a Working with Children Check
- A relevant government minister.

Publication of Information

DOBCEL schools must not publish information that would enable the identification of:

- A person who had notified the CCYP
- A child in relation to whom a reportable allegation has been made or a finding of reportable conduct has been made.

The *Child Wellbeing and Safety Act 2005* (Vic) provides more information on the meaning of 'publish', which includes making the information publicly available in writing or email.

Powers of the CCYP

The CCYP has broad powers under the *Child Wellbeing and Safety Act 2005* (Vic) in relation to investigating a reportable allegation made at a DOBCEL school. The CCYP may visit the school, inspect documents, and interview staff members or children involved in the reportable allegation.

DOBCEL schools must assist the CCYP in all reasonable aspects of its investigations.

Breaches of This Policy

If you believe that DOBCEL or a DOBCEL school has breached its obligations, please contact the Executive Director in writing or by telephone. DOBCEL and/or the school will investigate your notification and will inform you of the outcome as soon as is practicable after a decision has been made. A breach of this policy may lead to disciplinary action, including possible termination of employment or appointment and/or referral to the appropriate authorities.

References

- DOBCEL Child Safe Governance Policy
- DOBCEL Child Safety and Wellbeing Policy
- DOBCEL PROTECT: Reporting and Responding Obligations Policy
- PROTECT: Reporting and Responding Obligations Procedures
- [Insert School] Safeguarding Children and Young People: Code of Conduct
- [DFFH Mandatory reporting to Child Protection Fact Sheet](#)
- [CCYP Reportable Conduct Scheme Information Page](#)

