



# CHILD PROTECTION- REPORTING OBLIGATIONS

## Introduction

Protection for children and young people is based upon the belief that the inherent dignity of all should be recognised and fostered.

Government schools are entrusted with the holistic education of the child in partnership with parents, guardians and caregivers, who are the primary educators of their children. Government school staff therefore have a duty of care to students by taking reasonable care to avoid acts or omissions which they can reasonably foresee would be likely to result in harm or injury to the student and to work for the positive wellbeing of the child

Under the Ministerial Order 870, protecting children is everyone's responsibility – parents, communities, governments and businesses all have a role to play. In Victoria, a joint protocol, involving the Department of Health and Human Services (DHHS) Child Protection, the Department of Education and Training (DET), the Catholic Education Commission of Victoria and licensed children's services, exists to protect the safety and wellbeing of children and young people.

All school staff, as defined by Ministerial Order 870, within Victoria must understand and abide by the professional, moral and legal obligations to implement child protection and child safety policies, protocols and practices.

## Purpose of this policy

Schools must comply with the legal obligations that relate to managing the risk of child abuse under the *Children, Youth and Families Act 2005 (Vic.)*, the *Crimes Act 1958 (Vic.)* and the recommendations of the *Betrayal of Trust Report*.

This policy is designed to assist staff to:

- identify the indicators of a child or young person who may be in need of protection
- understand how a 'reasonable belief' is formed
- make a report of a child or young person who may be in need of protection
- comply with mandatory reporting obligations under child protection law and their legal obligations relating to criminal child abuse and grooming under criminal law.

Child Protection reporting obligations fall under separate pieces of legislation with differing reporting requirements. This policy sets out the actions required under the relevant legislation

when there is a reasonable belief that a child is in need of protection or a criminal offence has been committed and provides guidance and procedures on how to make a report.

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# Procedures

## 1. Children, Youth and Families Act 2005 (Vic.)

### 1.1 Mandatory Reporting

Mandatory reporting is a legal requirement under the *Children, Youth and Families Act 2005 (Vic.)* (Act) to protect children from harm relating to physical injury and sexual abuse. A child, for the purpose of the relevant parts of the Act, is any person **17 years** of age or younger. School personnel mandated under this Act who, in the course of carrying out their duties, form a **reasonable belief** that a child is in need of protection from physical, emotional, psychological, developmental harm or sexual abuse, and that the **child's parents are unwilling or unable to protect the child**, must report that belief to DHHS Child Protection and the grounds for it as soon as possible after forming the belief. A subsequent report must be made on each occasion on which the mandatory reporter becomes aware of further reasonable grounds for the belief.

### 1.2 Forming a 'reasonable belief'

When staff are concerned about the safety and wellbeing of a child or young person, they must assess that concern to determine if a report should be made to the relevant agency. This process of considering all relevant information and observations is known as forming a 'reasonable belief'.

A 'reasonable belief' or a 'belief on reasonable grounds' is not the same as having proof but is more than mere rumour or speculation. A 'reasonable belief' is formed if a reasonable person in the same position would have formed the belief on the same grounds.

For example, a 'reasonable belief' might be formed if:

- a child states that they have been physically or sexually abused
- a child states that they know someone who has been physically or sexually abused (sometimes the child may be talking about themselves)
- someone who knows a child states that the child has been physically or sexually abused
- a child or young person exhibits sexually-abusive or age-inappropriate behaviours
- professional observations of the child's behaviour or development leads a professional to form a belief that the child has been physically or sexually abused or is likely to be abused
- signs of abuse lead to a belief that the child has been physically or sexually abused.

### 1.3 Types of child abuse and indicators of harm

Child abuse can have a significant effect on a child's physical or emotional health, development and wellbeing. The younger a child the more vulnerable he/she is and the more serious the consequences are likely to be.

There are many indicators of child abuse and neglect. The presence of a single indicator, or even several indicators, does not prove that abuse or neglect has occurred. However, the repeated occurrence of an indicator, or the occurrence of several indicators together, should alert staff to the possibility of child abuse and neglect. While any indicators of possible child abuse or neglect are concerning, it is important to know which indicators **must** be reported.

It is **mandatory** to report concerns relating to:

- physical abuse
- sexual abuse.

While not mandated, making a report to DHHS Child Protection may also be needed for:

- emotional abuse
- neglect
- medical neglect
- family violence
- human trafficking (including forced marriage)
- sexual exploitation (including pornography and prostitution)
- risk-taking behaviour
- female genital mutilation
- risk to an unborn child
- a child or young person exhibiting sexually-abusive behaviours.

**Note:** For full definitions for all of the types of child abuse and a comprehensive list of the indicators of harm refer to Appendix 2 of <http://www.education.vic.gov.au/school/principals/spag/safety/Documents/protectionofchildren.PDF>

## 1.4 Reporting child protection concerns

All school staff who believe on reasonable grounds that a child or young person is in need of:

- protection from physical harm or sexual abuse – **must** report their concerns to DHHS Child Protection
- protection from harm that is not believed to involve physical harm or sexual abuse – are encouraged to report their concerns to DHHS Child Protection
- therapeutic treatment – are encouraged to report their concerns to DHHS Child Protection or Child FIRST.

**Child Protection** is the Victorian Government Agency, provided by the DHHS, that protects children at risk of significant harm. Child Protection has statutory powers and can use these to protect children.

**Child FIRST** is the Family Information Referral Support Team run by a registered community service in a local area that can receive confidential referrals about a child of concern. It does not have any statutory powers to protect a child but can refer matters to family services.

Mandatory reporters **must report their concern to DHHS Child Protection** if there is a reasonable belief that a child or young person is in need of protection from physical injury or sexual abuse.

It is essential to document the concerns and observations which contributed to the suspicion that a child is in need of protection. This information may be gathered over a period of time and should be treated confidentially and held securely.

It is recommended – not, however, a requirement – that concerns and observations regarding suspected physical injury or sexual abuse of a child are discussed with the principal or a senior school staff member and to ensure support is provided to all involved in matters of this nature. The confidentiality of these discussions must be maintained.

If more than one mandated reporter has formed a belief about the same child on the same occasion, it is sufficient for one professional to make a report. The other is obliged to ensure the report has been made and that all grounds for their own belief were included in the report made by the other staff member (Section 184 (2)).

If one mandated reporter directs another mandated reporter not to make a report, and the one professional continues to hold the belief that a child is in need of protection, then that professional is legally obliged to make a report to Child Protection.

The mandatory reporter may continue to suspect that a child is at risk and in need of protection. Any further observations should continue to be recorded and a report made on each separate occasion where a belief has been formed, on reasonable grounds, that a child is likely to be at risk and in need of protection. If there is any suspicion that this relates to a sexual offence involving an adult and a child **under 16** then it must be reported to the police.

### 1.5 When to make a mandatory report

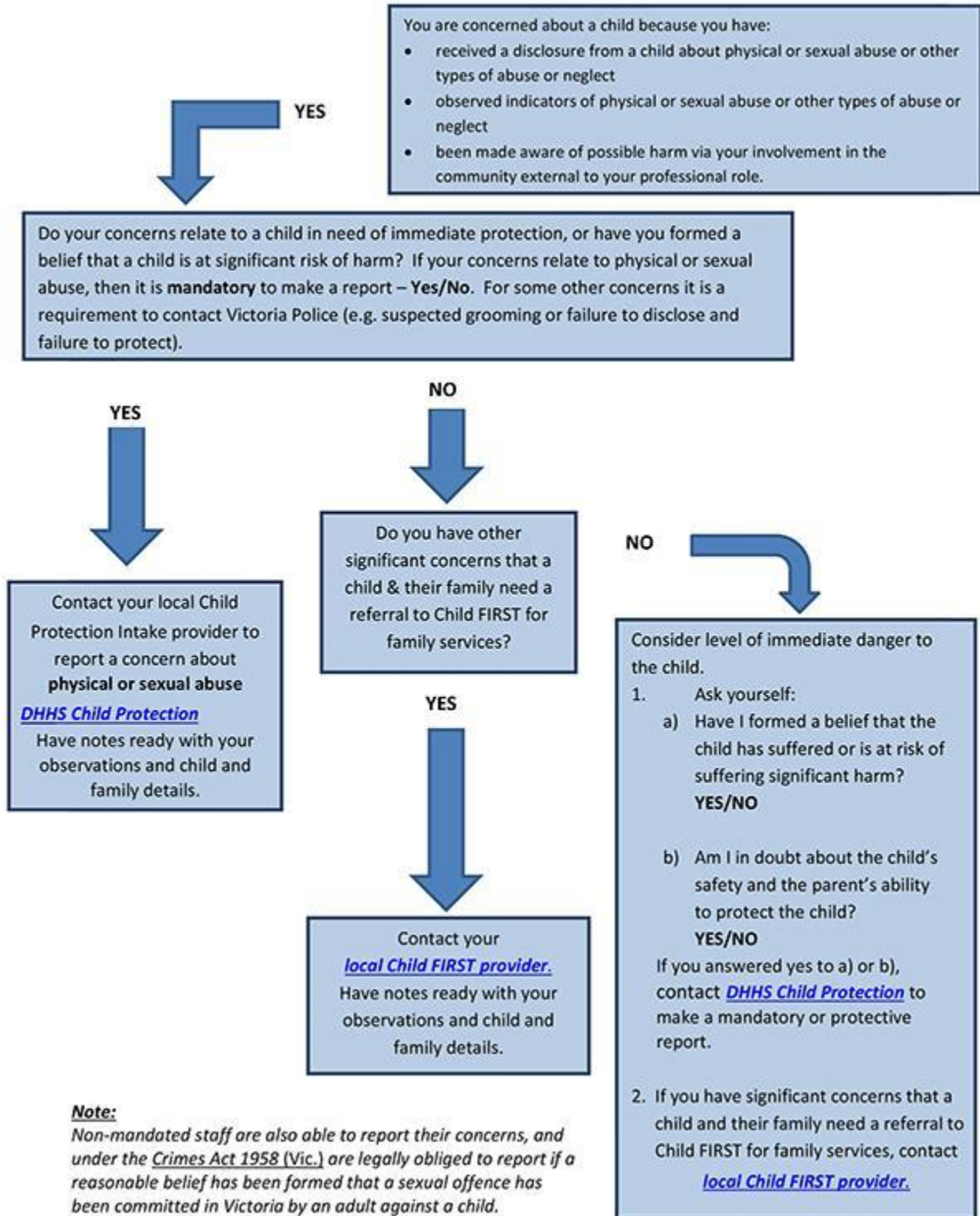
| Type of Reporting   | By Whom   | To Whom   |
|---|---|---|
| <p><b>Mandatory Reporting - DHHS Child Protection</b></p> <p>Mandatory reporters must make a report as soon as practicable if, in the course of practising their profession or carrying out their duties, they form a belief on reasonable grounds that a child or young person is in need of protection, as a result of physical injury or sexual abuse, and the child's parents are unable or unwilling to protect the child.</p> | <p><b>Mandatory reporters</b></p> <ul style="list-style-type: none"> <li>Teachers registered to teach or who have permission to teach pursuant to the <i>Education and Training Reform Act 2006</i> (Vic.)</li> <li>Principals of government schools</li> <li>Registered medical practitioners</li> <li>Nurses</li> </ul> | <p>DHHS Child Protection</p> <p>School Principal</p> <p>Victoria Police if a belief is formed that a crime has been committed</p> |

### 1.6 When a report may be required, though not mandated

| Type of Reporting  | By Whom  | To Whom   |
|--|--|---|
| <p><b>Child in need of protection</b></p> <p>Any person may make a report if they believe on reasonable grounds that a child is in need of protection for any of the following reasons:</p> <ul style="list-style-type: none"> <li>The child has been abandoned and there is no other suitable person who is willing and able to care for the child.</li> <li>The child's parents are dead or</li> </ul> | <ul style="list-style-type: none"> <li>Teachers registered to teach or who have permission to teach pursuant to the <i>Education and Training Reform Act 2006</i> (Vic.)</li> <li>Principals of</li> </ul> | <p>DHHS Child Protection</p> <p>School Principal</p> <p>Victoria Police if a belief is formed that a crime has been committed</p> |

|  |  |  |
|--|--|--|
| <p>incapacitated and there is no other suitable person who is willing and able to care for the child.</p> <ul style="list-style-type: none"> <li>• The child has suffered or is likely to suffer significant harm as a result of physical injury and the parents are unable or unwilling to protect the child.</li> <li>• The child has suffered or is likely to suffer significant harm as a result of sexual abuse and their parents are unable or unwilling to protect the child.</li> <li>• The child has suffered or is likely to suffer emotional or psychological harm and the parents are unable or unwilling to protect the child.</li> </ul> <p>The child's physical development or health has been, or is likely to be significantly harmed and the parents are unable or unwilling to provide basic care, or effective medical or other remedial care.</p> | <p>government schools</p> <ul style="list-style-type: none"> <li>• Registered medical practitioners</li> <li>• Nurses</li> <li>• Any other school staff</li> <li>• Any other person</li> </ul> |  |
| <p><b>Child in need of therapeutic treatment</b></p> <p>Any person may make a report if they believe on reasonable grounds that a child who is 10 years of age or over, but under 15 years of age, is in need of therapeutic treatment because he or she has exhibited sexually-abusive behaviours. Contact Child FIRST if there is no significant concern about the immediate safety of the child.</p>  | <p>Any person</p>  | <p>Contact DHHS Child Protection or Child FIRST<br/>School Principal</p> |
| <p><b>Significant concerns about wellbeing of a child</b></p> <p>School staff can seek advice from or make referral to DHHS Child Protection or Child FIRST if they have a significant concern for the wellbeing of a child and where the immediate safety of the child is not compromised.</p> <p>The staff member should share relevant information with Child FIRST to help them complete their assessment of the referral.</p>   | <p>Any person</p>  | <p>Contact DHHS Child Protection or Child FIRST<br/>School Principal</p> |

## 1.7 Flowchart – Responding to a possible mandatory reporting concern



## 2. Crimes Act 1958 (Vic.)

Three new criminal offences have been introduced under the *Crimes Act 1958* (Vic.):

- Failure to disclose, which requires adults to report to police a reasonable belief that a sexual offence has been committed against a child
- Failure to protect, which applies to people within organisations who knew of a risk of child sexual abuse by someone in the organisation and had the authority to reduce or remove the risk, but failed to do so
- Grooming, which targets communication with a child or their parents with the intent of committing child sexual abuse.

### 2.1 Failure to disclose

**Any staff member** who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a **child under 16** must disclose that information to police. Failure to disclose the information to police is a criminal offence under **section 327 of the Crimes Act 1958 (Victoria)** and applies to **all adults** in Victoria, not just professionals who work with children. The obligation is to disclose that information to the police as soon as it is practicable to do so, except in limited circumstances such as where the information has already been reported to DHHS Child Protection.

For further information about the ‘failure to disclose’ offence, see: **section 327 of the Crimes Act 1958 (Victoria)**

### 2.2 Failure to protect

Any staff member in a position of authority who becomes aware that an adult associated with their organisation (such as an employee, contractor, volunteer, sport coach or visitor) poses a risk of sexual abuse to a child **under 16** who is in the care or supervision of the organisation must take all reasonable steps to reduce or remove that risk. Failure to take reasonable steps to protect a child in the organisation from the risk of sexual abuse from an adult associated with the organisation is a criminal offence contained in **section 49C (2) of the Crimes Act 1958(Vic.)**. In a school context this will include the principal and the business manager and may also extend to School Counsellors, heads of departments and heads of school.

For further information about the ‘failure to protect’ offence, see: **section 49C (2) of the Crimes Act 1958(Vic.)**

### 2.3 Grooming

The offence of grooming prohibits predatory conduct designed to prepare or ‘groom’ a child for future sexual activity and is contained in **section 49B (2) of the Crimes Act 1958 (Vic.)**. The offence applies to communication with children **under 16 years**. Grooming can be conducted in person or online, for example via interaction through social media, web forums and emails. The offence can be committed by any person aged 18 years or over. It does not apply to communication between people who are both under 18 years of age. For further information about the ‘grooming offence’, refer to: <http://assets.justice.vic.gov.au/justice/resources/df7994c3-9238-4de5-9ff1-a5c0cf79a7fa/grooming.pdf>

For more information about managing and responding to the risk of abuse, see: **section 49B (2) of the Crimes Act 1958 (Vic.)**.



## 2.4 When to report criminal offences

This table sets out when to report a concern that a child or a young person has been abused, or is in need of protection.

| Type of Reporting   | By Whom  | To Whom   |
|---|--|---|
| <p><b>Reasonable belief that a sexual offence has been committed by an adult against a child under 16.</b></p> <p>Any adult who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child under 16 must report that information to police.</p> <p>You will not be guilty of an offence if you do not report in the following circumstances:</p> <ul style="list-style-type: none"> <li>• The victim is 16 years of age or older and does not have an intellectual disability that limits his/her capacity to make an informed decision; and he/she does not want the information reported to the police.</li> <li>• The victim has disclosed the information in confidence in the course of a therapeutic relationship with you as a registered medical practitioner or counsellor.</li> <li>• The victim turned 16 years of age before 27 October 2014.</li> <li>• Reasonable excuses for failing to comply with the requirement include:               <ul style="list-style-type: none"> <li>• a reasonable belief that the information has already been reported to police or DHHS Child Protection disclosing all of the information</li> <li>• a reasonable fear that the disclosure will place someone (other than the alleged perpetrator) at risk of harm.</li> </ul> </li> </ul> | <p>Any person aged 18 or over<br/>All school staff as defined by Ministerial Order 870</p> | <p>School Principal<br/>DHHS Child Protection<br/>Victoria Police</p> |

### 3. How to make a report for mandatory reporting and criminal offences

The following information provides practical guidance in relation to record-keeping for both mandatory reporting and criminal offences.

#### 3.1 Making a report

**In case of emergency or if a child is in life-threatening danger contact Triple Zero (000).**

Additionally, to report concerns about the immediate safety of a child within their family unit to DHHS Child Protection, call the local Child Protection Intake Provider (1300 664 977). If after hours call the **Child Protection Crisis Line on 13 12 78**.

The table below describes the information to include when making a mandatory report about child abuse or child protection concerns.

| Step | Description   |
|------|---|
| 1.   | Keep comprehensive notes that are dated and include the following information: <ul style="list-style-type: none"><li>• a description of the concerns (e.g. physical injuries, student behaviour)</li><li>• the source of those concerns (e.g. observation, report from child or another person)</li><li>• the actions taken as a result of the concerns (e.g. consultation with the principal, report to DHHS Child Protection etc.).</li></ul>   |
| 2.   | Discuss your concerns about the safety and wellbeing of students with the principal, a member of the school leadership team or member of the wellbeing team.<br><br>The individual staff member should then make their own assessment about whether they should make a report about the child or young person and to whom the report should be made.  |
| 3.   | Gather the relevant information necessary to make the report. This should include the following information: <ul style="list-style-type: none"><li>• full name, date of birth and residential address of the child or young person</li><li>• the details of the concerns and the reasons for those concerns</li><li>• the individual staff member's involvement with the child or young person</li><li>• details of any other agencies which may be involved with the child or young person.</li></ul>  |
| 4.   | <b>Make a report to the relevant agency:</b> <ul style="list-style-type: none"><li>• To report concerns which are life-threatening <b>phone 000</b></li><li>• To find the nearest Victoria Police Sexual Offences and Child Abuse Investigation Team contact your local police station. Visit the <a href="#">for local contact numbers</a>.</li><li>• To report concerns about the immediate safety of a child within their family unit to DHHS Child Protection:<ul style="list-style-type: none"><li>• Call your <b>local Child Protection</b> Intake provider immediately on 1300 664 977</li><li>• For <b>After Hours Child Protection Emergency Services</b>, call <b>13 12 78</b>.</li></ul></li></ul> |

\*\*Non-mandated staff members who believe on reasonable grounds that a child is in need of protection are able to report their concerns to Child Protection.

5. **Make a written record of the report including the following information:**
- the date and time of the report and a summary of what was reported
  - the name and position of the person who made the report and the person who received the report.

6. **Notify relevant school staff** of a report to DHHS Child Protection or Child FIRST.
- School staff should advise the principal or a member of the leadership team or wellbeing team if they have made a report.
  - School leadership or wellbeing staff can seek further assistance by contacting the school contact Student Support Services Officer

7. In the case of international students, the principal must notify the International Education Division of the Department of Education and Training on (03) 9637 2990 to ensure that appropriate support is arranged for the student.  
In the case of Koorie students, the principal must notify the Regional Office (as appropriate) to ensure the regional Koorie support officer can arrange appropriate support for the student.

### 3.2 Potential consequences of making a report

This table describes the potential consequences of making a report.

| Potential consequence          | Description   |
|--------------------------------|---|
| <b>Confidentiality</b>         | <p>The identity of a reporter must remain confidential unless:</p> <ul style="list-style-type: none"> <li>• the reporter chooses to inform the child, young person or parent of the report</li> <li>• the reporter consents in writing to their identity being disclosed</li> <li>• a court or tribunal decides that it necessary for the identity of the reporter to be disclosed to ensure the safety and wellbeing of the child</li> <li>• a court or tribunal decides that, in the interests of justice, the reporter is required to provide evidence.</li> </ul> |
| <b>Professional Protection</b> | <p>If a report is made in good faith:</p> <ul style="list-style-type: none"> <li>• it does not constitute unprofessional conduct or a breach of professional ethics on the part of the reporter</li> <li>• the reporter cannot be held legally liable in respect of the report.</li> </ul>  |
| <b>Interviews</b>              | <p>DHHS Child Protection and/or Victoria Police may conduct interviews of children and young people at the school without their parent’s knowledge or consent.</p> <ul style="list-style-type: none"> <li>• Interviewing children and young people at school should only occur in exceptional circumstances and if it is in the best interests of the child to proceed in this manner</li> </ul>  |

|  |   |
|--|---|
|  | <ul style="list-style-type: none"> <li>• DHHS Child Protection and/or Victoria Police will notify the principal or a member of the leadership team of their intention to interview the child or young person on the school premises</li> <li>• When DHHS Child Protection practitioners/Victoria Police officers come to the school premises, the principal or a member of the leadership team should request to see identification before permitting them to have access to the child or young person</li> <li>• When a child or young person is being interviewed by DHHS Child Protection and/or Victoria Police, school staff must arrange to have a supportive adult present with the child or young person.</li> </ul> <p>For more information on these requests and school responsibilities: see the Department of Education &amp; Training website: .</p> |
| <b>Support for the child or young person</b> | <p>The roles and responsibilities of staff members in supporting children who are involved with DHHS Child Protection may include the following:</p> <ul style="list-style-type: none"> <li>• acting as a support person for the child or young person</li> <li>• attending DHHS Child Protection case-planning meetings</li> <li>• observing and monitoring the child’s behaviour liaising with professionals.</li> </ul>  |
| <b>Requests for Information</b>              | <p>DHHS Child Protection and/or Child FIRST and/or Victoria Police may request information about the child or family for the purpose of investigating a report and assessing the risk to the child or young person.</p> <p>In certain circumstances, DHHS Child Protection can also direct school staff and Department staff to provide information or documents about the protection or development of the child. Such directions should be in writing and only be made by authorised persons within DHHS Child Protection: see the Department of Education &amp; Training website:</p>  |
| <b>Witness Summons</b>                       | <p>If DHHS Child Protection makes a Protection Application in the Children’s Court of Victoria, any party to the application may issue a Witness Summons to produce documents and/or to give evidence in the proceedings: see the Department of Education &amp; Training website:</p>   |

### 3.3 Related resources

#### Victorian Registration and Qualifications Authority

- [www.vrqa.vic.gov.au](http://www.vrqa.vic.gov.au)

#### Department of Education and Training

- [Responding to Allegations of Sexual Abuse](#)
- [www.education.vic.gov.au/childhood/providers/regulation/Pages/childsafestandards](http://www.education.vic.gov.au/childhood/providers/regulation/Pages/childsafestandards)

#### Related legislation

- Children, Youth and Families Act 2005 (Vic.)

- Crimes Act 1958 (Vic.)
- Education and Training Reform Act 2006 (Vic.)
- Victorian Institute of Teaching Act 2001 (Vic.).

### **Department of Health and Human Services**

- <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/child-safe-standards>

## **Victoria Police**

### **Caroline Springs Police Station**

221 Caroline Springs Blvd, Caroline Springs VIC 3023

Phone: (03) 9361 4700

### **Sunshine Police Station**

497 Ballarat Rd, Sunshine VIC 3020

Phone: (03) 9313 3333

### **Brimbank Sexual Offences and Child Abuse Investigation Teams (SOCIT)**

497 Ballarat Road, **Sunshine**.

Phone: (03) 9313 3460

### **Evaluation**

This policy will be reviewed as part of the college's 3 year review cycle or more often if necessary due to changes in regulation or circumstances.

Last reviewed September, 2016.