

# GEELONG GRAMMAR SCHOOL

## Obligation to Protect Policy

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### 1. Purpose

- 1.1 This Policy explains the legal obligation of Persons or School Employees in a Position of Authority to protect Children at the School from the substantial risk of being a victim of a Sexual Offence committed by a person of or over the age of 18 years associated with the School.
- 1.2 This Policy has been endorsed by School Council.
- 1.3 This Policy is underpinned by the School's Student Safeguarding Policy.

### 2. Scope

- 2.1 Where indicated, this Policy applies to a Person or School Employee in a Position of Authority who has the power or responsibility to protect a Child from Substantial Risk, and to School Employees generally.
- 2.2 This Policy does not apply to Children under the age of 18 who may pose a risk of sexually abusing other Children, who are managed in accordance with the Student Behaviour Rules.

### 3. Obligation to Remove or Reduce Substantial Risk

- 3.1 Persons or School Employees in a Position of Authority must act to protect Children who are at Substantial Risk of a Sexual Offence being committed against them by a person of or over the age of 18 years associated with the School.
- 3.2 Where there is a Substantial Risk that a Child under the care, supervision or authority of the School will become a victim of a Sexual Offence by a person of or over the age of 18 years associated with the School, a Person or School Employee in a Position of Authority will commit an offence if that person knows of the risk of abuse and has the power or responsibility to remove the risk, but negligently fails to reduce or remove that risk (known as the Failure to Protect Offence per the *Crimes Act 1958* section 49O).
- 3.3 A Substantial Risk for the purpose of a Sexual Offence can be determined using the following factors:
  - 3.3.1 the likelihood or probability that the Child will become a victim of a Sexual Offence;
  - 3.3.2 the nature of the relationship between a Child and an adult who may pose a risk to the Child;
  - 3.3.3 the background of the adult who may pose a risk to the Child, including any past or alleged misconduct;
  - 3.3.4 any vulnerabilities particular to the Child which may increase the likelihood that they may become the victim of a Sexual Offence; or
  - 3.3.5 any other relevant fact which may indicate a substantial risk of Sexual Offence being committed against a Child.(collectively, 'Substantial Risk').
- 3.4 The standard requires more than holding a belief or suspicion, however, School Employees must take protective and preventative measures if they reasonably believe or suspect that a Child is at risk of a Sexual Offence being committed against them by a person of or over the age of 18 years associated with the School. The offence does not require the elimination of all possible risks of child sexual abuse nor is it necessary to prove that a Sexual Offence has been committed. The Failure to Protect Offence focuses on the failure to remove a Substantial Risk of a Sexual Offence being committed.

### 4. Reporting Concerns

- 4.1 The School expects that all School Employees will assist in reducing or removing any such Substantial Risk and to report any concerns that they might have to a Person or School Employee in a Position of Authority.
- 4.2 Upon becoming aware of a Substantial Risk that a Child under the care, supervision or authority of the School will become a victim of a Sexual Offence by a person of or over the age of 18 years associated with the School, School Employees are:
  - 4.2.1 not to assess the validity of such risks or concerns, but to report all risks or concerns to a Person or a School Employee in a Position of Authority; and
  - 4.2.2 to disregard factors such as the authority or position of the person(s) involved and any pre-existing views about the good character, or otherwise, of any person involved.
- 4.3 School Employees are also legally obligated to report to Victoria Police any reasonable belief that a Sexual Offence has been committed against a Child, unless there is a reasonable excuse for not doing so (please refer to the School's Obligation to Disclose Policy, Reportable Conduct Policy and Mandatory Reporting Policy).
- 4.4 The fulfilling of the role and responsibilities in this Policy by any person does not displace or discharge any other obligations that may arise if that person reasonably believes that a child is at risk of child abuse.

### 5. Concerns About Persons Who Are Not Associated With The School

- 5.1 If a School Employee has a concern about a person who is not associated with the School but presents an immediate and substantial risk of committing a sexual offence against a Child at the School, a report should be made to an appropriate Person or School Employee in a Position of Authority or to Victoria Police.

## 6. Roles and Responsibilities of School Employees

- 6.1 The responsibilities of School Employees to act and report on complaints, concerns and reasonable beliefs notified as relating to Sexual Offences committed against a Child include:
- 6.1.1 Ensuring that the complaint or concern is taken seriously by those who are notified, including the Victorian Police; and
  - 6.1.2 Responding appropriately to a Child who raises or is affected by the complaint or concern;
  - 6.1.3 The responsibilities of School Employees in a Position of Authority to act and report on complaints, concerns and reasonable beliefs notified as relating to Sexual Offences committed against a Child include:
  - 6.1.4 Ensuring that the complaint or concern is taken seriously by those who are notified, including the Victorian Police;
  - 6.1.5 Promptly and thoroughly managing the response of the School's services in line with the School's Critical Incident Response Procedure;
  - 6.1.6 Responding appropriately to a Child who raises or is affected by the complaint or concern;
  - 6.1.7 Monitoring overall compliance of the School's services with this Policy (and any other applicable Policy);
  - 6.1.8 Managing an alternative procedure for responding to the complaint or concern if any person allocated responsibility under this Policy cannot perform their role for any reason.

## 7. Safeguarding for a Child

- 7.1 The School will take appropriate actions to protect any Child (being a School Student) connected to the complaint or concern relating to Child Abuse until the complaint or concern is resolved. Actions taken by the School in these circumstances may include but are not limited to the following:
- 7.1.1 Provide information regarding pathways of support so that the Child has a variety of support options available to them (both internal and external to the School);
  - 7.1.2 Provide a safe place on their campus that the Child may attend should they feel threatened or at risk;
  - 7.1.3 Provide a nominated School liaison for the Child and their family;
  - 7.1.4 Vary (by agreement or otherwise as advised by external professionals, such as medical practitioners) the Child's participation in academic, co-curricular and boarding programmes in their best interests;
  - 7.1.5 Take any reasonable actions as necessary to ensure the Child does not come into contact with the subject of the complaint while on School property; and
  - 7.1.6 Do anything else or any other actions as reasonably determined by the School, professionals involved in the matter, the Student and their family.

## 8. Confidentiality of Investigation

- 8.1 The School:
- 8.1.1 prohibits all School Employees from discussing any concerns or allegations with third parties, within or outside the School, save for the relevant School Employees, Volunteers and Third Party Contractors discussing such concerns or allegations for the purposes of seeking counselling, legal advice or other identified child safe agency/support services. Such prohibition is not designed to limit, in any way, rights and responsibilities to report concerns or allegations, but ensures privacy, confidentiality and natural justice through the appropriate provision of procedural fairness;
  - 8.1.2 prohibits all School Employees from making deliberately false, misleading or vexatious allegations about another member of the School Community;
  - 8.1.3 will maintain the confidentiality and privacy of all concerned (including the alleged perpetrator), except if doing so would compromise the welfare of the Child, or other Children and/or investigation of the allegation or as otherwise allowed in clause 6.1.1.
  - 8.1.4 will ensure confidentiality of an investigation of an allegation by storing:
    - 8.1.4.1 hard copy documentation in a locked filing cabinet (or similar); and
    - 8.1.4.2 electronic documentation in a password protected folder (or similar).

## 9. Recruitment of employees

- 9.1 The School will ensure that new School Employees are aware of the Failure to Protect Offence and their obligations under the *Crimes Act*, and that they read and acknowledge this Policy. All School Employees will be provided with initial and ongoing student safeguarding training.
- 9.2 All new School Employees must have:
- 9.2.1 a VIT registration; or
  - 9.2.2 a valid Working with Children Check and a National Police Check (in accordance with the National Police Check Policy).
- 9.3 All Third Party Contractors and Volunteers must have a current and valid WWCC for Victoria (and a National Police Check, if required by the National Police Check Policy).

## 10. Definitions

<b>Child or Children</b>	for the purposes of this Policy means students under the age of 16
<b>Crimes Act</b>	<i>Crimes Act 1958</i> (Vic)



<b>Persons or School Employee in a Position of Authority</b>	means all members of School Council, the Executive, the Executive's Leadership Team and the Student Safeguarding and Risk Officer.
<b>Sexual Offence</b>	includes the following offences committed against a Child by a person of or over the age of 18 years: <ol style="list-style-type: none"> <li>1. rape;</li> <li>2. indecent assault;</li> <li>3. sexual penetration of a Child;</li> <li>4. indecent act with a Child;</li> <li>5. administration of a drug with the intention of rendering the Child incapable of resistance to enable a person to take part in an act of sexual penetration or commit an act of indecency with the Child;</li> <li>6. grooming (where an adult communicates, by words or conduct, with a Child under the age of 16 years or with a person who has care, supervision or authority of the Child (e.g. the child's Parents) with the intention of facilitating the Child's involvement in sexual conduct, either with the groomer or another adult); or</li> <li>7. image abuse.</li> </ol>
<b>the School</b>	means Geelong Grammar School including its registered boarding premises
<b>School Employees</b>	means all members of the Executive and Leadership team and all other campus and boarding premises employees, whether employed on a full, part time or casual basis.
<b>Third Party Contractors</b>	means a third party service provider engaged by the School to provide a service to the School and or its students.
<b>Volunteers</b>	means people who assist the School in some capacity directly or indirectly School activities, and will have access to students (including virtual/online) or student places of study (i.e. campus, School camp or sporting event, hosting accommodation) including but not limited to: <ol style="list-style-type: none"> <li>1. a volunteer or a contracted service provider engaged in school activities (whether or not a body corporate or any other person is an intermediary); and</li> <li>2. homestay providers.</li> </ol>
<b>VIT</b>	means the Victorian Institute of Education
<b>Working with Children Check</b>	means a Victorian Government initiative to assist in protecting Children from sexual or physical harm by ensuring adults who care for them are subject to a screening process

#### 11. Review and circulation

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