



Mandatory Reporting Policy

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		Approved by:	Chief Executive Officer
Version:	1/2018	Scheduled review date:	1 st November 2019

1. Statement of Context and Purpose

- 1.1 Melbourne Legacy (ML) has an important role to play in supporting children and their families who may be at risk of harm due to abuse or neglect. Employees in close daily contact with children are well placed to observe when a child or young person appears to be at risk of harm.
 - 1.2 Employees and persons involved in child-connected work have a duty of care to support and protect the children and young people within the ML community with whom they are professionally involved.
 - 1.3 The purpose of this policy is to:
 - (a) Comply with Melbourne Legacy’s reporting obligations under child protection law and criminal law and to fulfil its duty of care; and
 - (b) To enable ML employees to protect the safety and wellbeing of children by identifying indicators that a child or young person may be in need of protection and by making a report about a child or young person who may be in need of protection.
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2. Scope

- 2.1 This policy applies to all employees, volunteers, contractors and other authorised personnel required to perform functions on behalf of Melbourne Legacy or on its premises.
 - 2.2 This policy is not intended to override or form part of the terms of any award, enterprise agreement or contract that applies to an employee, but should be considered a reasonable direction to staff. As such all employees, volunteers, contractors and other authorised personnel are expected to abide by this policy and report any suspected or known breaches of this policy.
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3. Related Documents

- 3.1 External Documents
 - (a) Child Wellbeing and Safety Act 2005 (Vic)
 - (b) Children, Youth and Families Act 2005 (Vic)
 - (c) Crimes Act 1958 (Vic)
 - (d) Sentencing Act 1991 (Vic)
 - (e) Crimes Amendment (Protection of Children) Act 2014 (Vic)
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- (f) Crimes Amendment (Grooming) Act 2014 (Vic)
- (g) Education and Training Reform Act 2006 (Vic)
- (h) Education and Training Reform Regulations 2017(Vic)
- (i) Children’s Services Act 1996 (Vic)
- (j) Children’s Services Regulations 2009 (Vic)
- (k) Charter of Human Rights and Responsibilities Act 2006 (Vic)
- (l) Working with Children Act 2005 (Vic)
- (m) Working with Children Regulations 2016 (Vic)
- (n) Fair Work Act 2009 (Cth)
- (o) Privacy Act 1988 (Cth)
- (p) Child Safe Standards, Victorian Government (DHS) 2015
- (q) Work Experience Guidelines for Employers, Victorian Department of Education and Early Childhood Development (DEECD) 2014
- (r) 'National Framework for Protecting Australia’s Children'
- (s) 'Protecting the Safety and Wellbeing of Children and Young People'

3.2 Internal Documents

Policies and Procedures:

- (a) Workplace Behaviours Policy
- (b) Child Safety Policy
- (c) Reportable Conduct Policy

4. Definitions

- 4.1 **Act** for the purposes of this policy is to mean the *Child Wellbeing and Safety Act 2005 (Vic)*.
- 4.2 **Child** means a person who is under the age of 18 years who is a beneficiary or involved or in receipt of support or services provided by Melbourne Legacy.
- 4.3 **Child abuse** encompasses a broad range of matters set out in Part 6 of this policy:
- 4.4 **Child-connected work** means work authorised by ML and performed by an adult in the ML environment while children are present or reasonably expected to be present. This contact may form:
 - (a) Face to face contact;
 - (b) Contact by post or other written communication;
 - (c) Contact by telephone or other oral communication; or
 - (d) Contact by email or other electronic communication.
- 4.5 **Child protection** is the statutory child protection service provided by the Department of Human Services, which is able to intervene to protect children and young people at risk of significant harm.
- 4.6 **Child safety** encompasses matters related to protecting all children from child abuse, managing the risk of child abuse, providing support to a child at risk of child abuse, and responding to incidents or allegations of child abuse.
- 4.7 **Child and Family Information, Referral and Support Teams (Child FIRST)** is a Victorian Government Initiative to provide support and help for vulnerable families, children and

babies. Anyone may make a referral to Child First if they have a significant concern for a child's wellbeing.

- 4.8 **Child Safety Officer** means the Child Safety Officer as set out in the Child Safety Policy.
- 4.9 **Commission** means the Commission for Children and Young People.
- 4.10 **Failure to Disclose** is in addition to mandatory reporting obligations under the *Children, Youth and Families Act 2005* (Vic), the *Crimes Act 1958* (Vic) and imposes a legal obligation upon all adults to report to Victoria Police [in addition to Child Protection] where they form a reasonable belief that a sexual offence has been committed by an adult against a child.
- 4.11 **Grooming** under the *Crimes Act 1958* (Vic) and under the 'Failure to Disclose' offence and duty of care, means any person who suspects a child is being groomed by an adult must report their concerns to Victoria Police.
- 4.12 **Immediately** means as soon as reasonably practicable, within a period of 24 hours (or if after hours, the next business day).
- 4.13 **Reportable Allegation** means any information that leads a person to form a reasonable belief that an Employee has committed Reportable Conduct, or misconduct that may involve Reportable Conduct, whether or not the conduct is alleged to have occurred in the course of the Employee's employment at Ivanhoe Grammar.
- 4.14 **Reportable Conduct** means:
- (a) a sexual offence committed against, with, or in the presence of a child, whether or not a criminal proceeding has commenced or concluded in relation to the offence; or
 - (b) sexual misconduct committed against, with, or in the presence of a child; or
 - (c) physical violence committed against, with, or in the presence of a child; or
 - (d) any behaviour that causes Significant emotional or psychological harm to a child; or
 - (e) significant neglect of a child.
- 4.15 **Reportable Conduct Scheme** means the scheme to report reportable conduct established under Part5A of the *Child Wellbeing and Safety Act 2005* (Vic).
- 4.16 **Sexual misconduct** includes behaviour, physical contact or speech or other communication of a sexual nature, inappropriate touching, grooming behaviour and voyeurism.
- 4.17 **Sexual offence** means a sexual offence referred to in the *Sentencing Act 1991* (Vic), which includes but is not limited to rape, attempted rape, sexual assault, incest, grooming, and distribution and possession of child abuse material.
- 4.18 **Significant** means, in relation to emotional or psychological harm or neglect, that the harm or neglect is more than trivial or insignificant but need not be as high as serious and need not have a lasting permanent effect.

5. Mandatory Reporting Overview

- 5.1 When an employee forms a reasonable belief that a child or young person has been harmed or is at risk of harm, they are legally obligated (by legislation) to take action to protect the safety and wellbeing of that child or young person.
 - 5.2 In addition to employees' mandatory reporting obligations, under the *Crimes Act 1958* (Vic) (Crimes Act) it is a criminal offence if any person, who forms a reasonable belief that a sexual offence has been committed against a child under the age of 16 years by another person or over the age of 18 years, fails to disclose that information to Victoria Police as soon as it is practicable to do so, unless the person has a reasonable excuse under the Crimes Act for not doing so (Failure to Disclose Offence).
 - 5.3 Employees and persons involved in child-connected work must always act in the best interests of those children and young people to protect and preserve their safety, health and wellbeing. As far as is practicable, employees must monitor the general safety and wellbeing of each and every student in order to meet responsibilities under the duty of care prescribed by legislation.
 - 5.4 A person who, by reason of the position they occupy within the School has the power or responsibility to reduce or remove a substantial risk that a child will become the victim of a sexual offence committed by a person associated with the School and knows that there is a substantial risk that that person will commit a sexual offence against the child, negligently fails to reduce or remove the risk will be guilty of a criminal offence (**Failure to Protect Offence**). A person negligently fails to reduce or remove a risk if that failure involves a falling short of the standard of care that a reasonable person would exercise in the circumstances.
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6. When a Mandatory Report is Required

- 6.1 Mandatory reporters must, and employees who are not mandatory reporters are expected to, take steps (in accordance with the law and this policy) to ensure that a report is made to Child Protection (within the Department of Health and Human Services) as soon as practicable after forming a belief on reasonable grounds, in the course of undertaking their professional duties, that a child or young person is in need of protection from significant harm as a result of physical injury or sexual abuse, and the child's parents/guardians have not, or are unlikely to, protect the child from that harm.
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7. Crimes Act Disclosure Obligation – Failure to Disclose Offence

- 7.1 In addition to the mandatory reporting obligations outlined above, any person, whether or not an employee of ML, must disclose to a Victoria police officer as soon as practicable after forming a belief on reasonable grounds that a child or young person (under the age of 16 years, as per section 327(2) of the Crimes Act) that a sexual offence has been committed against that child or young person, unless the first-mentioned person has a reasonable excuse under the Crimes Act for not doing so.
- 7.2 A reasonable excuse for not making such a report to a police officer as soon as practicable includes the belief on reasonable grounds that the information has already been disclosed to Victoria Police by another person in compliance with the mandatory reporting obligations of this policy. For example, where Child Protection Services have been notified.

- 7.3 If there is any uncertainty about the need for a mandatory report to Child Protection Services or to contact Victoria Police, this should be raised with the CEO for consideration to contact the Department of Human Services for advice, and/or Victoria Police.
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8. Referral to Child FIRST

- 8.1 A referral to Child FIRST should be considered if, after taking into account the available information, the mandatory reporter forms a view that the concerns have a low-to-moderate impact on the wellbeing of the child and the child is not at immediate risk of harm.
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9. Who should make a report or referral?

- 9.1 Generally, a Child Safety Officer makes a report to Victoria Police, Child Protection or a referral to Child FIRST after consultation with the mandatory reporter. If they are not available, the CEO or the relevant person with delegated authority makes the report. They will inform the relevant mandatory reporter if they have or have not made a report or a referral.
- 9.2 Non-mandated people (e.g. educational support staff for example), who believe on reasonable grounds, that a child is in need of protection, must report their concerns to the CEO and Child Safety Officer so that a report can be made to Child Protection.
- 9.3 If the CEO or a Child Safety Officer does not wish to make a mandatory report, this does not discharge the mandatory reporter's legal obligation to do so *if the mandatory reporter continues to hold a reasonable belief that abuse or a sexual offence may have occurred* (including in circumstances where the child's parents/guardians have not or are unlikely to protect their child from that harm). In that circumstance, the mandatory reporter must still make a report to Child Protection or a referral to Child FIRST and in the case of a sexual offence, Victoria Police.
- 9.4 In relation to the Failure to Disclose Offence, in circumstances where a person has formed a reasonable belief that a sexual offence has been committed against a child by someone over the age of 18 years, they must disclose that information to a member of the police force as soon as it is practicable to do so unless:
- (a) they fear on reasonable grounds for the safety of any person (other than the person believed to have committed the offence) were they to disclose the information to the police and the failure to disclose the information to police is a reasonable response in the circumstances; or
 - (b) they believe on reasonable grounds that the information has already been disclosed to the police by another person and they have no further information.
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10. Mandatory Reporting Procedure

10.1 Protocol

10.1.1 Mandatory reporters are instructed to:

- (a) Document dates, times, the nature of incident, patterns of behaviour, current or prior concerns and grounds for belief regarding the student in their care

(employees will be provided with a list of possible indicators of harm, and definitions to assist in deciding if abuse is occurring and if the impact warrants a report to Child Protection, Child FIRST, Victoria police or another course of action);

- (b) Consult directly with the CEO and relevant Child Safety Officer, and provide the documentation described above.
- (c) Document and consult directly with the CEO and relevant Child Safety Officer for each and every incident for a child they have concerns about.

10.1.2 The Child Safety Officer is instructed to:

- (a) Coordinate information from the reporter and reference any additional student files and information held by ML;
- (b) If deemed to be appropriate, contact the relevant family;
- (c) If deemed to be appropriate, report the matter to Child Protection or refer to Child FIRST and (where applicable) notify Victoria Police, and inform the CEO; and
- (d) Act as ML's liaison person with Child Protection, Victoria Police or any other relevant authorities.

10.1.3 The CEO may remove an employee, volunteer, contractor or agent of ML (and/or take other steps to reduce or remove risk) where the CEO considers there is a substantial risk an employee, volunteer, contractor or agent of ML will commit a sexual offence against a young person or child so as to ensure that they do not negligently fail to reduce or remove that risk under section 49C (2) of the Crimes Act.

10.2 Support

- 10.2.1 It is essential that reports are managed in a caring, supportive and confidential manner.
- 10.2.2 ML arranges support for the responding staff member and the child who is the cause for concern, and other affected individuals.
- 10.2.3 Access to MLs employee assistance program is promoted and managers monitor the wellbeing of responding staff members and any other affected individuals (including the alleged perpetrator if they are an employee of the School).
- 10.2.4 Staff are provided with regular awareness of mandatory reporting and protection of children education.

10.3 Monitoring

- 10.3.1 After notification to Child Protection Services is made, a senior protective worker decides whether or not further investigation is required. The notifying staff member will be advised of this decision.
- 10.3.2 If the notifying staff member is not advised, the CEO may contact Child Protection Services and request information about what action is proposed.

10.4 Own Investigations Strictly Prohibited

10.4.1 Mandatory reporters must follow the above protocol strictly. Under no circumstances should the mandatory reporter 'investigate' an allegation of child abuse. This is the role of Child Protection or Victoria Police.

10.5 Confidentiality

10.5.1 All employees must respect confidentiality when dealing with a case of suspected child abuse and neglect and may only discuss case details and the identity of the child or young person and their family only with those involved in managing the situation, including a police officer in the case of a suspected sexual offence committed against a child or young person.

11. Consequences of a Breach of this Policy

11.1 ML emphasises the need to comply with the requirements of this policy. Breaches of this policy and its procedures may result in suspension of access to ML's information resources.

11.2 Any employee found to be in breach of the requirements of this policy may be subject to disciplinary action, up to and including termination of employment. Employees should refer to the Performance Management, Misconduct and Disciplinary Action Policy and Procedure.

11.3 Similarly, a Legatee or volunteer found to be in breach of the requirements of this policy may be subject to disciplinary action in accordance with ML's Legatee Code of Conduct.

12. Policy Review

12.1 ML may make changes to this Policy at any time and will inform Legatees, volunteers and staff accordingly.

13. Authorisation

Approved by Melbourne Legacy Chief Executive Officer:

Justin Elwin

Date: 23 / 10 / 2018

Ratified by:

Melbourne Legacy Board of Management

Date: 23 / 10 / 2018