



St. Mary's School Inglewood

Learning Today, Wisdom Tomorrow

Child Protection Failure to Disclose

Identity Statement

St Mary's Catholic School, Inglewood, is a community of learners, inspiring all to be people of light, in the footsteps of the Presentation Sisters.

Vision Statements

- Model and teach the message of Jesus in our relationships with each other, our God and our world.
- Build and value collaborative partnerships with students, staff and parents, the Parish and wider community.
- Create a positive and stimulating environment in which each person can academically, spiritually, emotionally, physically and socially reach their full potential.
- To foster a love of learning in a safe and respectful environment.

RATIONALE

The dignity of each person, made in the image of God, is a fundamental tenet of the Catholic Church and therefore of Catholic education. At St. Mary's, we strive to provide a safe, supportive and secure environment that promotes respect and care and values diversity. The mental, physical, spiritual and emotional wellbeing of children and young people are essential preconditions for successful learning. St. Mary's School Inglewood is committed to the creation of a safe, just and respectful environment that supports wellness for all members of the school community.

Protecting children and young people against sexual abuse is a community wide responsibility. Everyone at St. Mary's have a moral and legal responsibility to ensure children or young people are safe in their care and to ensure that all forms of abusive behaviours towards children are prevented.

COMMITMENT TO CHILD SAFETY

*St. Mary's Primary School is committed to the safety and welfare of all children, within a secure environment.
All children have a right to be treated with respect and to be protected from abuse and harm.*

KEY PRINCIPLES

- A safe environment is required to protect children and young people from harm and to prevent staff from abusing their position of authority and trust.
- The child and young person's ongoing safety and wellbeing must be the primary focus of all decision making.
- School leaders and staff must be fully self-aware of, and comply with, their professional obligations and responsibilities.
- The commitment to protecting children is embedded in the organisation's culture and responsibility for taking action is understood and accepted at all levels of the organisation.

DEFINITIONS

What is Failure to Disclose?

A new criminal offence has been created in Victoria that imposes a clear legal duty upon all adults to report information about child sexual abuse to police. The offence commenced on 27 October 2014.

Its purpose concerns the new criminal offence under the Victorian Crimes Act, commencing 27 October 2014, 'failure to disclose, which provides that:

- a. **all adults** who form a reasonable belief that a sexual offence has been committed by an adult against a child under 16 has an obligation to report that information to police. Failure to disclose the information to police is a criminal offence.
- b. an adult will not be guilty of the offence if they have a **reasonable excuse** for not disclosing the information. A reasonable excuse includes:
 - fear for safety,
 - where the information has already been disclosed.

Note: It is a **reasonable excuse** to not disclose where a person believes on reasonable grounds that the information has already been disclosed to police and they have no further information to report; for example, where the person has already made a report under the mandatory reporting obligation specified in the *Children, Youth and Families Act 2005*.

This obligation requires teachers, doctors and other professionals to report concerns about child welfare to child protection authorities within the Department of Health and Human Services (DHHS).

Under the existing mandatory reporting system, DHHS already passes on all allegations of child sexual abuse to police, so it will be a reasonable excuse for not reporting to police if a person has made a report to DHHS or reasonably believes a report has been made to DHHS. This ensures that people are not required to make multiple reports to different agencies.

A person **does not have a reasonable excuse** for failing to disclose sexual abuse if they are only concerned for the perceived interests of the perpetrator or any organisation. 'Perceived interests' includes reputation, legal liability or financial status.

The obligations of 'failure to disclose' are separate from, and in addition to, Mandatory Reporting obligations.

Child and Young Person

For the purposes of this offence, a child is a person under the age of 16 years. A young person is any person who comes under or may come under the care, supervision or authority of the school.

Person in Authority

A person in authority is someone who, because of their position within a relevant organisation, has the power or responsibility to reduce or remove a substantial risk that a child under the age of 16 years, who is under their care, supervision or authority, may become the victim of sexual abuse committed by an adult associated with the organisation. The role may be a formal, management role but may also apply to less formal roles such as a volunteer coach for a sports team.

Reasonable belief

A 'reasonable belief' is formed if a reasonable person in the same position would have formed the belief on the same grounds. A 'reasonable belief' is not the same as having proof.

IMPLEMENTATION

This policy applies to the whole school community in supporting safe environments for all children and young people.

- It applies to all adults in the school community to ensure they understand this responsibility (distinct from that of Mandatory Reporting) in protecting the safety and wellbeing of children and young people under the age of 16 in accordance with the Crimes Act 1958 (Vic).
- This policy and its requirements will be communicated annually to all staff and the wider school community
- This policy and its requirements will be communicated to new staff during induction
- Prompt and full responses to any allegations will be undertaken promptly, with well documented records retained securely and confidentially.
- All adults, not just professionals who work with children, have a legal obligation to report to Victoria Police where they form a reasonable belief that a sexual offence has been committed by an adult against a child under the age of 16. Failure to disclose the information may amount to a criminal offence unless you have a "reasonable excuse" or have an "exemption" from doing so.

RELATED DOCUMENTATION

[Child Safety Policy](#)

[Mandatory Reporting](#)

[Working with Children Checks Policy](#)

[Failure to Protect Policy](#)

[Grooming Policy](#)

[Pastoral Wellbeing Policy](#)

REFERENCES

- Crimes Amendment (Protection of Children) Act 2014, online, http://www.austlii.edu.au/au/legis/vic/num_act/caoca201436o2014417
- Children, Youth and Families Act (Vic) 2005
- DEECD and DHS 2010, *Protecting the Safety and Wellbeing of Children and Young People, A joint protocol of the Department of Human Services Child Protection*, Department of Education and Early Childhood Development, Licensed Children's Services and Victorian Schools.
- Victorian Parliamentary Inquiry into the Handling of Child Sexual Abuse by Religious and Other Non-Government Organisations, Final Report, *Betrayal of Trust*, November 2013.
- Integrity in the Service of the Church, online, <https://www.catholic.org.au/documents/1345-integrity-in-service-of-the-church-1>

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