Other Child Safety Reporting Obligations Policy

Purpose:	To detail other child safety reporting obligations (other that Mandatory Reporting obligations) relating to children under the age of 16 as set out in the Crimes Act 1958 (Vic), which was amended in 2014 to include offences of: • failing to disclose a sexual offence; • grooming for sexual conduct; and • failing to protect a child from sexual offence.
Scope:	Staff, contractors and other volunteers/visitors to the School Noting that nothing in this policy is intended to limit the obligations in relation to child safety that any person may have at law or under any other school policy or procedure.
Implemented by:	Principal
Approved by:	Fitra Board
Effective Date:	May 2024
Review Date:	December 2026

Fitra Community School (Fitra) is committed to supporting the wellbeing of its students and protecting them from child abuse. All members of the School community share a responsibility to ensure the welfare of all students.

Protection of Children against Sexual Abuse: Specific Offences

Failure to Disclose

Reporting child sexual abuse is a community-wide responsibility. The Failure to Disclose offence imposes a clear legal duty upon all adults aged 18 and over to report information about child sexual abuse to police.

Definition

Under section 327 of the Crimes Act, any person (including any staff member) of or over the age of 18 years who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child under 16 years of age must disclose that information to police, as soon as it is practicable to do so. Failure to disclose the information to police is a criminal offence, except in limited circumstances such as where the information has already been reported to DFFH Child Protection.

The offence applies to all adults in Victoria, not just professionals who work with children.

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 sexually abused;
- a child states that they know someone who has been sexually abused (sometimes the child may be talking about themselves);
- someone who knows a child states that the child has been sexually abused;
- professional observations of the child's behaviour or development leads a professional to form a belief that the child has been sexually abused or is likely to be abused; and
- signs of abuse lead to a belief that the child has been sexually abused.

Procedure

Any adult aged 18 or over 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 Victoria Police by dialling 000 (or otherwise to a Member of the police force of Victoria).

An adult will not be guilty of an offence if they do not report in the following circumstances:

- 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.
- The victim has disclosed the information in confidence in the course of a therapeutic relationship with you as a registered medical practitioner or counsellor.
- The victim turned 16 years of age before 27 October 2014.

Reasonable excuses for failing to comply with the requirement include:

- a reasonable belief that the information has already been reported to police or Department of Families, Fairness and Housing (DFFH) Child Protection disclosing all of the information.

- a reasonable fear that the disclosure will place someone (other than the alleged perpetrator) at risk of harm.

Grooming

Section 49B of the Crimes Act relates to the offence of "Grooming for sexual conduct with a child under the age of 16 years." The offence targets predatory conduct designed to facilitate later sexual activity. The offence can be committed by any person aged 18 years or over.

Definition

The offence of grooming concerns predatory conduct undertaken to prepare a child for sexual activity at a later time. The offence applies 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 for the child with the intention of facilitating the child's engagement in or involvement in sexual conduct, whether with the groomer or another adult.

Grooming does not necessarily involve any sexual activity or even discussion of sexual activity – for example, it may only involve establishing a relationship with the child, parent or carer for the purpose of facilitating sexual activity at a later time.

The sexual conduct must constitute an indictable sexual offence. This includes offences such as sexual penetration of a child, indecent assault and indecent act in the presence of a child. It does not include summary offences, such as indecent behaviour in public.

Procedure

Should any member of the School community aged 18 and over become aware of grooming behaviour by a person aged 18 years or over, they should notify the police and/or the Principal immediately.

It is the responsibility of the Principal and/or others associated with the School with authority or responsibility, to take action upon becoming aware of grooming behaviour to protect (so as to reduce or remove a substantial risk) in accordance with the 'failure to protect' offence (see below).

Failure to Protect Offence

Section 49C of the Crimes Act states that it is a criminal offence in Victoria for a person in authority to fail to protect a child under the age of 16 from criminal sexual abuse. This applies where there is substantial risk that a child under the care, supervision or authority of an organisation (including schools) will become a victim of a sexual offence by an adult associated with the School. The person in a position of authority may be guilty of an offence if they know of the risk of abuse and have the power or

responsibility to reduce or remove the risk, but negligently fail to do so.

Definition

If a person associated with the School who by reason of their position has the power or responsibility to reduce or remove a substantial risk that a child will become a victim of a sexual offence committed by an adult associated with the School, they must not negligently fail to reduce or remove the risk. That is, as soon as a person in authority becomes aware of a risk of child sexual abuse, they will be under a duty to take steps to remove or reduce that risk.

A person who has the power or responsibility to reduce or remove a risk will include the Principal, members of the Board and senior staff, as well as teachers by virtue of their responsibilities. For the avoidance of doubt, any member of staff or person associated with the School who knows of a substantial risk that a child will become a victim of a sexual offence should notify the Principal as soon as is reasonably practicable.

Procedure

When aware of a substantial risk of criminal sexual abuse to a child in the School from an adult aged 18 or over associated with the School, the Principal will act to reduce or remove the risk. The person will be removed from any child-related role pending an investigation.

Staff Awareness

Staff members will be made aware of their reporting requirements via communications at the start of each school year. Such communications will include links to the fact sheets by the Department of Justice of Failure to Disclose & Failure to Protect offences. The two offences will also be discussed as part of the induction of new staff members and at staff meetings.

Related Documentation

Step-by-step Guide to Making a Report to Child Protection or Child FIRST

Department of Justice – Failure to Disclose Fact Sheet

Department of Justice – Failure to Protect Fact Sheet

Protecting the Safety of Children and Young People

Mandatory Reporting Professional Learning Module

Related Policies

- Mandatory Reporting Policy

- Student Welfare Policy
- Duty of Care Policy
- Child Safety Policy