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The Obligation to Report a Sexual Offence

Commitment to Child Protection

The dignity of the human person, who is created in the image and likeness of God, is the foundation of Catholic Social Teaching at St. Francis of the Fields. This Catholic anthropology leads us to afford all people, but especially children, young people and the most vulnerable, the highest respect. Within this context, St. Francis of the Fields is committed to providing a safe, supportive and secure environment that promotes respect, care and values diversity.

The School regards its child protection responsibilities with the utmost importance and is committed to the creation of a safe, just and respectful environment that supports wellness for all members of the school community.

Source of Obligation

Under the Crimes Act 1958 (Vic) (section 327), anyone aged 18 years or over must make a report to the Police if they form a reasonable belief that a sexual offence has been committed against a child under the age of 16 years, by a person aged 18 years or over. Failure to make a report without reasonable excuse is an offence and carries a prison term.

If a report is made to Department of Health and Human Services (DHHS) Child Protection in accordance with Mandatory Reporting requirements, an additional report to the Police will not usually be required unless further information is obtained.

This obligation applies to anyone aged 18 years or over, including all non-teaching staff, Volunteers, and students aged 18 and over. The legislation also applies to teaching staff if not already covered by the mandatory reporting obligation.

Objectives

This policy aims to:

- ensure a safe environment is provided to protect children and young people from harm and to prevent staff from abusing their position of authority and trust;
- ensure the safety and wellbeing of all children is the primary focus of all decision making;
- ensure the Leadership Team and all staff members are self-aware of, and comply with, their professional obligations and responsibilities; and
- that a positive and robust child protection culture is created and maintained.

What must be reported?

Any person aged 18 or over who forms a reasonable belief that a sexual offence has been committed by an adult (a person aged 18 years or over) against a child under 16 has an obligation to report that information to the Police.

What is a sexual offence?

The Crimes Act sets out what constitutes a "sexual offence". This includes:

- rape
- indecent assault
- incest
- sexual penetration
- grooming a child for sexual conduct
- encouraging a child to engage in, or be involved in, sexual activity.

A "sexual offence" includes an attempted sexual offence.

What is a 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" might be formed when:

- 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 the child states that the child has been sexually abused
- signs of sexual abuse lead to a belief that the child has been sexually abused.

Exceptions

If you fail to disclose a sexual offence against a child to the Police, you will not be held liable where your reason for not reporting is that:

- you fear on reasonable grounds for the safety of any person (other than the offender), and a failure to report is reasonable
- the victim told you about the sexual offence (directly or indirectly), the victim was over 16 years old when they told you about the sexual offence, and the victim requested that the information not be disclosed (unless the victim has an intellectual disability and does not have the capacity to make an informed decision about this)
- you believe on reasonable grounds that the information has already been disclosed to the Police by another person (such as to DHHS Child Protection as part of Mandatory Reporting) and you have no further information.

Unacceptable reasons for not reporting include if you are concerned with the interests (including the reputation, legal liability or financial status) of:

- the person involved in the sexual offence
- any organisation (such as the School).

A report made under the Children, Youth and Families Act 2005 (Vic) Mandatory Reporting obligations may constitute a 'reasonable excuse' if you believe that you have no further information to provide to the Police.

Record Keeping Obligations

For the School's record keeping obligations relating to child protection incidents, refer to Child Protection Record Keeping.

Review

St. Francis of the Fields is committed to the continuous improvement of our Child Protection Program. In accordance with our Continuous Improvement and Review Policy this Policy is regularly reviewed for overall effectiveness and to ensure compliance with all child protection related laws, regulations and standards.