

SIENA COLLEGE CAMBERWELL

Child Protection – Mandatory Reporting / Reporting Obligations



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POLICY TITLE **Child Protection – Mandatory Reporting / Reporting Obligations**

RATIONALE

All schools must comply with the legal obligations that relate to managing the risk of child abuse under the Children, Youth and Families Act 2005 (Vic.), the Crimes Act 1958 (Vic.) and the recommendations of the Betrayal of Trust Report.

Under the National Framework for Protecting Australia's Children 2009-2020, protecting children is everyone's responsibility. All teachers, other school staff, parish priests, canonical and other administrators of catholic schools in Victoria must understand and abide by the professional, moral and legal obligations to implement child protection and child safety policies, protocols and practices.

This policy is designed to assist staff to:

- Identify the indicators of a child or young person who may be in need of protection
- Understand how a reasonable belief is formed
- Make a report of a child or young person who may be in need of protection
- Comply with mandatory reporting obligations under child protection law and their legal obligations relating to criminal child abuse and grooming under criminal law

Child Protection reporting obligations fall under separate pieces of legislation with differing reporting requirements. This policy sets out the actions required under the relevant legislation when there is a reasonable belief that a child is in need of protection or a criminal offence has been committed and provides guidance and procedures on how to make a report.

DEFINITIONS

Children, Youth and Families Act 2005 (Vic.):

Child: For the purpose of the relevant parts of the Children, Youth and Families Act 2005 (Vic.), a child is any person 17 years of age or younger.

Child FIRST: The Family Information Referral Support Team run by a registered community service in a local area that can receive confidential referrals about a child of concern. It does not have any statutory powers to protect a child but can refer matters to family services.

Child Protection: The Victorian Government agency, provided by the Department of Human Services (DHS), that protects children at risk of significant harm. Child Protection has statutory powers and can use these to protect children.

Mandatory Reporting: Mandatory Reporting is a legal requirement under the Children, Youth and Families Act 2005 (Vic.) to protect children from harm relating to physical abuse or sexual abuse. While not mandated, making a report to Child Protection may also be needed for: emotional abuse, neglect, medical neglect, family violence, human trafficking, sexual exploitation, risk taking behaviours, female genital mutilation, risk to an unborn child and a child or young person exhibiting sexually abusive behaviours.

Mandatory report: A report made to Child Protection, by a person mandated under the Act that is based on a reasonable belief that a child is in need of protection from harm. A subsequent report must be made on each occasion on which the mandatory reporter becomes aware of further reasonable grounds for that belief.

Mandatory reporter: Person(s) required under the Children, Youth and Families Act 2005 (Vic.) to make a report to the Child Protection if they believe a child is in need of protection from physical injury or sexual abuse. Mandatory reporters include registered school teachers or principals and registered nurses. At Siena College all teaching staff are mandated to report, but all staff are required by the College to inform the Wellbeing Team of any child protection concerns.

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Reasonable belief: A reasonable belief that a child is in need of protection is likely to be formed in circumstances where:

- A child states that they have been physically injured or sexually abused (self disclosure)
- A child states that they know someone who has been physically injured or sexually abused (sometimes the child may be talking about him or herself)
- A relative, friend, acquaintance or sibling of the child states that the child has been physically injured or sexually abused
- Professional observations of the child's behaviour or development lead the mandated professional to form a belief that the child may have been physically injured or sexually abused
- Signs of physical injury or sexual abuse lead to a belief that the child may have been abused

Duty of Care: The legal liability of Principals and teachers requires them to take reasonable measures to protect students in their care when the teacher/pupil relationship exists. It cannot be delegated.

DEFINITIONS

Crimes Act 1958 (Vic.):

Failure to Disclose: Any Sienna College staff member/volunteer who forms a reasonable belief that a sexual offense has been committed in Victoria by an adult against a child under 16 must disclose that information to the police. Failure to disclose the information to police is a criminal offence under section 327 of the Crimes Act 1958 (Vic.). The obligation is to disclose that information to the police as soon as it is practical to do so, except in limited circumstances such as where the information has already been reported to Child Protection.

Failure to Protect: Any Sienna College staff member in a position of authority or leadership role who becomes aware that an adult associated with Sienna College (such as an employee, contractor, volunteer, spot coach or visitor) poses a risk of sexual abuse to a child under 16 who is in the care or supervision of Sienna College must take reasonable steps to reduce or remove that risk. Failure to take reasonable steps to protect a child in the organisation from the risk of sexual abuse from an adult associated with the college is a criminal offence contained in section 49C (2) of the Crimes Act 1958 (Vic.).

Grooming: The offence of grooming prohibits predatory conduct designed to prepare or 'groom' a child for future sexual activity and is contained in section 49B (2) of the Crimes Act 1958 (Vic.). The offence applies to communication with children under 16 years. Grooming can be conducted in person or online, for example via interaction through social media, web forums and emails. The offence can be committed by any person aged 18 years or over. It does not apply to communication between people who are both under 18 years of age.

DEFINITIONS

Wellbeing Team: A committee consisting of the Principal, Deputy Principal Wellbeing and Counsellor/s which has the overview of the processes and procedures in relation to child physical or sexual abuse recorded by a staff member and which also offers support to that staff member concerned.

PRINCIPLES / GUIDING PRINCIPLES

Protection from harm: The safety, welfare and wellbeing of the child or young person are paramount. Sienna College personnel are required to give priority to protecting a child from harm and are required to make a report in the case where a reasonable belief is formed that a child is in need of protection from physical injury or sexual abuse.

Information sharing: Sienna College staff are authorised by the *Children, Youth and Families Act 2005* (Vic.) to share information about a child who is at risk of abuse when making a referral or report to one of the agencies established by the Victorian Government to support vulnerable children and their families.

Staff Training: All staff and volunteers at Sienna College will undertake annual training in reporting obligations.

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Duty of Care: Duty of care is breached if a person:

- Does something that a reasonable person in that person's position would not do in a particular situation
- Fails to do something that a reasonable person in that person's position would do in the circumstances
- Acts or fails to act in a way that causes harm to someone to whom the person owes a duty of care

PROCEDURES

- Procedure for reporting concerns under the Children, Youth and Families Act 2005 (Vic.)
- The responsibility of Teachers and Principals - Discharge of Mandated Responsibility under the Children, Youth and Families Act 2005 (Vic.)
- Procedure for reporting criminal offences contained in the Crimes Act 1958 (Vic.)
- Flowchart of procedures following any concerns of possible physical or sexual abuse of a criminal offence – School Response

RESPONSIBILITY

At Siena College everyone has a duty of care to support and protect the students with whom they are professionally involved. When staff members form a reasonable belief that a student has been harmed or is at risk of harm, they are required to take action to protect the safety and wellbeing of that student. Accordingly, all staff and volunteers at Siena College are required to follow the procedures for reporting suspected physical or sexual abuse or a sexual offense.

RELATED LEGISLATION

- Children, Youth and Families Act 2005 (Vic.)
- Crimes Act 1958 (Vic)
- Privacy Act 1988 (Cth)
- Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Cth)
- Australian Privacy Principles (APP) from Schedule 1 in the Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Cth)
- Children, Youth and Families Act 2005 (Vic)
- Education and Training Reform Act 2006 (Vic)
- Children's Services Act 1996 (Vic)
- Charter of Human Rights and Responsibilities Act 2006 (Vic)

RELATED POLICIES

- Pastoral Care Policy – Siena College Revised 2014
- CEM Policy 2.26 – Pastoral Care of Students in Catholic Schools (2013 - Revised)
- CEM Policy 2.19 – Child Protection - Reporting Obligations
- CEOM Policy 2.20 – Allegations of Misconduct Against Lay Employees in Catholic Schools and Catholic Education Offices 2011

RELATED DOCUMENTS

- Siena College Mission Statement 2013
- Department of Human Services Child Protection, Department of Education and Early Childhood Development, Victoria 2010, *Protecting the Safety and Wellbeing of Children and Young People (Appendices updated December 2013)*
- Department of Education and Early Childhood Development Victoria 2007, *Allegations of Student Sexual Assault in Schools: Information for school staff*
- Children's Services Regulations 2009 (Vic)
- Education and Training Reform Regulations 2007 (Vic)

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RELATED RESOURCES

- Catholic Schools Operational Guide (CEVN website)
- Department of Education and Training <http://www.education.vic.gov.au/Pages/default.aspx>
- Department of Health and Human Services <http://dhhs.vic.gov.au/>

FURTHER INFORMATION

Catholic Education Melbourne Wellbeing and Community Partnership Unit operates the Student Wellbeing Information Line 9am – 5pm daily: 03 9267 0228.

Last Updated: July 2016