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Child Protection – Reporting Obligations: Marian College’s Procedures for Responding to and Reporting Child Safety Incidents or Concerns

All of Marian College’s procedures for reporting and responding to child safety incidents or concerns are designed and implemented taking into account the diverse characteristics of the College community.

What is a child safety incident or concern?

Child safety incidents or concerns can take many forms. These include not only “abuse” of a child or young person by their parents/carers, but also conduct by other people that can cause harm to a child or young person.

At Marian College, we define child safety incidents or concerns to include:

- all of the different definitions of child abuse or other harm in various legislation, and the key indicators of child abuse and other harm. These include:
 - sexual abuse
 - grooming (including grooming of a child or of an adult with care, supervision or authority for a child)
 - physical abuse
 - emotional or psychological harm (including by exposure to family violence)
 - neglect
- breaches of our Child Safe Codes of Conduct.

Unfortunately, the nature of child abuse and other harm is complex. Abuse or other harm may occur over time and potential indicators of abuse or harm are often difficult to detect. The perpetrator may be a parent, carer, other family member, staff member, Volunteer, Contractor, another adult or even another child.

The legal obligations for reporting allegations of child abuse or other harm can vary depending on the circumstances of the child safety incident or concern.

How to Report Child Safety Incidents or Concerns to Marian College

Students

There are no limits on how or to whom students at Marian College can disclose any child safety incident or concern or make a complaint about a staff member, Volunteer or Contractor. We have multiple, child-focused pathways, including a pathway for anonymous disclosure, to enable all students to raise child safety incidents or concerns.

Parents/carers, family members and other community members

Parents/carers, family members and other community members who have child safety concerns about a student at Marian College are asked to follow the procedures set out in our **Child Safeguarding Policy** and to contact our Senior *Child Safety/Child Protection* Officer.

Staff, Volunteers and Contractors

For the purposes of this policy, all Staff, Volunteers and Contractors are together referred to as Staff or staff members.

Staff members **must** follow [PROTECT Four Critical Actions for Schools: Responding to Incidents, Disclosures or Suspicions of Child Abuse \(Four Critical Actions\)](#).

As required by the Four Critical Actions, staff members must report any and all child safety incidents or concerns involving our students to Marian College. They can do this by contacting a Child Protection Officer, or – if the matter involves the conduct of a staff member – the Principal.

Staff members must also follow our procedures for responding to incidents or disclosures of child abuse or other harm, or suspected child abuse or other harm, including by making any required reports to external agencies. These procedures align with the requirements of the Four Critical Actions.

These policies and procedures make clear that reporting internally to or consulting with a Child Protection Officer does not change any obligation under legislation to report to an external authority.

Marian College's Response to Internal Reports

Marian College will take appropriate, prompt action in response to all child safety incidents or concerns, including all allegations or disclosures of abuse or other harm, that are reported internally to Marian College, including by:

- all matters that meet the required relevant thresholds being reported externally to Child Protection, the Police, the Commission for Children and Young People (CCYP), and/or the Victorian Institute of Teaching, depending on the issues raised
- Marian College fully cooperating with any resulting investigation by an external agency
- protecting any student connected to the incident or concern until it is resolved and providing ongoing support to those affected
- taking particular measures in response to child safety incidents or concerns about an Aboriginal or Torres Strait Islander student, a student from a culturally and/or linguistically diverse background or a student with a disability
- securing and retaining records of the child safety incident or concern and Marian College's response to it.

Child safety incidents or concerns involving the conduct of a current or former staff member that are raised by a student, parent/carer or family or community member will be addressed in accordance with our **Procedures for Managing Child Safety Incidents or Concerns At or Involving the School or its Staff**. This policy is available on our public website.

Obligations to Respond and to Report to External Agencies

There are a number of legal obligations that College and its Staff must follow when responding to child safety incidents or concerns. These are summarised below.

Failure to Protect

In Victoria, it is a crime if a person who occupies a position within or in relation to Marian College:

- knows that there is a substantial risk that:
 - a child (aged under 16) who is under the care, supervision or authority of Marian College
 - will become a victim of a sexual offence committed by an adult associated with the organisation and
- has, by reason of their position, the power or responsibility to reduce or remove that risk and
- negligently fails to reduce or remove that risk.

This criminal offence is known as 'Failure to Protect' and, in Marian College context, it covers failures to protect a student aged under 16 from sexual abuse by any adult staff member.

Marian College also has a common law duty to protect **all** students from reasonably foreseeable risks of harm, including risks of **all** types of child abuse or other harm that may arise from Staff as well as from others.

To help Staff meet these obligations, it is our policy that if a staff member knows that **any** adult associated with Marian College (including Staff, Volunteers, Contractors, students aged 18 or over, parents/carers and other family members of students) poses a substantial risk of sexually abusing a student, or a reasonably foreseeable risk of child abuse or other harm to a student, they **must** take any actions to reduce or remove that risk that are within their power or responsibilities to take.

In addition, they **must** report the matter to the Principal (or to a designated alternative person if the adult who poses the risk is the Principal).

They **must** also follow their obligations to make appropriate external reports as listed below.

Mandatory Reporting to Child Protection

Although everyone has a moral and social responsibility to report concerns about child abuse or other harm, some professionals are legally required to make a report to the Department of Families, Fairness and Housing (Child Protection) if – during the course of their professional work or carrying out duties of their office, position or employment – they:

- they form a belief on reasonable grounds
- that a child (aged under 17) is in need of protection because:
 - the child has suffered or is likely to suffer significant harm as a result of physical injury or sexual abuse and
 - the child's parents have not protected or are unlikely to protect the child from the harm.

At Marian College, the following people are Mandatory Reporters:

- teachers
- the Principal
- medical practitioners
- nurses
- registered psychologists
- early childhood workers
- persons in religious ministry
- school counsellors.

Mandatory Reports must be made either to Child Protection or to the Police.

Non-Mandatory Reporting to Child Protection

Under the law, **anyone** can report the following to Child Protection:

- significant concerns for the wellbeing of a child (aged under 17) (wellbeing reports)
- a child (aged under 17) who the person believes on reasonable grounds to be in need of protection (protective intervention reports)
- a child (aged under 18) who the person believes on reasonable grounds is in need of therapeutic treatment because they are exhibiting sexually abusive behaviours (therapeutic treatment reports).

Together, we call these ‘Non-Mandatory Reports to Child Protection.’

All of these reports are voluntary under the law.

However, although Non-Mandatory Reporting to Child Protection is voluntary under the law, it is Marian College’s policy that **all** Staff (including those who are not Mandatory Reporters) **must**, in certain circumstances, make wellbeing reports, protective intervention reports and therapeutic treatment reports to Child Protection.

This aligns with the 4 Critical Actions set out in **PROTECT Four Critical Actions for Schools: Responding to Incidents, Disclosures or Suspicions of Child Abuse**.

Mandatory Reporting (of Sexual Offences Against Children) to Police

Victorian law requires that 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 (aged under 16) must report that information to the Police.

We call this Mandatory Reporting to Police.

Failure to do this is a criminal offence known as ‘Failure to Disclose.’

Any adult at Marian College who has a reasonable belief that another adult, including a staff member or any other adult, has committed a sexual offence against a person who, at the time of the offence, was aged under 16 (including a current or former student) **must** immediately report their concerns to the Victoria Police, except in certain circumstances.

Sexual offences committed against a child aged under 16 by a student who is themselves aged under 18 do not fall under the Failure to Disclose offence. However, this must still be reported to Police (see **Responding to Student Sexual Offending** below).

Non-Mandatory Reporting to Police

Although not required by law to do so, it is Marian College’s policy that the following **must** be reported to Police:

- sexual offences committed by a student under the age of 18 against another person. See **Responding to Student Sexual Offending** below.
- concerns for a student’s immediate safety
- knowledge or suspicions that a student aged 18 or over is being abused or harmed, but only if the student consents to the report
- where a student is partaking in illegal activity that is extreme in nature or poses a high risk to the student. See **Responding to Other Concerns About the Wellbeing of a Student** below.

Reportable Conduct

Victorian law requires the “head” of Marian College to report to the Commission for Children and Young People (CCYP) any allegation that a College staff member has committed reportable conduct or misconduct that may involve reportable conduct (a reportable allegation).

For the purposes of the Reportable Conduct Scheme, the “head” of Marian College is the Executive Officer of Kildare Education Ministries (EO KEM). The EO KEM has authorised the CECV Employee Relations Department to assist in performing their functions under the scheme.

If the allegations are against the EO KEM, then the Executive Director of Kildare Ministries (ED KM) will take on the role of “head” of Marian College.

Reportable conduct includes:

- a sexual offence or sexual misconduct committed against, with or in the presence of, a child, whether or not a criminal proceeding in relation to the offence has been commenced or concluded
- physical violence committed against, with or in the presence of, a child
- any behaviour that causes significant emotional or psychological harm to a child
- significant neglect of a child.

To enable Marian College to fulfil its reporting obligations, it is our policy that if a staff member forms a reasonable belief that another staff member at Marian College has engaged in reportable conduct or misconduct that may involve reportable conduct, they **must** immediately report their concerns to the Principal (or EO KEM should the allegation involve the Principal).

They must also consider whether they are required to make a Mandatory or Non-Mandatory report to Child Protection, take any other action or make any other external reports.

Teacher Misconduct that is Reportable to the Victorian Institute of Teaching

Registered teachers in Victoria are exempt from the Working with Children Check (WWCC) scheme. To align teacher registration with the WWCC scheme, Victorian law requires that registered teachers notify the Victorian Institute of Teaching (VIT) if they are charged with, committed for trial for, or convicted or found guilty of certain criminal offences (that accord with those relevant to Working with Children Checks) or if they have been issued with a negative notice in relation to the Working with Children Check.

Victorian law also requires that Marian College notify the VIT if it becomes aware that a teacher has been charged with, or convicted or found guilty of, these criminal offences or has been given a negative notice.

Marian College must dismiss or remove from its employment or engagement any teacher who has been convicted or found guilty of these criminal offences or been given a negative notice.

Marian College must also notify the VIT if Marian College has taken **any** action against a registered teacher in response to allegations that raise concerns about the teacher’s fitness to teach.

To enable Marian College to fulfil its obligations, it is our policy that:

- registered teachers **must** inform the Principal (or, if they are the Principal, the Chair of the governing body) if they are charged with, committed for trial for, or convicted or found guilty of a relevant offence or if they have been given a negative notice in relation to a WWCC
- all Staff **must** immediately report to the Principal (or, if the incident or allegation involves the Principal, to the Chair of the governing body) any incident or allegation that raises concerns about a teacher’s fitness to teach.

Responding to Sexual Behaviour in Children and to Student Sexual Offending

Knowing how to identify and respond to all sexual behaviour in students, whether it be age-appropriate, concerning, harmful or student sexual offending, helps Staff to support the development of healthy sexuality and protect students from abuse and other harm.

Recognising and Responding to Sexual Behaviour in Children

Marian College references the True Traffic Lights® Framework to enable Staff to identify, recognise and respond to all forms of sexual behaviour. The Traffic Lights® Framework categorises sexual behaviour as green, orange or red light.

As a general guide:

- **Red light sexual behaviours** are those that are problematic or harmful, including forceful, secretive, compulsive, coercive or degrading sexual behaviours. These behaviours signal the need to provide immediate protection and follow up support.
- **Orange light sexual behaviours** are those that are outside normal behaviour in terms of persistence, frequency or inequality in age, power or ability. These behaviours signal the need to monitor and provide extra support.
- **Green light sexual behaviours** are those that are normal, age-appropriate, spontaneous, curious, mutual, light-hearted and easily diverted experimentation. These behaviours provide opportunities to talk, explain and support.

All green, orange and red light behaviours require some form of action and support.

Most red light (harmful) sexual behaviour by a student aged 10 or over that is directed at another person would be considered student sexual offending. Some orange light (concerning) behaviours could also be student sexual offending.

Orange and red light behaviours may therefore require external reporting.

Responding to Student Sexual Offending

Student sexual offending refers to sexual behaviour that:

- is led by a student aged 10 or over
- is directed at another person and
- constitutes a sexual offence.

When a staff member becomes aware of, or suspects, student sexual offending, or that a student is at risk of perpetrating or suffering student sexual offending, they must follow [PROTECT Four Critical Actions for Schools: Responding to Student Sexual Offending \(Student Sexual Offending Four Critical Actions\)](#).

The Student Sexual Offending Four Critical Actions require that incidents of or concerns about student sexual offending **must** be reported to Police, and that additional reports be made, if relevant, to Child Protection or Child First/Orange Door.

Responding to Other Concerns About the Wellbeing of a Student

Any concerns about the wellbeing of a student, regardless of whether it has been caused by abuse or other harm, will be taken seriously and acted upon.

Marian College and its staff members owe a duty of care to all students at Marian College to ensure that they feel safe and are supported at Marian College.

Concerns about the wellbeing of a student, that do not appear to be the result of abuse or other harm, may still be reported by Staff to:

- internally, one of Marian College's Child Protection Officers
- Victoria Police
- Child Protection
- Child FIRST/the Orange Door

depending on the age of the student and the nature of the concern.

Marian College will also consider whether a referral to a support service may assist.