

Xavier College

Mandatory Reporting Policy



1. BACKGROUND

Xavier College Limited (the 'College') has established the following Mandatory Reporting Policy (the 'Policy').

The Children, Youth and Families Act (Vic) 2005 (CYFA) requires that mandatory reporters must make a report to the relevant government department when they believe that a child (aged under 17) is in need of protection from significant harm, from physical injury or sexual abuse.

If a report is made by mandatory reporters in accordance with CYFA mandatory reporting obligations, an additional report to the Victorian Police under section 327 of the Crimes Act (Vic) 1958 may not be required unless you have further information.

This Policy is designed to be published on the College website, referenced in other mediums, as appropriate, and used in the induction of College Board members, all new staff, volunteers and third parties and educational service providers.

2. PURPOSE

This Policy provides the framework for:

- Ensuring that mandatory reports are made in a timely and efficient manner
- The creation of a positive and robust child safety culture
- The promotion and open discussion of child safety issues within the College; and
- Compliance with all laws, regulations and standards relevant to child safety and protection in Victoria, most especially Ministerial Order 870 and the National Principles for Child Safe Organisations.

3. STATEMENT OF COMMITMENT

The College has **zero tolerance** for child abuse and is committed to acting in the best interests of children and keeping them safe from harm. The College regards its child safety responsibilities with the utmost importance. It is committed to providing the necessary resources to ensure compliance with all relevant child safety and protection laws and regulations and to uphold a child safe culture at all times.

The College is committed to the protection of all children from all forms of child abuse and demonstrates this commitment through the implementation of a comprehensive Child Safety Program designed to keep children safe. Further, students at the College, through our actions, processes and support, are empowered to have voice and to take action for their own care.

4. SCOPE

This Policy applies to all College activities and locations where children are under the care and supervision of the College. This applies to both the physical and virtual environments.

This Policy applies to all College employees (partners in mission), Jesuits, directors, students, parents and guardians, third party service providers, volunteers and contractors involved in the College environment.

5. POLICY STATEMENT

5.1 What Gives Rise to a Mandatory Report?

A mandatory report must be made when you form a belief on **reasonable grounds** that a child is in need of protection where 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 harm of that type.**

5.1.1 What is Reasonable Grounds?

The concept of 'reasonable grounds' requires you to consider whether another person, when faced with similar information, would also draw the same conclusion. It does not mean reporters are required to be certain, but rather reporters should ensure their concerns are well founded and based on information from a reliable source. There may be reasonable grounds for forming such a belief if:

- A child states they have been physically or sexually abused
- A child states that they know someone who has been physically or sexually abused
- Someone who knows the child states that the child has been physically or sexually abused
- A child shows signs of being physically or sexually abused
- The staff member is aware of persistent family violence or parental substance misuse, psychiatric illness or intellectual disability that is impacting on a child's safety, stability or development
- The staff member observes signs of abuse, including non-accidental or unexplained injury, persistent neglect, poor care or lack of appropriate supervision; or
- A child's actions or behaviour may place them at risk of significant harm and the child's parents are unwilling or unable to protect the child.

Grounds for belief include matters of which a person has become aware and any opinions based on those matters.

5.1.2 What is Significant?

'Significant' means a matter that is sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent.

What is 'significant' is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child's safety, welfare or wellbeing.

Significant harm can result from a single act or omission or an accumulation of these.

5.1.3 Parents Have Not Protected, or Are Unlikely to Protect, the Child from Harm of That Type?

A parent who 'has not protected, or is unlikely to protect that child from harm of that type' includes a parent who wants to protect his or her child from harm, but lacks the means to.

It also includes a parent who has the means to protect his or her child from harm, but does not want to.

A parent may be rendered 'unlikely to protect' that child for many reasons. For example:

- That parent does not, or refuses to recognise that harm is occurring; or
- That parent or child may be subject to domestic violence; or
- That parent's partner may be abusive or harmful to the child.

'Parent' includes:

- The child's father
- The child's mother
- The spouse of the mother or father of the child
- The domestic partner of the father or mother of the child
- A person who has custody of the child
- A person who is named as the father on the child's birth certificate
- A person who acknowledges that he is the father of the child by an instrument under the Status of Children Act (Vic) 1974; and
- A person in respect of whom a court has made a declaration or a finding or order that the person is the father of the child.

5.2 Who Must Make a Mandatory Report?

Mandatory reporters are defined by the CYFA and include:

- Registered teachers and early childhood teachers
- The Principal
- School councillors
- Early childhood workers
- People in religious ministry
- Medical practitioners; and
- Nurses.

It is the responsibility of other staff, Volunteers or members of the College community to check whether they are Mandatory Reporters under child protection legislation.

If you are not a Mandatory Reporter, you still have the option of making a report to the relevant government department under the CYFA if you believe on reasonable grounds that a child is in need of protection.

The CYFA states that any person who believes on reasonable grounds that a child is at risk of harm should report their concerns to the relevant government department.

All College staff who have concerns that a student may be in need of protection or may have been the victim of a sexual offence, should notify a College Child Safety Lead as soon as possible, without hesitation, to discuss their concerns.

A Mandatory Reporter must make a report even if the Child Safety Lead does not share their belief that a report must be made.

5.3 What to Report and By When?

A report becomes mandatory as soon as is practicable after forming the belief.

A report must include details of the belief, and the reasonable grounds of that belief.

Additional reports must be made on each occasion where you become aware of any further reasonable grounds for the belief.

Please refer to the Victorian Department of Training and Education's Guide to Making a Report to Child Protection or Child FIRST (Child and Family Information, Referral and Support Team) for guidance on making a decision on whether to report.

5.4 How to Make a Report?

Whenever there are concerns that a child is in immediate danger the Police should be called on 000.

A report to the relevant government department should be considered if the staff member forms the view the child needs protection because:

- The harm or risk of harm has a serious impact on the child's immediate safety, stability or development; or
- The harm or risk of harm is persistent and entrenched and is likely to have a serious impact on the child's safety, stability and development; or
- The child's parents cannot or will not protect the child from harm.

To report concerns about the immediate safety of a child within their family unit, call the 24-hour Child Protection Crisis Line 13 12 78.

Concerns that require immediate attention should be made to the local or regional Human Services Child Protection office, or the After-Hours Child Protection Emergency Services on 13 12 78.

5.5 What if you Believe there is no Reasonable Belief?

If you don't have a reasonable belief about a child, but still have concerns, you can refer the matter to a College Child Safety Lead.

There is also the option to refer the matter to Child FIRST.

A referral to Child FIRST should be considered if a staff member forms the view that the concerns have a low-to-moderate impact on the child and the immediate safety of the child is not compromised.

A referral can be made when the following factors may affect a child:

- Significant parenting problems
- Family conflict
- A family member's physical or mental illness, substance abuse, disability or bereavement
- Isolated or unsupported families; or
- Significant social or economic disadvantage.

5.6 What Happens After a Report is Made?

After receiving a report, further information may be sought, usually from professionals who may also be involved with the child or family, to determine whether further action is required. In most cases, the relevant government department will inform the mandatory reporter of the outcome of the report.

After receiving a referral, Child FIRST may consult an experienced community-based Child Protection practitioner in their assessment. The assessment may lead to the involvement of a local family services organisation.

In most cases, Child FIRST will inform the referrer of the outcome of the referral.

Child FIRST must report the matter to the relevant government department if they form the view the child is in need of protection.

Reports made to the Victoria Police will be dealt with in accordance with Police practice.

5.7 International Students

The College must notify the Victorian Regulations and Qualifications Authority (VRQA) if the alleged abuse relates to an international student and the College has issued a Confirmation of Appropriate Accommodation and Welfare (CAAW) letter in relation to that student thereby assuming responsibility for approving the student's accommodation, support and general welfare.

5.8 Failure to Take Action

5.8.1 Failure to Report a Matter

A Mandatory Reporter who fails to comply with reporting obligations may be committing a serious criminal offence.

This offence applies to all adults (not just professionals who work with children) who form a reasonable belief that a sexual offence against a child under 16 years of age has been committed and fail to report this information to Victoria Police.

A person will not be guilty of the offence if they have a reasonable excuse for not disclosing the information.

5.8.2 Failure to Protect

Section 49O of the Crimes Act (Vic) 1958 makes it 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 a substantial risk that a child under the care, supervision or authority of the College will become a victim of a sexual offence by an adult associated with the College.

The College Principal will remove any risk associated with the failure to protect a child in the way of harm.

A person who commits an offence under section 49O is liable to level 6 imprisonment (5 years maximum).

5.8.3 Grooming Offences

Section 49M(1) of the Crimes Act (Vic) 1958 addresses 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.

A person who commits an offence under section 49M(1) is liable to level 5 imprisonment (10 years maximum).

5.9 Record Keeping Obligations

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

6. RELATED POLICES, PROCEDURES AND DOCUMENTS

- Child Safe Policy
- Jesuit Province's Code of Conduct
- Responding to and Reporting Allegations of Child Abuse and Student Sexual Offending Policy
- Reportable Conduct of Staff, Volunteers and Others
- Creating and Maintaining a Child Safety Environment Policy
- Participation and Empowerment of Children Policy
- Staff and Student Professional Boundaries Policy

7. BREACHES OF THIS POLICY

If you believe that the College has breached its obligations, please contact the Principal by writing or telephone. The College will investigate your notification and will inform you of the outcome as soon as is practicable after a decision has been made.

The College Principal can be contacted on:

- Telephone: (03) 9854 5411
- In Writing: The Principal, Xavier College, 135 Barkers Road KEW, VIC 3101
- Email: principal@xavier.vic.edu.au

Alternatively, the Director of Professional Standards at the Australian Province at the Society of Jesus (Jesuits) can be contacted on:

- Telephone: (03) 9810 7300
- In Writing: Director of Professional Standards, PO Box 6071, HAWTHORN, VIC 3122
- Email: professionalstandards@sjasl.org.au

Certain incidents might be covered by the College's Whistleblower Policy which can be found [here](#).

The Principal is responsible for ensuring that all breaches of this Policy and underlying policies, guidelines and procedures are escalated to the Risk and Compliance Committee as soon as possible.

A breach of this Policy may lead to disciplinary action including possible termination of employment or appointment and/or referral to the appropriate authorities.

8. FURTHER INFORMATION

If you would like further information about the way the College manages its Child Safety commitments, the first point of contact is to the relevant Director of Campus or Child Safety Lead.

POLICY RATIFICATION AND REVIEW:

The College's policies are ratified by the Xavier College Limited Board. This Policy will be reviewed on an annual basis or earlier if required.

4. DEFINITIONS

Child Abuse is defined to include a sexual offence, grooming, the affliction, on a child, of physical violence, serious emotional or psychological harm and the serious neglect of a child and a child's exposure to family violence.

Sexual misconduct includes behaviour, physical contact or speech or other communication of a sexual nature, for example 'sexting', inappropriate touching or physical contact, grooming behaviour and voyeurism.

Sexual offence means a serious sexual offence which includes rape, attempted rape, sexual assault, incest, indecent act with a child, persistent sexual abuse of a child, grooming and the production or possession of child pornography.