

GEELONG GRAMMAR SCHOOL

Obligation to Protect Policy

1. Purpose

- 1.1 This Policy explains the legal obligation of Persons or School Employees in a Position of Authority to protect Children at the School from the substantial risk of being a victim of a Sexual Offence by a person associated with the School.
- 1.2 This Policy has been endorsed by School Council.
- 1.3 This Policy is underpinned by the School's Student Safeguarding Policy.

2. Scope

- 2.1 Where indicated, this Policy applies to a Person or School Employee in a Position of Authority who has the power or responsibility to protect a Child from Substantial Risk, and to School Employees generally.
- 2.2 This Policy does not apply to Children under the age of 18 who may pose a risk of sexually abusing other Children, who are managed in accordance with the Student Behaviour Rules.

3. Obligation to Remove or Reduce Substantial Risk

- 3.1 Persons or School Employees in a Position of Authority must act to protect Children who are at Substantial Risk of a Sexual Offence being committed against them by a person associated with the School.
- 3.2 Where there is a Substantial Risk that a Child under the care, supervision or authority of the School will become a victim of a Sexual Offence by a person associated with the School, a Person or School Employee in a Position of Authority will commit an offence if that person knows of the risk of abuse and has the power or responsibility to remove the risk, but negligently fails to reduce or remove that risk (known as the Failure to Protect Offence per the *Crimes Act 1958* section 49O).
- 3.3 A Substantial Risk for the purpose of a Sexual Offence can be determined using the following factors:
 - 3.3.1 the likelihood or probability that the Child will become a victim of a Sexual Offence;
 - 3.3.2 the nature of the relationship between a Child and an adult who may pose a risk to the Child;
 - 3.3.3 the background of the adult who may pose a risk to the Child, including any past or alleged misconduct;
 - 3.3.4 any vulnerabilities particular to the Child which may increase the likelihood that they may become the victim of a Sexual Offence; or
 - 3.3.5 any other relevant fact which may indicate a substantial risk of Sexual Offence being committed against a Child. (collectively, '**Substantial Risk**').
- 3.4 The standard requires more than holding a belief or suspicion, however, School Employees must take protective and preventative measures if they reasonably believe or suspect that a Child is at risk of a Sexual Offence being committed against them by a person associated with the School. The offence does not require the elimination of all possible risks of child sexual abuse nor is it necessary to prove that a Sexual Offence has been committed. The Failure to Protect Offence focuses on the failure to remove a Substantial Risk of a Sexual Offence being committed.

4. Reporting Concerns

- 4.1 The School expects that all School Employees will assist in reducing or removing any such Substantial Risk and to report any concerns that they might have to a Person or School Employee in a Position of Authority.
- 4.2 Upon becoming aware of a Substantial Risk that a Child under the care, supervision or authority of the School will become a victim of a Sexual Offence by a person associated with the School, School Employees are:
 - 4.2.1 not to assess the validity of such risks or concerns, but to report all risks or concerns to a Person or a School Employee in a Position of Authority; and
 - 4.2.2 to disregard factors such as the authority or position of the person(s) involved and any pre-existing views about the good character, or otherwise, of any person involved.
- 4.3 School Employees are also legally obligated to report to Victoria Police any reasonable belief that a Sexual Offence has been committed against a Child, unless there is a reasonable excuse for not doing so (please refer to the School's Obligation to Disclose Policy, Reportable Conduct Policy and Mandatory Reporting Policy).

5. Concerns About Persons Who Are Not Associated With The School

- 5.1 If a School Employee has a concern about a person who is not associated with the School but presents an immediate and substantial risk of committing a sexual offence against a Child at the School, a report should be made to an appropriate Person or School Employee in a Position of Authority or to Victoria Police.

6. Confidentiality of Investigation

- 6.1 The School:
 - 6.1.1 prohibits all School Employees from discussing any concerns or allegations with third parties, within or outside the School, save for the relevant School Employees, Volunteers and Third Party Contractors discussing such concerns or allegations for the purposes of seeking counselling, legal advice or other identified child safe agency/support services.



- Such prohibition is not designed to limit, in any way, rights and responsibilities to report concerns or allegations, but ensures privacy, confidentiality and natural justice through the appropriate provision of procedural fairness;
- 6.1.2 prohibits all School Employees from making deliberately false, misleading or vexatious allegations about another member of the School Community;
 - 6.1.3 will maintain the confidentiality and privacy of all concerned (including the alleged perpetrator), except if doing so would compromise the welfare of the Child, or other Children and/or investigation of the allegation or as otherwise allowed in clause 6.1.1.
 - 6.1.4 will ensure confidentiality of an investigation of an allegation by storing:
 - 6.1.4.1 hard copy documentation in a locked filing cabinet (or similar); and
 - 6.1.4.2 electronic documentation in a password protected folder (or similar).

7. Recruitment of employees

- 7.1 The School will ensure that new School Employees are aware of the Failure to Protect Offence and their obligations under the *Crimes Act*, and that they read and acknowledge this Policy. All School Employees will be provided with initial and ongoing student safeguarding training.
- 7.2 All new School Employees must have:
 - 7.2.1 a VIT registration; or
 - 7.2.2 a valid Working with Children Check and a National Police Check (in accordance with the National Police Check Policy).
- 7.3 All Third Party Contractors and Volunteers must have a current and valid WWCC for Victoria (and a National Police Check, if required by the National Police Check Policy).

8. Definitions

Child or Children	for the purposes of this Policy means students under the age of 16
Crimes Act	<i>Crimes Act 1958 (Vic)</i>
Persons or School Employee in a Position of Authority	means all members of School Council, the Executive, the Executive's Leadership Team and the Student Safeguarding and Risk Officer.
Sexual Offence	includes the following offences committed against a Child by an adult: <ol style="list-style-type: none"> 1. rape; 2. indecent assault; 3. sexual penetration of a Child; 4. indecent act with a Child; 5. administration of a drug with the intention of rendering the Child incapable of resistance to enable a person to take part in an act of sexual penetration or commit an act of indecency with the Child; 6. grooming (where an adult perpetrator of abuse builds a relationship with a Child with the intention of engaging the Child in a Sexual Offence at some stage); or 7. image abuse.
the School	means Geelong Grammar School including its registered boarding premises
School Employees	means all members of the Executive and Leadership team and all other campus and boarding premises employees, whether employed on a full, part time or casual basis.
Third Party Contractors	means a third party service provider engaged by the School to provide a service to the School and or its students.
Volunteers	means people who assist the School in some capacity directly or indirectly School activities, and will have access to students (including virtual/online) or student places of study (i.e. campus, School camp or sporting event, hosting accommodation) including but not limited to: <ol style="list-style-type: none"> 1. a volunteer or a contracted service provider engaged in school activities (whether or not a body corporate or any other person is an intermediary); and 2. homestay providers.
VIT	means the Victorian Institute of Education
Working with Children Check	means a Victorian Government initiative to assist in protecting Children from sexual or physical harm by ensuring adults who care for them are subject to a screening process

9. Review and circulation

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