

Safe Church Policy

The *South Yarra Community Baptist Church*'s Policy on Protecting the Safety of Church Participants

Adopted - 19 November 2017

Everyone who is part of the *South Yarra Community Baptist Church* shares the responsibility to ensure the safety of all those who participate in the common life of the church and its activities, programs, ministries and events. Designated leaders naturally have greater responsibility during the activities they lead, but building a culture that is safe, respectful, transparent, liberating and empowering requires the commitment and participation of everyone.

This document sets out the specific understandings, values, policies and strategies adopted by the *South Yarra Community Baptist Church* to help us build such a culture. It gives particular attention to the provision of hospitality and care for those who are most vulnerable to being exploited, excluded, disregarded or scapegoated.

Biblical Mandate

Followers of Jesus are called to love friend, neighbour and enemy, with a special responsibility for the vulnerable (Matthew 25:31-46), including children (Matthew 18:2-6). This is not limited to people 'like us'. Instead, Jesus teaches that we are to reach out and protect those identified as enemies (Matthew 5:43-48) or ethnic outsiders (Matthew 8:5-13); those who are sick, disabled or impoverished (Matthew 11:4-5); and those who are marginalised because of profession, personal history, sexual identity, or sexual history (Matthew 21:31-32; Luke 19:1-10; Mark 2:25-17; Luke 7:36-50; Luke 7:1-10; John 8:3-11). Such radical openness was practiced in the early Church and the Holy Spirit has continued to lead the Church further on this same journey of inclusion, care and openness (Acts 2:1-21; Acts 8:26-40; Acts 10:1 - 11:18). This policy seeks to help us live out our Biblical mandate as well as our responsibilities under National, State, and Local legislation.

Aims

- To affirm the Biblical mandate to care for all people, including those of different ages, those with disabilities, Aboriginal and Torres Strait Islanders, those from other culturally and linguistically diverse backgrounds, and those with diverse gender and/or sexual identities.
- To outline specific strategies for providing a congregational environment that is physically, emotionally and spiritually safe for all participants in the life of the church, particularly for children and others who might be more vulnerable to exclusion, neglect or abuse.
- To provide all congregational members, regular attenders, staff and volunteers with clear guidelines regarding their responsibilities and conduct.
- To encourage and enable all congregational members, regular attenders, staff and volunteers to understand, recognise, discuss and report matters of child safety, abuse or misconduct.
- To ensure that allegations of abuse or misconduct are handled promptly and correctly.
- To support and assist any person who discloses abuse.
- To embed a culture of zero tolerance towards exploitation, abuse or harm of others, recognising that every person is made in the image of God (Genesis 1:27) and must be so honoured.

Policies

1. Honouring the First Peoples of the Land

- 1.1. The *South Yarra Community Baptist Church* acknowledges with respect the Yalukit Willum (people of the river) of the Boon Wurrung language group of the Greater Kulin Nation as the First Peoples of the land on which we gather.
- 1.2. With them, we grieve over the violence that has been and continues to be visited upon indigenous peoples by our governments, our institutions, and our churches, and we repent of our complicity in this violence.
- 1.3. We will maintain and regularly review a *Commitment to Reconciliation* setting out practical steps that we will seek to implement to help make our church a culturally safe environment for Indigenous Australians. A copy of our current *Commitment to Reconciliation* is included as Appendix 1 to this document.

2. Honouring Cultural and Linguistic Diversity

- 2.1. The *South Yarra Community Baptist Church* acknowledges that all non-indigenous members of our society are immigrant peoples whose cultural, linguistic and religious heritages deserve to be honoured and celebrated.
- 2.2. We recognise that there are many and various ways of being family and raising children. We respect the right of parents to provide education and formative guidance to their children in the understandings and practices of their culture, so long as those practices protect children from harm and encourage and enable people to flourish. We also respect the right of those children, as they grow and mature, to make their own cultural choices, free of coercion or retribution. We recognise the United Nations' *Convention on the Rights of the Child* as a valuable reference point for evaluating the treatment of children.
- 2.3. When publicising ourselves through avenues such as our street-front signage and our website, we will seek to make it clear that people of all cultural and linguistic backgrounds are very welcome to participate in our worship and common life.
- 2.4. We will foster a multi-lingual worship culture by inviting and encouraging all regular participants to lead parts of our liturgy in their first language.
- 2.5. We will foster a multi-cultural worship environment by seeking ways to include appropriate symbols, practices, or artworks from diverse cultural backgrounds.

3. Honouring People of Differing Abilities and Disabilities

- 3.1. The *South Yarra Community Baptist Church* acknowledges that people who live with permanent disabilities or chronic or degenerative illnesses, physical or mental, are close to God's heart and a precious part of our life together, and that an inclusive environment is beneficial to all, both those with and without additional needs.
- 3.2. We recognise that people with a disability can be particularly vulnerable and we will ensure that our risk assessment processes considers their needs.

- 3.3. We will endeavour to minimise access difficulties in our church building.
- 3.4. We will seriously consider the suggestions of individuals or families regarding measures that may better enable the participation of a person with a disability.

4. Honouring People of Different Sexualities

- 4.1. The *South Yarra Community Baptist Church* acknowledges that there is a diversity of sexual and gender identities and orientations, that LGBTIQ people and their children are close to God's heart and a precious part of our life together, and that an inclusive environment is beneficial to all.
- 4.2. We grieve over the scapegoating of LGBTIQ people and their exclusion from many of our churches, and we repent of our complicity in all such persecution.
- 4.3. When publicising ourselves through avenues such as our street-front signage and our website, we will seek to make it clear that LGBTIQ people are very welcome to participate in our worship and common life.

5. Ensuring the Safety of Children

- 5.1. The *South Yarra Community Baptist Church* acknowledges that children and young people are a gift from God to the whole congregation.
- 5.2. For the purposes of interpreting these policies, any person who is under the age of eighteen years is defined as a child.
- 5.3. Children are encouraged to worship with and relate to the whole congregation.
- 5.4. Welcoming children, caring for them and ensuring that they are safe is the responsibility of the whole congregation.
- 5.5. The safety of children is best ensured by keeping them and their activities and carers easily visible. Therefore, it is everyone's responsibility to help ensure that no child is ever taken to or left in a closed room or other concealed location with any adult who is not a parent of that child, or who is not acting at the specific request of a parent of that child.
 - 5.5.1. When any supervision or care of children is provided, two or more adults should be in attendance at all times. If there is a reasonable exception, such as an adult needing to seek first aid or a child's parent, the remaining adult should be with more than one child.
 - 5.5.2. When transporting children to or from events, there should be two adults in each car. At least one must have a *Working with Children Check* (WWCC). If it is unavoidable that there be only one adult in the car, then that adult must have a WWCC and there must be more than one child in the car. This clause does not apply to parents with their own children.
- 5.6. Everyone who participates in the common life of our church is encouraged to read, understand, and comply with the *Code of Conduct for Adults interacting with Children* (set out in Appendix 2).

6. Ensuring Safety in our Online and Social Media presence

- 6.1. The *South Yarra Community Baptist Church* acknowledges that our church website and social media pages provide an important means by which people find out who we are, what we do, and whether we could be the church community that they need. It is therefore important to publish real information and pictures, and to encourage online comments and interaction, but we recognise that this can pose certain risks to privacy and civility.
- 6.2. We will endeavour to make it clear to all participants at church events that appropriate photos may be taken and published on the website or social media, and that if any individual wishes to ensure that they are not photographed or that they are pixelated out of any photos, the onus is on that individual to make their wishes known.
- 6.3. When publishing stories or photos on our church or personal pages, we will avoid including identity or contact details for the individuals described or depicted.
- 6.4. When interacting and commenting online, we need to maintain and model the culture of love, respect and safety that we strive for in our face to face community life. Thus we should avoid posting comments that we would not be comfortable saying face to face to the recipient in public, and we should be aware that our comments may be read by people who are not familiar with our personal history, sense of humour, insider knowledge, or particular relationship with the recipient of the comment. If properly interpreting a comment is likely to depend on such things, it would be better sent privately instead of posted online. Other people will be judging our church by the culture of our online conversations.

7. Ensuring a Safe Leadership

- 7.1. The “Policy on the Accountability of Pastors” of the *South Yarra Community Baptist Church* clearly sets out the requirements of pastors in the areas of accountability, professional ethics, ongoing professional development, ongoing professional supervision, and annual performance reviews.
- 7.2. The “Leadership and Administration Policy” of the *South Yarra Community Baptist Church* identifies two types of lay leaders: members of the Host Group (what other churches might call a Church Council, Diaconate, or Leadership Group), and people who are delegated administrative tasks on either a regular or ad hoc basis. With the exception of the Church Treasurer, none of these positions require an election, but all are subject to regular affirmations of confidence by the congregation and there are procedures in place for others to make reports or express concerns about potentially inappropriate behaviour.
- 7.3. No one may be considered for membership of the Host Group or for positions of ongoing or ad hoc leadership of any church related activities unless their character and suitability have become sufficiently known to us through regular participation in the worship and common life of the church for at least six months.
- 7.4. Pastors and Members of the Host Group are required to commit themselves to a Covenant which expresses the commitments and standards of behaviour expected of them. This covenant includes a commitment to promoting a safe culture within the

church, and it is reviewed and submitted to the congregation for approval by vote prior to the church anniversary each year.

- 7.5. Pastors and lay leaders (whether or not they have a special responsibility for children), volunteers in programs for children, and persons assigned tasks which would give them any form of responsibility for any activity which may involve children must:
- have a current *Working with Children Check* (WWCC) registered for *South Yarra Community Baptist Church*.
 - read and comply with all aspects of this *Safe Church Policy*.
 - read, sign and comply with the *Code of Conduct for Adults interacting with Children* (set out in Appendix 2).
- 7.6. Pastors are also required to hold a Police Check issued within the past two years.
- 7.7. Pastors, members of the Host Group, and people to whom ongoing administrative tasks are delegated are required to attend a BUV endorsed *Safe Church Awareness Workshop* (or a workshop endorsed by the *Safe Church Training Agreement [SCTA]*) under the *National Council of Churches in Australia – Safe Church Program*) within their first year of service and attend a refresher workshop every 3 years. The church will cover the costs of their attendance.
- 7.8. If a WWCC is applied for, and is likely to be refused, an “Interim Negative Notice” is first issued. Any employee or volunteer of the *South Yarra Community Baptist Church* who is issued with an Interim Negative Notice after applying for a Working with Children Check will cease working with children and young people and avoid being left alone with children and young people until the matter is resolved by the Department of Justice.
- 7.9. As specified in the “Leadership and Administration Policy” the Host Group remains accountable to the Congregational Meeting for their provision of leadership, oversight, management, and care.
- 7.10. The Host Group’s meetings will normally be open to the attendance of anyone who regularly participates in the congregation’s life. The time and place and major agenda items of meetings will be publicised to the congregation in advance, along with an invitation to raise any other matters that should be on the agenda. As soon as practicable after the meeting, a summary of the major decisions will be publicised along with an invitation to provide feedback or raise concerns about the decisions.

8. Ensuring Safe Staff Recruitment

- 8.1. Before appointing a person to any paid employment position in the *South Yarra Community Baptist Church*, including positions of pastoral or other leadership, we will:
- interview them,
 - seek confidential references,
 - obtain a new police check,

- ensure that they hold a current *Working with Children Check* (WWCC), and
- require them to sign both this *Safe Church Policy* and the *Code of Conduct for Adults interacting with Children* (set out in Appendix 2) to indicate that they have read, understood, and are committed to complying with them.

9. Ensuring Safe Activities and Programs

- 9.1. We will honour all participants as God-bearers among us, serve them as servants of Jesus, and lead in gracious, hospitable, and non-abusive ways.
- 9.2. We will encourage regular attenders, including children, to help shape the programs and activities in which they participate.
- 9.3. We will obtain appropriate information relating to the program participants, including children's health and family situation, to ensure that we are able to care for their physical and emotional needs.
- 9.4. When appropriate, leaders of church sponsored activities will be required to exercise their duty of care through the use of forms, checklists and templates for establishment and maintenance of safe environments in our church.
- 9.5. We will use the BUV's *Red Book* safety audit process to regularly give attention to our progress on such things as OH&S, fire safety, building safety, first aid, food safety, safe transport, incident and emergency procedures.

10. If Abuse Occurs

- 10.1. Anyone involved in our church who has reasonable belief that a child or other person is experiencing (or is at significant risk of experiencing) abuse – physical, sexual, emotional, spiritual, neglect, sexual exploitation or grooming – should, as soon as possible, report their experience or concerns to one or more of the following:
 - a Pastor of the church,
 - a member of the Host Group,
 - one of the church's *Visiting Pastoral Overseers* whose contact details are in the church Contact Directory and on the church website;
 - the Baptist Union of Victoria's *Professional Standards Worker*, whose contact details are in the church Contact Directory and on both the church and BUV websites (especially appropriate if the abuse is believed to have been perpetrated by a pastor or leader of the congregation).
 - the parents or carers, if this is appropriate and does not increase the risk of abuse,
 - the *Child Protection Unit* (for major concerns) or *Child FIRST* (for low to moderate concerns) of the *Victorian Department of Health and Human Services*.
 - the *Victorian Police*, if the allegations involve criminal offences including but not limited to sexual offences, sexual exploitation, grooming, failure to disclose or failure to protect. These offences are explained more fully in the factsheets attached to this document.

- 10.2. A person to whom an allegation of abuse is disclosed should treat the report seriously, pass on the report immediately and appropriately, and **not** try to first investigate, evaluate or assess the truth of the allegations themselves. They should listen sensitively, and ask no more than the open-ended questions necessary to establish whether or not there is reasonable belief of harm or significant risk.
- 10.3. Upon receiving a report of alleged abuse, church leaders will as soon as possible:
 - 10.3.1. let the victim and the person passing on the report know that the information will be acted on, and that other people will need to be informed;
 - 10.3.2. alert other relevant church leaders;
 - 10.3.3. alert the police if the allegation involves any of the following criminal offences:
 - 10.3.3.1. the physical or sexual abuse of children;
 - 10.3.3.2. ***grooming*** for sexual conduct with a child under the age of 16 years (see the relevant fact sheet in the appendices of this document);
 - 10.3.3.3. ***failure to disclose*** a reasonable belief that a sexual offence has been committed by an adult against a child under 16 years of age (see the relevant fact sheet in the appendices of this document);
 - 10.3.3.4. negligent ***failure to protect*** a child under the age of 16 from a known substantial risk that the child would become the victim of a sexual offence committed by an adult associated with the church or another organisation with responsibility for the care, supervision or authority of the child (see the relevant fact sheet in the appendices of this document).
 - 10.3.4. activate the process required under the *Victorian Reportable Conduct Scheme* (see the relevant information sheet in the appendices of this document) beginning with notifying the *Commission for Children and Young People* within three days, either directly or through the Baptist Union of Victoria's Professional Standards Worker, if the allegation involves any of the following *reportable conduct*:
 - 10.3.4.1. sexual offences (against, with, or in the presence of, a child);
 - 10.3.4.2. sexual misconduct (against, with, or in the presence of, a child);
 - 10.3.4.3. physical violence (against, with, or in the presence of, a child);
 - 10.3.4.4. behaviour that is likely to cause significant emotional or psychological harm to a child;
 - 10.3.4.5. significant neglect of a child.
 - 10.3.5. alert the *Child Protection Unit* of the *Victorian Department of Health and Human Services* if there are reasonable grounds to believe that a child remains at risk and is in need of protection;

- 10.3.6. alert the Baptist Union of Victoria's *Professional Standards Worker*, if the alleged perpetrator of the abuse is a pastor or designated church leader;
 - 10.3.7. contact the victim's parents, legal guardian, or carers (if applicable) to let them know (unless the disclosure relates to abuse within the family or care facility);
 - 10.3.8. assist the victim and their family to access appropriate support, such as counselling;
 - 10.3.9. let the victim and their family know about steps the church is taking, such as an investigation, and any resulting action, such as changes to policy or procedures; and
 - 10.3.10. affirm the victim for helping the church become a safer place for all.
- 10.4. All complaints, disclosures or breaches of this *Safe Church Policy* or the *Code of Conduct for Adults interacting with Children* (set out in Appendix 2), especially those that relate to the safety of children or vulnerable adults, should be recorded and the records stored safely with due regard for security and privacy requirements (e.g. computer with password). Records should include a factual account of the report in the reporter's own words including any dates, times, and names; an account of all actions taken; any internal investigations; and any reports made to statutory authorities or professional bodies including dates and times of any phone calls or other reports.
 - 10.5. A flowchart outlining the process for reporting concerns about the safety of children or vulnerable adults is included as appendix 3 of this document and will be displayed on a noticeboard inside the church and on the church's website.

11. Grievance Procedures

- 11.1. Anyone who believes that a pastor or another leader or member of the church has behaved in a way that is inappropriate, unethical, abusive or criminal, is urged to report their concerns to one or more of the following:
 - a Pastor of the church;
 - a member of the Host Group;
 - one of the church's *Visiting Pastoral Overseers* whose contact details are in the church Contact Directory and on the church website;
 - the Baptist Union of Victoria's *Professional Standards Worker*, whose contact details are in the church Contact Directory and on both the church and BUV websites (especially appropriate if complaint is against a pastor or leader of the congregation); or
 - the police (if the complaint involves criminal behaviour).
- 11.2. The *South Yarra Community Baptist Church* affirms the *BUV's Complaints Procedure* for the handling of any issues raised by church members or members of the public about the conduct of leaders and/or pastors and will make a copy of the *Complaints Procedure* accessible on the church website.

- 11.3. In accordance with the [“Policy on the Accountability of Pastors”](#), the church will conduct a whole-of-church or pastoral performance review each year. This review will always include an invitation to comment or report on any area of the ministry of the pastor or other leaders in which respondents have a concern about behaviour that might be inappropriate, unethical, dangerous or abusive.

12. Policy Review

- 12.1. This policy is reviewed every five years by the Host Group in consultation with all congregational members, participants, and children.

Appendices

1. Commitment to Reconciliation

In the spirit of the apology and commitment made to Aboriginal and Torres Strait sisters and brothers at the BUV Assembly in March 1998, the *South Yarra Community Baptist Church* commits to the following practical steps to grow in understanding and relationship with Indigenous Australians:

1. To learn and teach the name of the Aboriginal groups who were the first peoples and custodians of the land on which our church stands, the Yalukit Wilam clan, one of six clans that formed the Boon Wurrung people; and of the current recognised elder of the Boon Wurrung people, Aunty Carolyn Briggs.
2. When publicising ourselves through avenues such as our street-front signage and our website, we will seek to make it clear that Indigenous/First Peoples of the Land are very welcome to participate in our worship and common life. This will include at least:
 - a. placing an Aboriginal flag sticker on our door as a sign of welcome.
 - b. placing signs both inside and outside our church building to acknowledge the traditional custodians, and to make a similar acknowledgement on our website.
3. To learn about the early history of our area; to invite Aunty Carolyn Briggs to tell us stories; to learn about the Indigenous Australians who live in our area now; and to prepare an information sheet for distribution.
4. To learn about the locally indigenous plants of the area, to plant them in the garden under the church sign, and to prepare a sheet which describes their traditional uses.
5. To continue to include Indigenous people and situations in the prayers of our church; to change the wording of our prayers from 'traditional owners' to 'traditional custodians'; to add Indigenous Christian groups to the list of churches for which we pray; and to add a line to pray for an Indigenous group with which members of our church have a connection.
6. To add some Indigenous Australians to our list of saints, where appropriate.
7. To add a line to the front of the worship booklet so that, where it observes the similarities between the Christian use of incense and the Indigenous use of smoke, it also notes the similarities in being sprinkled with water in the Christian and Boonwurrung traditions.
8. To think about ways to add Indigenous art and imagery to the service.
9. To acknowledge the traditional custodians when we run public events.
10. To continue to support the Indigenous Hospitality House financially and in other ways, and to arrange a visit for interested members of our congregation.
11. To seek out Indigenous stories and films for adults and children. In particular, to look for Indigenous books for the children's trolley, watch an interview with a Muslim Aboriginal, and hold an Indigenous film night at least once a year.
12. To advertise events such as Sorry Day, Aboriginal Sunday, NAIDOC week and the Long Walk, and campaigns such as 'Close the Gap' and 'Make Indigenous Poverty History', through the church email list.
13. To investigate the possibility of forming links with a non-local Indigenous group through our Baptist connections.

The *South Yarra Community Baptist Church* affirms its commitment to take practical steps towards reconciliation.

2. Code of Conduct for Adults interacting with Children

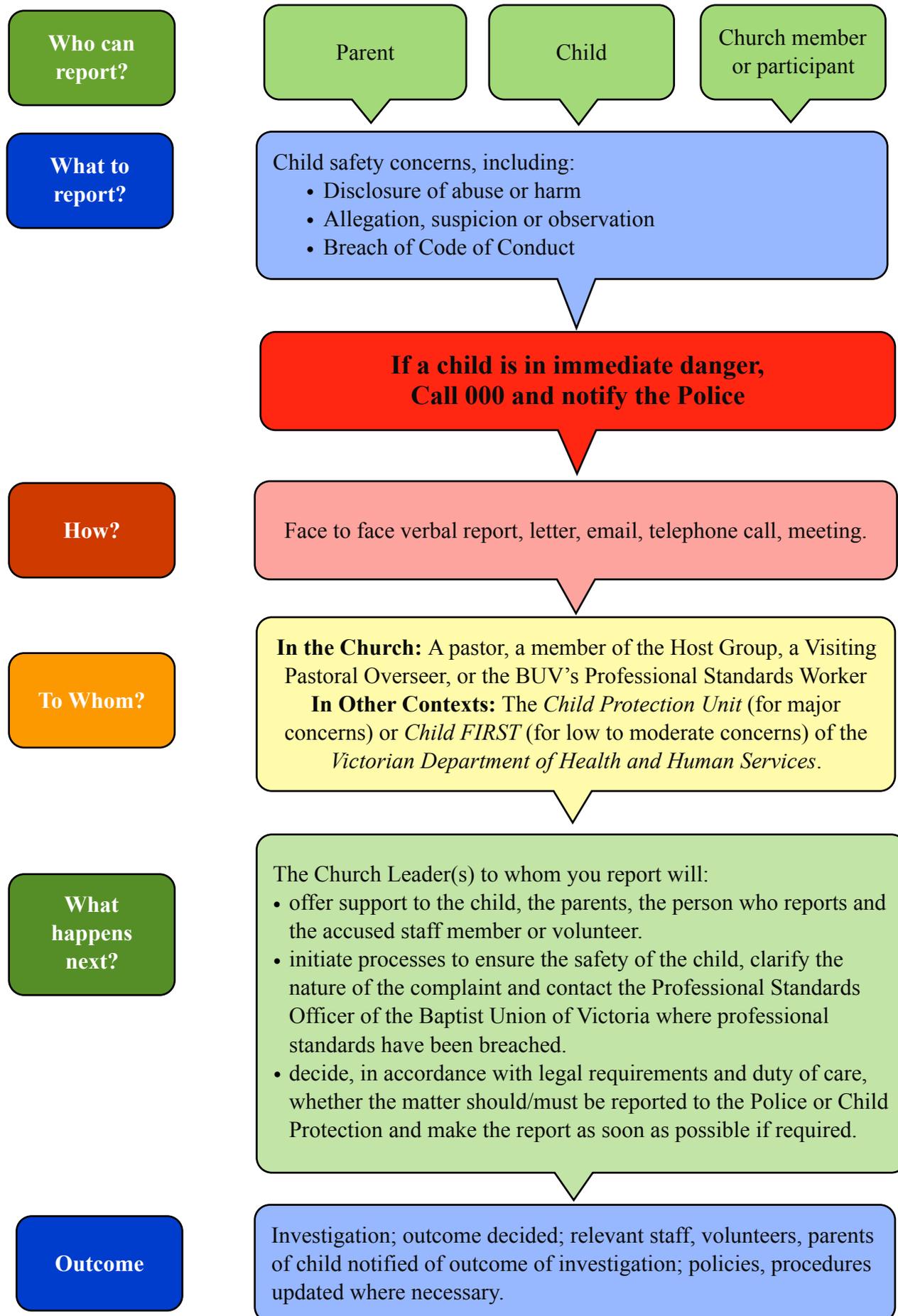
We who participate in the common life and activities of the *South Yarra Community Baptist Church* are all responsible for promoting the safety and wellbeing of children and young people by:

1. Adhering to our *Safe Church Policy*, and other relevant policies.
2. Taking all reasonable steps to protect children from abuse.
3. Welcoming all children and their families and carers, without discrimination.
4. Modelling appropriate adult behaviour, grounded and formed in the teachings and example of Jesus.
5. Listening to children and responding to them appropriately.
6. Providing a safe and comforting environment in which children are encouraged to speak about their concerns and fears.
7. Including children in discussions about the life of the church as it affects them and their activities.
8. Working with children in an open and transparent way, ensuring that the parents and other responsible adults always know about the contact we have and the work we are doing with children.
9. Respecting the privacy of children and their families, and only disclosing confidential information to people who have a need to know.
10. Never *using* children to meet our own needs in any way.
11. Reporting and acting on any complaints, concerns, or breaches of this *Code of Conduct* or other parts of our *Safe Church Policy*.
12. Taking seriously and reporting any concerns, suspicions or disclosures of child abuse as soon as possible.
13. Avoiding prejudice, oppressive behaviour or discriminatory language with or in the presence of children.
14. Never initiating unnecessary physical contact with children or doing things of a personal nature that children can do for themselves, such as toileting or changing clothes.
15. Never singling out individual children for 'special' relationships or showing favouritism in the provision of gifts or attention in secretive or otherwise inappropriate ways.
16. Avoiding contact with children or young people online or by phone, except to convey necessary information about events or activities, unless their parents are aware of the interaction. In particular, no one over the age of eighteen should 'friend' or have contact with anyone under the age of eighteen online (e.g. via Facebook).

I have read this Code of Conduct and agree to abide by it.

Name:	Name of Witness:
Signature:	Signature:
Date:	Date:

3. Flowchart: Child Safety Reporting Process



BETRAYAL OF TRUST: FACTSHEET

The new 'grooming' offence

The *Crimes Amendment (Grooming) Act 2014*, which commenced in Victoria on 9 April 2014, introduces the offence of Grooming for sexual conduct with a child under the age of 16 years. This offence targets predatory conduct designed to facilitate later sexual activity with a child.

The Betrayal of Trust report recommended the grooming offence, given the way in which many sex offenders target their victims. Grooming can be conducted in person or online, for example via interaction through social media, web forums and emails.

Many perpetrators of sexual offences against children purposely create relationships with victims, their families or carers in order to create a situation where abuse could occur. For this reason, parents, carers or other family members who have been targeted by perpetrators in order to gain access to a child are also victims.

The *Victim's Charter Act 2006* was amended to expressly provide that a child and a family member of that child are victims of a grooming offence and are entitled to provide a victim impact statement to a court.

GROOMING IS NOW A CRIMINAL OFFENCE

1. What is grooming?

- The offence of grooming concerns predatory conduct undertaken to prepare a child for sexual activity at a later time.
- The offence applies where an adult communicates, by words or conduct, with a child under the age of 16 years or with a person who has care, supervision or authority for the child with the intention of facilitating the child's involvement in sexual conduct, either with the groomer or another adult.
- Grooming does not necessarily involve any sexual activity or even discussion of sexual activity – for example, it may only involve establishing a relationship with the child, parent or carer for the purpose of facilitating sexual activity at a later time.
- The sexual conduct must constitute an indictable sexual offence. This includes offences such as sexual penetration of a child, indecent assault and indecent act in the presence of a child. It does not include summary offences, such as upskirting and indecent behaviour in public.

2. Who can commit the offence?

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.

3. What age are the children who are protected by the offence?

The offence applies to communication with children under 16 years, but not communication with 16 and 17 year old children. This distinction between children aged below 16 and those aged 16 or 17 reflects the general age of consent (16 years) recognised by the criminal law in relation to sexual offences.

BETRAYAL OF TRUST: FACTSHEET

4. What are the key differences between the Victorian grooming offence and the grooming offences that have been implemented in New South Wales and by the Commonwealth?

The New South Wales grooming offence is confined to circumstances in which an adult engages in conduct that exposes a child to indecent material or provides the child with an intoxicating substance with the intention of making it easier to procure the child for sexual activity. The Victorian offence is broader than this and prohibits an adult from engaging in any form of communication with the intention of facilitating sexual conduct. This is not limited to exposing the child to indecent material or providing them with an intoxicating substance and may include such acts as inappropriately giving them gifts or favours with the intention of engaging in later sexual activity.

The offence is similar to the Commonwealth grooming offence. The key distinction is that the Commonwealth offence is limited to grooming via a communication transmitted through a carriage service. The Victorian offence applies to any form of communication between the adult and child, including communication that occurs in person.

5. What is the purpose of amending the *Victim's Charter Act 2006*?

Amending the *Victim's Charter Act 2006* to expressly include a family member of the child as a victim of a grooming offence (eg. the child's parents) entitles the parents, or another family member, to provide a victim impact statement to the court.

6. What is the penalty for grooming?

The maximum penalty is 10 years imprisonment.

BETRAYAL OF TRUST: FACTSHEET

The new 'failure to disclose' offence

Reporting child sexual abuse is a community-wide responsibility. Accordingly, a new criminal offence has been created in Victoria that imposes a clear legal duty upon all adults to report information about child sexual abuse to police.

Any adult who forms a reasonable belief that a sexual offence has been committed by an adult against a child under 16 has an obligation to report that information to police. Failure to disclose the information to police is a criminal offence.

1. What is a 'reasonable belief'?

A 'reasonable belief' is not the same as having proof. A 'reasonable belief' is formed if a reasonable person in the same position would have formed the belief on the same grounds.

For example, 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 a child states that the child has been sexually abused
- professional observations of the child's behaviour or development leads a professional to form a belief that the child has been sexually abused
- signs of sexual abuse leads to a belief that the child has been sexually abused.

2. Are there any excuses for not reporting child sexual abuse to police?

A person will not be guilty of the offence if he or she has a **reasonable excuse** for not disclosing the information. A reasonable excuse includes:

- fear for safety
- where the information has already been disclosed.

➤ Fear for safety

A reasonable excuse exists in cases where a person has a reasonable fear for their own safety or the safety of another person (such as a child or another family member) and they do not report to police due to those circumstances.

This defence may apply, for example, if a mother decides not to disclose information about her partner sexually abusing her child due to fear of violence to her or her child.

The person's fear must be subjectively reasonable, that is, it must be reasonable from the perspective of that person in those circumstances. This recognises that the person in question is best placed to judge whether their safety is in danger.

The court or jury will consider whether it was reasonable for the person not to report in the circumstances.

➤ Where the information has already been disclosed

It is a reasonable excuse to not disclose where a person believes on reasonable grounds that the information has already been disclosed to police and they have no further information to add.

BETRAYAL OF TRUST: FACTSHEET

An important example of this exception is where the person has already made a report under the mandatory reporting obligation specified in the *Children, Youth and Families Act 2005*. This obligation requires teachers, doctors and other professionals to report concerns about child welfare to child protection authorities within the Department of Human Services (DHS).

Under the existing mandatory reporting system, DHS already passes on all allegations of child sexual abuse to police, so it will be a reasonable excuse for not reporting to police if a person has made a report to DHS or reasonably believes a report has been made to DHS. This ensures that people are not required to make multiple reports to different agencies.

3. What is not a reasonable excuse?

A person does not have a reasonable excuse for failing to disclose sexual abuse if they are only concerned for the perceived interests of the perpetrator or any organisation. 'Perceived interests' includes reputation, legal liability or financial status.

For example, a principal's concern for the reputation of a school, or a clergyman's concern for the reputation of a church where the abuse happened will not be regarded as a reasonable excuse.

4. Are there any other exemptions to the offence?

There are a number of other exemptions, which include:

- the victim requests confidentiality
- the person is a child when they formed a reasonable belief
- the information would be privileged
- the information is confidential communication
- the information is in the public domain
- where police officers are acting in the course of their duty.

➤ The victim requests confidentiality

The new offence respects the position of a victim who does not want the offending disclosed and who is sufficiently mature to make that judgment. The obligation to report therefore does not apply where the information comes from a person aged 16 or over and this person requests that the offence not be reported. The law recognises that a child under 16 is not able to make this kind of decision and sometimes lacks the capacity to fully understand the effects of sexual abuse.

A person will still be required to disclose information to police if:

- the victim who requested confidentiality has an intellectual disability, and
- the victim does not have the capacity to make an informed decision about a disclosure, and
- the person who received the information is aware or should be reasonably aware of those facts.

➤ The person is a child when they formed a reasonable belief

If a person was under the age of 18 when they formed a reasonable belief, they will not be obliged to make a disclosure when they turn 18. This protects children from the burden of knowing that they will have to disclose to police when they turn 18.

➤ The information would be privileged

People will not be required to disclose where the information would be privileged. This includes:

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- client legal privilege
- journalist privilege
- religious confessions.

For example, if a priest obtains information made in good faith through a rite of confession (as long as the admission is not given for a criminal purpose), the priest is exempt from disclosing.

➤ **The information is confidential communication**

A registered medical practitioner or counsellor is not required to disclose information to police if the information is obtained from a child whilst providing treatment and assistance to that child in relation to sexual abuse. However, under the mandatory reporting obligations, a registered medical practitioner would still be required to report to DHS if they form a reasonable belief that a child has been sexually abused and is in need of protection. This exemption is not designed to prevent the reporting of child sexual abuse, but rather to protect the registered medical practitioner or counsellor from criminal liability.

If an adult provides information to a medical practitioner or counsellor regarding the sexual abuse of a child, the medical practitioner or counsellor would be required to disclose that information to police unless another exemption applies.

➤ **The information is in the public domain**

A person does not have to disclose to police if they get the information through the public domain, or form the belief solely from information in the public domain such as television or radio reports.

➤ **Where police officers are acting in the course of their duties**

A police officer acting in the course of their duty in respect of a victim of child sexual abuse is exempt from the offence.

5. If it is going to be compulsory for everyone to report child sexual abuse, why are there exemptions?

We need to ensure that in creating this legal obligation, we do not put children and their families at even greater risk of harm, especially those who may be experiencing family violence.

6. Won't child sexual abuse continue to occur if exemptions are allowed?

There is currently no requirement for people to report child sexual abuse to police, so introducing this new legal obligation is a big step towards preventing child sexual abuse in our community and ensuring people understand that it is a community-wide responsibility.

Certain exemptions are required to avoid any unintended consequences of this new obligation. It is not intended, for example, that this offence criminalise victims of family violence who don't report due to fear for their own or someone else's safety.

For example, women in family violence situations may have a reasonable fear for the safety of their child or another family member, especially in cases where threats have already been made. They may fear that making a report to police will escalate the situation, putting their child or another family member at even greater risk of harm – or even death.

Preventing the sexual abuse of children is a community responsibility. Other people connected with the child will still be required to make a report, unless they have a reasonable excuse not to do so.

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7. Won't this offence discourage people from seeking help where they have experienced child sexual abuse?

The law will not require a medical practitioner or counsellor to disclose information to police when it has been obtained from a victim during treatment for sexual abuse.

Disclosures for the purpose of obtaining legal advice will also be protected by client legal privilege. There are also other exemptions which have been listed above.

8. The offence requires 'any adult' to report suspected child sexual abuse. Isn't this too broad? Won't it lead to people reporting unfounded suspicions?

The offence requires a person to report to police where they have information that leads them to form a 'reasonable belief' that a sexual offence has been committed against a child under 16. Under the offence, people will not be expected to disclose unfounded suspicions as a suspicion does not constitute a 'reasonable belief'.

The failure to disclose offence is a big step towards preventing child sexual abuse in our community and ensuring people understand that protecting children and preventing sexual abuse is a community-wide responsibility.

9. How will I be protected if I make a disclosure to police?

Your identity will remain confidential unless:

- you disclose it yourself or you consent in writing to your identity being disclosed
- a court or tribunal decides that it is necessary in the interests of justice for your identity to be disclosed.

10. Will any person who knows of child sexual abuse happening in the past be required to report?

A person who knows of child sexual abuse having occurred in the past will not have to report to police unless the victim is still a child when the offence comes into effect.

11. What is the penalty for failing to disclose child sexual abuse?

The maximum penalty is three years imprisonment.

12. When will the failure to disclose offence take effect?

27 October 2014.

13. How do I contact Victoria Police to make a report?

If you want to report a child in immediate risk or danger of sexual abuse please call [Triple Zero \(000\)](tel:000). Alternatively, you can [contact your local police station](#).

If you or someone you know has experienced child sexual abuse in an institutional context, we encourage you to contact Victoria Police's Sano Taskforce via email at sanotaskforce@police.vic.gov.au

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Failure to Protect: a new criminal offence to protect children from sexual abuse

In response to the [Betrayal of Trust](#) report the Victorian Government is strengthening laws to protect our children from sexual abuse and exposure to sexual offenders. This is in recognition of the shared community responsibility to protect children from abuse and to provide a safe environment for children to develop, learn and play.

A new criminal offence for failing to protect a child under the age of 16 from a risk of sexual abuse will commence on 1 July 2015.

The offence will apply where there is a substantial risk that a child under the age of 16 under the care, supervision or authority of a relevant organisation will become a victim of a sexual offence committed by an adult associated with that organisation. A person in a position of authority in the organisation will commit the offence if they know of the risk of abuse and have the power or responsibility to reduce or remove the risk, but negligently fail to do so.

This offence will encourage organisations to actively manage the risks of sexual offences being committed against children in their care and further protect them from harm.

1. What is the offence of failing to protect a child from a sexual offence?

The new offence provides that a person who:

- a) by reason of the position he or she occupies within a relevant organisation, has the power or responsibility to reduce or remove a substantial risk that a relevant child will become the victim of a sexual offence committed by a person of or over the age of 18 years who is associated with the relevant organisation; and
- b) knows that there is a substantial risk that the person will commit a sexual offence against a relevant child –

must not negligently fail to reduce or remove that risk.

2. What is a 'relevant organisation'?

The offence applies to people in authority within a *relevant organisation*. A relevant organisation is one that exercises care, supervision or authority over children, whether as part of its primary function or otherwise.

Relevant organisations include, but are not limited to:

- churches
- religious bodies
- education and care services (such as childcare centres, family day care services, kindergartens and outside school hours care services)
- licensed children's services such as occasional care services
- schools and other educational institutions
- organisations that provide accommodation to children and young people, such as boarding schools and student hostels

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- out-of-home care services
- community service organisations providing services for children
- hospitals and other health services
- government agencies or departments providing services for children
- municipal councils (for example those that deliver Maternal and Child Health services)
- sporting groups
- youth organisations
- charities and benevolent organisations providing services for children.

3. Who is a person in authority in an organisation?

A person in authority is someone who, by reason of their position within a relevant organisation, has the power or responsibility to reduce or remove a substantial risk that a child under the age of 16 years, who is under their care, supervision or authority, may become the victim of sexual abuse committed by an adult associated with the organisation.

Whether someone is considered to be a person in authority will depend on the degree of supervision, power or responsibility the person has to remove or reduce the substantial risk posed by an adult associated with the organisation. People in authority will usually have the ability to make management level decisions, such as assigning and directing work, ensuring compliance with the organisation's volunteer policy and other operational arrangements.

Examples of people in authority may include residential house supervisors, CEOs, board, council or committee members, school principals, service managers and religious leaders. It may also apply to people with less formal involvement in an organisation. For example, a volunteer parent coach responsible for the supervision of a junior sports team may be a person in authority, even if their role is informal or limited.

4. Who is a relevant child?

A person in authority will be guilty of an offence if he or she negligently fails to reduce or remove a substantial risk to a relevant child. A 'relevant' child is a child under the age of 16 who is, or may come, under the care, supervision or authority of a relevant organisation.

The child does not need to be identified. This means that the risk is not that a particular child will become the victim of sexual abuse. Instead, the substantial risk could be posed to any child who is, or who may be in the future, under the organisation's care, supervision or authority.

5. Who is a 'person associated with' an organisation?

The offence requires a person in authority to act if they know that a *person associated with their organisation* poses a substantial risk to a relevant child. This may include a person who is an officer, office holder, employee, manager, owner, volunteer, contractor or agent of the organisation. This definition does not include a person who solely receives services from the organisation.

For example, a parent living in the community who is involved with child protection services or who has a child in out-of-home care, and who may pose a risk of sexual abuse to a child, would *not* be considered to be 'associated with' the Department of Health & Human Services under the offence. Similarly, parents of children attending a school or service will generally only be 'associated with the organisation' if they are also engaged as a volunteer, for example to assist in the classroom or attend an excursion or camp.

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The offence relates to risk of sexual abuse by adults. Children under the age of 18 who pose a risk of sexually abusing other children are not covered by this offence.

6. What is a 'substantial risk'?

The offence requires a person in authority to reduce or remove a known 'substantial' risk that an adult associated with the organisation may commit a sexual offence against a relevant child. It does not make it a criminal offence to fail to address every possible risk that a sexual offence may be committed against a child.

There are a number of factors that may assist in determining whether a risk is a substantial risk. These include:

- the likelihood or probability that a child will become the victim of a sexual offence
- the nature of the relationship between a child and the adult who may pose a risk to the child
- the background of the adult who may pose a risk to a child, including any past or alleged misconduct
- any vulnerabilities particular to a child which may increase the likelihood that they may become the victim of a sexual offence
- any other relevant fact which may indicate a substantial risk of a sexual offence being committed against a child.

When determining whether a risk is substantial, the courts will consider a variety of factors, which may include those listed above. The courts will consider all the facts and circumstances of the case objectively, and will consider whether a reasonable person would have judged the risk of a sexual offence being committed against the child abuse as substantial. It is not necessary to prove that a sexual offence, such as indecent assault or rape, was committed.

7. When does a person 'know' there is a risk of child sexual abuse?

This offence requires a person in authority to act if they *know* that there is a substantial risk that a child may become the victim of a sexual offence. A person is generally taken to have knowledge of a circumstance if he or she is aware that it exists or will exist in the ordinary course of events. This requires a higher level of awareness than merely holding a tentative belief or suspicion.

However, it is expected that a person in authority will take steps to follow up on a suspicion or belief that children in their organisation were at risk of harm.

8. When does a person negligently fail to reduce or remove a substantial risk?

Under the offence, a person is taken to have *negligently failed* to reduce or remove a substantial risk if that failure involves a great falling short of the standard of care that a reasonable person would exercise in the same circumstances. The offence does not require a person in authority to eliminate all possible risks of child sexual abuse.

For example, a person in authority who knows that an adult associated with the organisation poses a substantial risk to children, and moves that adult from one location in an organisation to another location where they still have contact with children, is likely to be committing the offence. Another example is where a person in authority employs someone in a role that involves contact with children, when the person in authority knows the employee left their last job because of allegations of sexually inappropriate behaviour involving children.

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9. Will this criminalise mistakes made by adults who are caring for or working to protect children?

This law is aimed at protecting children and compelling those in authority to remove or reduce known substantial risks that children may become victims of sexual abuse.

As previously noted, the offence applies to a person in authority whose failure to protect a child from sexual abuse involves a great falling short of the standard of care that a reasonable person would exercise in the same circumstances.

The offence is unlikely to be committed where a person takes reasonable steps to protect a child from the risk of sexual abuse, for example, where an allegation is reported to appropriate authorities and the individual is removed from any role involving unsupervised contact with children pending an investigation.

10. What should a person in authority do to reduce or remove the risk of child sexual abuse posed by an adult associated with their organisation?

A person in authority in an organisation must take reasonable steps to reduce or remove a known substantial risk that an adult associated with their organisation will commit a sexual offence against a child.

For example:

- A current employee who is known to pose a risk of sexual abuse to children in the organisation should be immediately removed from contact with children and reported to appropriate authorities and investigated.
- A community member who is known to pose a risk of sexual abuse to children should not be allowed to volunteer in a role that involves direct contact with children at the organisation.
- A parent who is known to pose a risk of sexual abuse to children in a school should not be allowed to attend overnight school camps as a parent helper.

If you want to report a child in **immediate** risk or danger of a sexual offence please call Triple Zero (000).

11. How can you improve child safety in your organisation, and remove or reduce the risk of harm?

There are a range of measures that organisations can adopt to improve child safety and reduce the risk of harm to children. New Victorian child-safe standards are expected to be introduced from January 2016, and will provide a framework to assist in ensuring child safety in the organisation. Under the standards, organisations will be expected to have policies, procedures and systems in place to protect children from abuse, including appropriate pre-employment screening arrangements and systems for reporting and responding to allegations of abuse.

In the meantime, organisations are encouraged to create and implement risk management strategies suitable to their environment to reduce the risk of harm to children. These may include:

- Adopting a child safety policy that outlines a commitment to child safety and provides guidance on how to create a child safe environment.
- Enforcing a code of conduct that sets clear expectations about appropriate behaviour towards children and obligations for reporting a breach of the code.
- Ensuring all new staff and volunteers are appropriately screened, including reference checks, before commencing employment with the organisation (in addition to Working with Children Checks or Victorian Institute of Teaching registration).
- Providing training to staff in prevention, identification and response to child safety risks, including reporting requirements and procedures.

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Organisations should review existing policies and practices to identify potential risks and ensure that risk management strategies and action plans are effective. To learn more about creating child-safe organisational environments, the *Guide to Creating a Child-safe Environment* produced by the Commission for Children and Young People provides practical information for organisations seeking to improve child safety and reduce the risk of harm.

Organisations operated, funded and/or regulated by Government can reduce the risk of child harm to children by continuing to comply with departmental standards, screening requirements, program requirements and policies on preventing, reporting and responding to child sexual abuse, for example:

- [Protecting the safety and wellbeing of children and young people: A joint protocol of the Department of Human Services Child Protection, Department of Education and Early Childhood Development, Licensed Children's Services and Victorian Schools \(Joint Protocol\)](#)
- [DHHS's Critical Client Incident Management Instruction; and the Instruction on Responding to Allegations of Physical or Sexual Assault \(RAPSA\)](#)
- [Schools Policy and Advisory Guide](#) (SPAG) for Victorian government schools

Sports and recreation organisations can also refer to the [Victorian Code of Conduct for Community Sport](#) and [VicSport 'Safeguarding Children'](#) websites for resources about creating child-safe organisations.

12. Will the offence criminalise members of the public who fail to protect a child from a risk of sexual abuse?

No — the failure to protect offence applies to people in authority within an organisation that exercises care, supervision or authority over children. It does not apply to parents or other individuals not connected to these organisations. However, as noted above, a parent who volunteers in an organisation (for example as a sporting coach) may be in a position of authority and subject to the offence.

A separate ['failure to disclose'](#) offence applies to any adult who fails to report a reasonable belief to Victoria Police that a sexual offence has been committed against a child under the age of 16, unless there is a reasonable excuse for not doing so.

13. How does the failure to protect offence interact with mandatory reporting obligations?

This offence is in addition to existing mandatory reporting obligations for specified staff under the *Children, Youth and Families Act 2005*. It applies to any person in authority within a relevant organisation, not just mandatory reporters.

14. What is the penalty for failing to protect a child?

The maximum penalty is five years' imprisonment.

15. When will the offence take effect?

The offence will commence on 1 July 2015.

16. How do I contact Victoria Police?

If you want to report a child in **immediate** risk or danger of a sexual offence please call Triple Zero (000).

If the report is not in relation to an immediate risk, contact your [local police station](#) or call Crime Stoppers on 1800 333 000.

Information sheet 1

About the Victorian Reportable Conduct Scheme

The Victorian Reportable Conduct Scheme seeks to improve organisations' responses to allegations of child abuse and neglect by their workers and volunteers. The scheme is established by the *Child Wellbeing and Safety Act 2005*.

The Commission for Children and Young People is responsible for administering the scheme. Our role includes:

- supporting and guiding organisations that receive allegations in order to promote fair, effective, timely and appropriate responses
- independently overseeing, monitoring and, where appropriate, making recommendations to improve the responses of those organisations.

The Reportable Conduct Scheme has been designed to ensure that the Commission will be aware of every allegation of certain types of employee misconduct involving children in relevant organisations that exercise care, supervision and authority over children. The Commission will also be able to share information where appropriate, including with the Working with Children Check Unit, relevant regulators and Victoria Police, to better prevent and protect children from abuse.

 A child is anyone who is under 18 years of age.

Importantly, a finding that a person has engaged in reportable conduct can trigger an assessment of whether that person is suitable to continue to work or volunteer with children. In turn, this may lead the Working with Children Check Unit to revoke a person's Working with Children Check card.

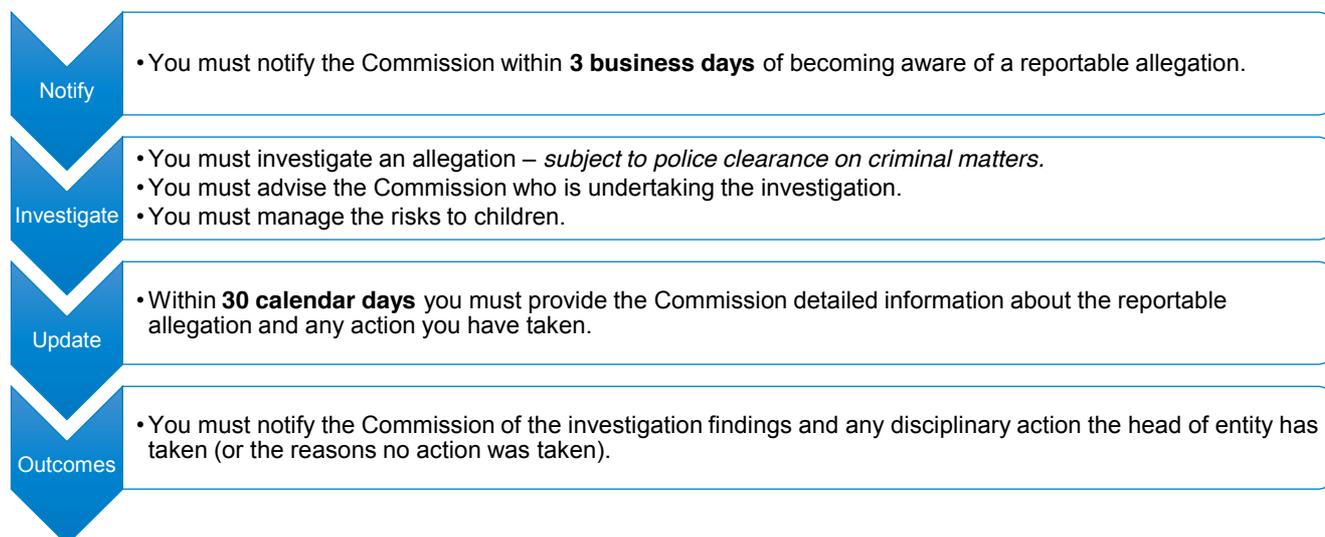
Requirements of heads of organisations

The Reportable Conduct Scheme imposes new obligations on heads of organisations that are within the scheme. This includes requirements to:

- have in place systems to prevent child abuse and, if child abuse is alleged, to ensure allegations can be brought to the attention of appropriate persons for investigation and response
- ensure that the Commission is notified and given updates on the organisation's response to an allegation.

The Reportable Conduct Scheme does not replace the need to report allegations of child abuse to Victoria Police.

A snapshot of a head of organisation's obligations under reportable conduct



What does the Commission do with the allegations it receives?

The Commission will carefully consider each allegation that it receives under the Reportable Conduct Scheme. Based on the information available, the Commission may decide to:

- give the organisation responding to the allegation support and guidance
- check that the organisation is handling the allegation in a timely manner
- refer a substantiated allegation to Working With Children Check or a professional accreditation body.

Who can an allegation be made about under the scheme?

A reportable allegation can be made about any person over 18 years of age who is an employee (including a religious leader), volunteer, contractor or office holder of an organisation covered by the scheme.

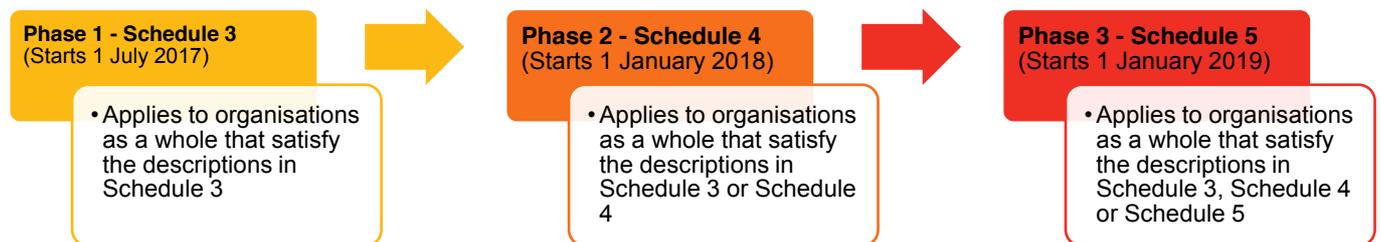
Allegations can be made about the conduct of people even if:

- they do not have direct contact with children
- the conduct occurred outside of their work.

Which organisations are captured by the scheme?

Organisations in scope are required to commence complying with the scheme in one of three phases over an 18 month period from 1 July 2017. The first phase focuses on organisations that operate schools and provide government services.

The following diagram shows how the phasing works, as set out in Schedule 3, Schedule 4 and Schedule 5 of the *Child Wellbeing and Safety Act 2005* and the *Child Wellbeing and Safety Regulations 2017*:



Phase 1: 1 July 2017 (Schedule 3)

- An organisation that operates a registered government or non-government school
- An organisation that is registered in respect of an accredited senior secondary course or registered senior secondary qualification
- An organisation that is approved to:
 - provide certain courses to students from overseas
 - operate an overseas student exchange program
- An organisation that is:
 - a disability service provider that provides residential services for children with a disability
 - a mental health service provider with in-patient beds
- An organisation that receives State Government funding and:
 - is a drug or alcohol treatment service with in-patient beds
 - is a housing service or other assistance to homeless persons with overnight beds for children and young people
 - provides child protection services
- An organisation that is an out-of-home care service
- Victorian Government departments



Phase 2: 1 January 2018 (Schedule 4)

- Religious bodies
- An organisation that:
 - operates a residential facility for a boarding school
 - provides overnight camps for children as part of its primary activity (except certain youth organisations)
 - is a public or denominational hospital or operates a private hospital
 - is a public health service¹
- An organisation that provides disability services, including but not limited to, registered disability service providers.

Phase 3: 1 January 2019 (Schedule 5)

- approved education and care services (e.g. kindergartens, after hours care services)
- children's services (e.g. occasional care providers)
- certain prescribed art centres, libraries, museums, zoos, parks and gardens

An organisation may provide services or activities that put it in more than one phase of the Reportable Conduct Scheme. If your organisation falls into more than one phase, your organisation **as a whole** is within the scheme from the earliest phase relevant to your organisation.

This means that once part of your organisation is within the scheme, all of your organisation is within the scheme, and you must notify the Commission and investigate reportable allegations across your whole organisation.

If you are unsure about whether or when your organisation is or will be within the Reportable Conduct Scheme, you can call us or email for further advice.

Our regulatory approach

The Commission is focused on providing information, guidance and support to organisations to help them meet their obligations under the Reportable Conduct Scheme.

In the initial stages of the Reportable Conduct Scheme, the Commission expects that organisations will use their best endeavours to meet the requirements of the scheme. During this time the Commission's approach will focus on working with organisations to ensure they understand their obligations to report and investigate reportable allegations.

Where to get help

Organisations covered by the Reportable Conduct Scheme should contact the Commission for clarification and guidance, and to talk through any issues of concern.

- Telephone: 8601 5281
- Email: childsafestandards@ccyp.vic.gov.au

Further information is also available on the Commission for Children and Young People's website at www.ccyp.vic.gov.au

¹ Child Wellbeing and Safety Regulations 2017