



Mount Lilydale Mercy College Reportable Conduct Policy

1. RATIONALE

Mount Lilydale Mercy College is committed to providing a safe environment for all children, students and young people, and takes active steps to protect them from neglect and abuse. Our College and governing body maintain a comprehensive suite of child protection strategies, embedded in the Child Safe Standards, and acknowledge our responsibility to report any misconduct by workplace participants to the Commission for Children and Young People (CCYP).

As of 1 July 2017, the Victorian Government legislated for the introduction of a Reportable Conduct Scheme (RCS) to improve how organisations respond to allegations of child abuse and child-related misconduct by employees, volunteers and contractors (hereafter referred to as workplace participants).

2. PURPOSE

The CCYP is focused on workplace participants' conduct and how organisations investigate and respond to suspected child abuse. The RCS aims to improve organisational responses to suspected child abuse and to facilitate the identification of individuals who pose a risk of harm to children, but do not have a criminal record.

The RCS applies to our governing body Mercy Education, Mount Lilydale Mercy College and other organisations which are required to meet the Child Safe Standards.

The College and Mercy Education must ensure that the College maintains systems that:

- prevent reportable conduct by workplace participants of the College within the course of their employment or engagement
- ensure reportable allegations are made to the Principal and the Chief Executive of our governing body Mercy Education, or directly to the Mercy Education Chief Executive if the reportable allegation concerns the Principal
- ensure reportable allegations that involve workplace participants are notified to the CCYP and responded to in accordance with the requirements of the RCS.

3. SCOPE

This Policy applies to all College workplace participants and requires them to report allegations of reportable conduct to the Principal who must contact the Mercy Education Chief Executive. Allegations that concern the Principal can be referred to another member of the College Leadership Team who will inform the Mercy Education Chief Executive.

4. REPORTABLE CONDUCT OF COLLEGE WORKPLACE PARTICIPANTS

Who is an employee?

For the purposes of the Child Wellbeing and Safety Act 2005 (Vic.), employee is defined as a person aged 18 years or over who is either:

- employed by the school whether or not that person is employed in connection with any work or activities of the school that relate to children
- engaged by the school to provide services, including as a volunteer, contractor, office holder or officer, whether or not the person provides services to children.

For the purpose of clarity, these groups are referred to as Workplace Participants within this policy.

5. DEFINITIONS

Child: Any person who is under the age of 18 years.

Mandatory reporting is a term used to describe the legislative requirement imposed on selected classes of people to report suspected cases of child abuse and neglect to government authorities. Where a mandated reporter forms a belief on reasonable grounds that a student or young person is in need of protection from physical injury or sexual abuse, they are to report their concerns to the Department of Families, Fairness and Housing (DFFH) Child Protection.

Reportable allegation means any information that leads a person to form a reasonable belief that an employee has committed either:

- reportable conduct, or
- misconduct that may involve reportable conduct,

whether or not the conduct or misconduct is alleged to have occurred within the course of the person's employment.

Reportable conduct means:

- a sexual offence 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
- sexual misconduct committed against, with or in the presence of a child
- 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.

6. IMPLEMENTATION

The College will ensure the reporting of any reportable allegation made against a workplace participant to the Mercy Education Chief Executive.

A reportable allegation is made where a person makes an allegation, based on a reasonable belief, that a College workplace participant has committed conduct that *may* involve reportable conduct. This includes where a reportable allegation is made against the school Principal.

Note: A reasonable belief is more than suspicion. There must be some objective basis for the belief. However, it is not the same as having proof and does not require certainty.

For example, a person is likely to have a reasonable belief if they:

- *observed the conduct themselves*
- *heard directly from a child that the conduct occurred*
- *received information from another credible source (including another person who witnessed the reportable conduct or misconduct).*

The College's Principal, a member of the College Leadership Team, or the Mercy Education Chief Executive does not need to agree with or share the belief that the alleged conduct has occurred. The RCS is an allegations-based scheme. This means that the threshold for notifying the CCYP is low. All allegations must be referred to the Mercy Education Chief Executive for advice.

The Mercy Education Chief Executive in consultation with the school Principal or, where there is an allegation against a Principal, member of the College Leadership Team will then:

- submit a notification to the CCYP within three days of the Mercy Education Chief Executive becoming aware of the reportable allegation
- meet the milestones and reporting requirements to the CCYP under the RCS

Reportable Conduct includes

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| • Rape or sexual assault | • Use of an object |
| • Sexual activity with or in the presence of a child | • Inappropriate restraint, excessive force |
| • Grooming or encouraging a child to engage in sexual activity | • Causing a child to believe that force is about to be used (apprehended) |
| • Offences relating to child abuse material | • Exposure to violence or threats to violence |
| | • Anti-social behaviour |

- Behaviour, physical contact, speech or other communication of a sexual nature
- Physical contact without valid reasoning
- Crossing professional boundaries
- Voyeurism
- Hitting, kicking, punching
- Pushing, shoving, grabbing, throwing, shaking
- Self-destructive behaviour
- Persistent hostility or rejection
- Humiliation or belittling
- Scapegoating
- Deprived from clothing or food, medical attention or care, shelter or supervision
- Access to drugs or alcohol

The above examples are not exhaustive and consideration should be given to other conduct which may need to be reported. Any reportable allegation listed above, or not listed above but which may constitute reportable conduct, will need to be immediately reported by the school Principal. An allegation against a school Principal should be referred to another member of the College Leadership Team, or Mercy Education Chief Executive.

It is important to note that existing mandatory reporting obligations have not changed. The College will report any allegation of abuse to the DFFH Child Protection.

If the alleged conduct is potentially criminal in nature, Victoria Police must also be notified as a first priority and any investigation by Victoria Police will take precedence.

Where the allegation falls under the mandatory reporting domain, the reporting to CCYP is in addition to reporting to Victoria Police and the DFFH.

Reportable Conduct, Mandatory Reporting and Reporting to the Victorian Institute of Teaching

Reportable conduct allegations as listed above are referred to the CCYP.

Any alleged conduct that is regarded to be of a criminal nature is to be dealt with as mandatory reporting and referred to Victoria Police and the DFFH as per the College's PROTECT: Identifying and Responding to Abuse – Reporting Obligations Policy.

If a College workplace participant against whom an allegation of reportable conduct is made is a registered teacher and the misconduct involves a charge, conviction or finding of guilt of a sexual offence, the College must notify the Victorian Institute of Teaching (VIT) immediately under conduct that is reportable to the VIT.

Responsibilities of the Principal

Note: Principals must comply with the PROTECT reporting obligations, which are in addition to the reporting requirements to the CCYP under the RCS.

The Mercy Education Chief Executive is ultimately responsible for notification of any reportable allegation to the CCYP and for ensuring that a reportable allegation is investigated.

However, it is the responsibility of the College Principal (or for allegations against a Principal, the relevant leader) to ensure that all reportable allegations are taken seriously and referred to the Mercy Education Chief Executive as soon as they become aware of them, and to follow the advice and guidance of the Mercy Education Chief Executive.

This will usually include conducting an investigation or facilitating the conduct of an investigation.

Note: College workplace participants are not required to make a report directly to the CCYP; this is the responsibility of the Mercy Education Chief Executive. However, any person with a concern (including a workplace participant who wishes to remain anonymous, students, families and/or other members of the community) may notify the CCYP directly of a reportable allegation via a community notification on the website.

In the event of a reportable allegation against the College Principal, this must be reported to another member of the College Leadership Team, or directly to the Mercy Education Chief Executive.

School Principals (and other leaders as appropriate) must also facilitate any requests for information or documentation from Mercy Education, Victoria Police or a regulator in the course of an investigation to ensure compliance with the RCS and the law.

Reporting to the CCYP

Upon becoming aware of a reportable allegation against an employee, the Principal or member of the College Leadership Team must contact the Mercy Education Chief Executive as soon as practicable in order to ensure that the following milestones and reporting requirements to the CCYP are met:

Within three business days:

School contact details

- Name of the employee, volunteer or contractor
- Their date of birth
- Initial advice on the nature of the allegation
- Any police report

Within 30 calendar days:

- Details of the investigation
- Details of the school's response
- Details regarding disciplinary or other action proposed
- Any written response from the employee, volunteer or contractor regarding the allegation, proposed disciplinary or other action.

Advice On Investigation

As soon as is practicable:

- Name of the investigator
- Their contact details
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Outcomes of investigation

- Copies of the investigation findings
- Details regarding disciplinary or other action proposed
- Reasons for taking or not taking action

Additional documents

- Promptly providing any further information to the CCYP as requested

Investigating Reportable Allegations

The College will ensure procedural fairness throughout the entire investigation process.

Note: It is anticipated that any investigations will be undertaken by the College Principal (or another school leader) unless it is deemed appropriate by the Principal, or the Mercy Education Chief Executive for a suitably qualified, third party engaged in consultation to be appointed.

The College Principal will ensure that for current workplace participants the process set out in clause 13 of the *Victorian Catholic Education Multi-Enterprise Agreement 2018* (VCEMEA 2018) is followed. Further, the College Principal will also ensure that all other relevant College policies and procedures (including Codes of Conduct, processes for managing and investigating grievances, misconduct, discipline, dispute resolution, and workplace participant welfare and support), as well as any CCYP and other regulatory guidance, are considered to guide the investigation.

For an allegation against a current workplace participant, this means that the Principal will follow the clause 13 process set out in the VCEMEA 2018 and follow the advice and guidance of the MEL Chief Executive.

In all cases, before any findings are made or disciplinary action is taken, the subject of an allegation will be:

- notified of any adverse information that is credible, relevant and significant
- given a reasonable opportunity to respond to that information.

The Mercy Education Chief Executive in consultation with the Principal or Melbourne Archdiocese Catholic Schools

(MACS) Regional General Manager (for allegations against a Principal) will determine when the subject of the reportable allegation should be first told about an allegation, in order to ensure that any police investigation is not prejudiced; child safety risks are appropriately assessed and mitigated; and the investigation is not compromised, but remains procedurally fair.

Initial Investigation

Note: Upon receipt of a reportable allegation, the Principal or other relevant College leader (for allegations against a Principal) will immediately contact the Mercy Education Chief Executive.

The Principal or other relevant College leader is then guided by the Mercy Education Chief Executive to ensure an appropriate investigation is conducted into the reportable allegation/s by reference to the requirements of the RCS, together with any relevant guidance published by Mercy Education, MACS and the CCYP.

At the conclusion of the investigation, the Mercy Education Chief Executive will make a decision on the reportable conduct findings recommended in the Investigation Report.

If the alleged conduct is potentially criminal in nature, Victoria Police must also be notified as a first priority and any investigation by Victoria Police will take precedence.

Recordkeeping and the Privacy Act

The College maintains records of reportable allegations, written reports and reportable conduct investigation findings indefinitely.

The College must not publish information that would enable the identification of:

- a person who notified the CCYP
- a child in relation to whom a reportable allegation was made or a finding of reportable conduct was made.

The Privacy Act 1988 (Cth) provides more information on the meaning of publish, which includes making the information publicly available in writing or email. The school maintains all records in accordance with the Public Record Office Victoria Recordkeeping Standards.

7. RELATED POLICIES/DOCUMENTS

- MLMC Child Safety and Wellbeing Policy
- PROTECT Policy: Identifying and Responding to Abuse – Reporting obligations
- Mercy Education Policy 6.09 Child Safety
- Mercy Education Code of Conduct (Employees and Volunteers)
- Mercy Education Parent Code of Conduct
- Mercy Education Operational Instructions 6.09: Child Safety Reporting to MEL
- Mercy Education Policy 1.07 Privacy

REVIEW HISTORY

Version	Date Released	Next Review	Author	Authorised by:
2.0	August 2023	2024	Deputy Principal Pastoral Care	MLMC Advisory Council

Version control added to policy commencing with V2.0 All previous versions are called 1.0 and have been archived and stored accordingly.

Note: Implementation Guidelines is a separate document which outlines the procedures needed to implement the policy

