**Reportable Conduct Policy**

At St Damian’s School, we hold the care, safety and wellbeing of all students at our school

as a central and fundamental responsibility of our School. This document provides an outline of the procedures and strategies developed when an allegation of sexual abuse occurs.

*Catholic schools have a moral, legal and mission-driven responsibility to create nurturing school*

*environments where children and young people are respected, their voices are heard and they are safe and feel safe (CECV Commitment Statement to Child Safety).*

This policy takes into account relevant legislative requirements within the state of Victoria, including the specific requirements of:

The Victorian Child Safe Standards as set out in *Ministerial Order No.870*,

The Children, Youth and Families Act (2005),

The Working with Children Act (2005), and

Catholic Education Melbourne Policy 2.19 Child Protection-Reporting Obligations (2015)

This policy applies to school staff, including school employees, volunteers, contractors and clergy.

**RATIONAL**

This policy outlines the broad considerations applicable when St Damian’s School receives an allegation of sexual misconduct or abuse. It sets out in broad terms the procedures it uses in responding to complaints and allegations of misconduct or abuse against current employees, or volunteers, from current or former students.

**DEFINITIONS**

In this policy context, the following definitions apply:

**Child:** A child or a young person enrolled as a student at the school.

**Child abuse** includes:

(a) any act committed against a child involving:

(i) a sexual offence

(ii) an offence under section 49B(2) of the **Crimes Act 1958** (grooming)

(b) the infliction, on a child, of:

(i) physical violence

(ii) serious emotional or psychological harm

(c) serious neglect of a child.

**Child safety** encompasses matters related to protecting all children from child abuse, managing the risk of child abuse, providing support to a child at risk of child abuse, and responding to incidents or allegations of child abuse.1F

**Child neglect**: The failure by a parent or caregiver to provide a child (where they are in a positionto do so) with the conditions that are culturally accepted as being essential for their physical andemotional development and wellbeing.2F

**Child physical abuse:** Generally, child physical abuse refers to the non-accidental use of physical force against a child that results in harm to the child. Physically abusive behaviours include shoving, hitting, slapping, shaking, throwing, punching, kicking, biting, burning, strangling and poisoning. The fabrication or induction of an illness by a parent or carer (previously known as Munchausensyndrome by proxy) is also considered physically abusive behaviour.3F

**Child protection:** Statutory services designed to protect children who are at risk of serious harm. 4F

**Child sexual abuse:** Any sexual activity between a child under the age of consent (16) and an adult or older person (ie a person five or more years older than the victim) is child sexual abuse.

Child sexual abuse can also be:

* any sexual behaviour between a child and an adult in a position of power or authority over them (e.g. a teacher); the age of consent laws do not apply in such instances due to the strong imbalance of power that exists between young people and authority figures, as well as the breaching of both personal and public trust that occurs when professional boundaries are violated
* any sexual behaviour between a child and an adult family member, regardless of issues of consent, equality or coercion
* sexual activity between peers that is non-consensual or involves the use of power or coercion
* non-consensual sexual activity between minors (eg a 14 year old and an 11 year old), or any sexual behaviour between a child and another child or adolescent who, due to their age or stage of development, is in a position of power, trust or responsibility over the victim. Sexual activity between adolescents at a similar developmental level is not considered abuse. 5F

**Employee:** For the purpose of the Reportable Conduct Scheme, an employee is a person of or over the age of 18 years who is employed by the School or engaged by the School to provide services, such as a volunteer, contractor, office holder or officer (whether or not the person provides services to children).

**Mandatory Reporting:** The legal requirement to report suspected cases of child abuse and neglect is known as mandatory reporting. Mandated persons include teachers, nurses, police,

psychologists, psychiatrists and medical practitioners.6F

**Reasonable Belief**: When staff are concerned about the safety and wellbeing of a child or young person, they must assess that concern to determine if a report should be made to the relevant agency. This process of considering all relevant information and observations is known as forming a ‘reasonable belief’. A ‘reasonable belief’ or a ‘belief on reasonable grounds’ is not the same as having proof but is more than mere rumour or speculation. A ‘reasonable belief’ is formed if a reasonable person in the same position would have formed the belief on the same grounds.

**School environment** means any physical or virtual place made available or authorised by the school governing authority for use by a child during or outside school hours, including:

(a) a campus of the school

(b) online school environments (including email and intranet systems)

(c) other locations provided by the school for a child’s use (including, without limitation, locations

used for school camps, sporting events, excursions, competitions, and other events). 7F

**School staff** means an individual working in a school environment who is**:**

(a) directly engaged or employed by a school governing authority

(b) a volunteer or a contracted service provider

(c) a minister of religion.8F

**De-identified information** refers to copies of reports, files, and information in which the individual identity of persons has been protected by blacking out the names of individuals or other information about them that might cause them to be identified.

**Confidentiality** refers to St Damian‘s duty to protect and respect the privacy of

complainants, victims and other parties involved in any process or investigation carried out under this policy. Complainants are under no obligation to keep their complaint secret or confidential and the School acknowledges that they may wish to disclose allegations to the Police or to other parties at any time.

**Designated person** is the person appointed by the Principal to manage the complaint process. Thisperson is responsible for ensuring that the process is as supportive as possible for the complainant,that it is kept within acceptable and agreed timeframes, and considers what implications should bedrawn from the complaint for the School. This person is responsible for meeting with the complainantin the first instance, clarifying their complaint and the outcome they are seeking. They should ensurethat appropriate support is available to the complainant to assist them in this process. The personwill be the Deputy Principal in most circumstances.

**Investigator** refers to the person appointed by the Principal to analyse the complaint, inquire into allegations made and to prepare a report with findings on the complaint. These findings must always be based on the principle of procedural fairness.

**RECEIVING COMPLAINTS**

Complainants, or their representatives, who raise allegations of a criminal act will be advised of their right to make a formal complaint to the Police.

All complaints will be taken seriously and will be addressed and responded to as soon as possible

The School will investigate all complaints in relation to sexual abuse that may have occurred to

students in its care.

* A complaint is a registration of dissatisfaction with the School, lodged verbally or in writing by a complainant or their representative. A complaint may be related to a specific episode, occurrence of failure in provision of service that has resulted in an impact on an individual or group. A general expression of concern is not a complaint.
* A complaint may be made by a person who was the victim of the alleged conduct, or their representative. Where the complainant is not the victim, they will need to demonstrate that they have the authorisation of the victim to make the complaint.
* A complaint may relate to the conduct of a current employee, contractor, volunteer or

student.

* When received initially by reception or frontline staff, the complainant should be referred to the Principal in the first instance and if not available to the Deputy Principal.
* The Principal will explain and refer the complainant to the St Damian’s Child Protection- Reporting Policy and will encourage the complainant to outline their complaint in writing, if not already done so.
* The Principal will determine if further reporting must occur, eg to the CEM, the Police in accordance with Ministerial Order No 870.

**INVESTIGATIONS**

When the School is made aware of specific allegations, then it will record the specific details in writing, in so far as they can be ascertained, and it will act in accordance with *Ministerial Order No 870.*

It **will** investigate these matters:

* If formalised as a complaint; or
* If a current student is alleged to have been abused.

It **may** investigate them if it believes this to be appropriate and, in making this decision, will have

regard to factors such as:

* The particular circumstances involved
* Whether corroborative evidence exists (eg similar allegations against an alleged perpetrator).
* Whether there is a reasonable belief that further harm could be done (eg. the alleged perpetrator is still teaching at the School or elsewhere).
* The potential impact on the alleged victim.

**THE REPORTABLE CONDUCT SCHEME**

The Reportable Conduct Scheme has been introduced under amendments to the *Child*

*Wellbeing and Safety Act 2005.* The Scheme is administered by the Commission for

Children and Young People, including overseeing investigations or conducting

investigations itself.

Under the Scheme the Principal is obliged to notify the Commission of any reportable allegation against an employee of their school within 3 business days after becoming aware of the allegation and then, as soon as practicable and within 30 days after becoming aware of the allegation, notify the Commission of:

* detailed information about the reportable allegation
* whether or not the school proposes to take any disciplinary or other action in relation to the employee and the reasons why
* any written submissions of the employee in relation to what disciplinary or other action should be taken by the school.

Reportable conduct under the Scheme includes:

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

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

c. physical violence committed against, with or in the presence of, a child

d. any behaviour that causes significant emotional or psychological harm to a child

e. significant neglect of a child.

The Principal is obliged to investigate a reportable allegation against an employee, volunteer, contractor or permit either VRQA or an independent investigator engaged by the school to investigate the allegation. The Principal is also required to inform the Commission of the identity of the investigator and then give the Commission a copy of the findings of the investigation and the reasons for those findings, and details of any disciplinary or other action that the Principal proposes to take and the reason why, or why no such action will be taken.

St Damian’s Child Safe Policies and Procedures enable the School to ensure that it meets its obligations under the *Act* by having the following in place:

* a system for preventing the commission of reportable conduct by an employee of the

school within the course of the employee's employment

* a system for enabling any person, including an employee of the school, to notify the

Principal of a reportable allegation against an employee of which the person becomes

aware

* a system for enabling any person, including an employee of the school, to notify the

Commission of a reportable allegation involving the Principal of which the person becomes aware

* a system for investigating and responding to a reportable allegation against an employee

of the school.

**INCIDENTS INVOLVING A CURRENT STUDENT**

The School has a clear approach set out in the Critical Incident Management Plan

The School’s Mandatory Reporting Policy is relevant.

**ACCOUNTABILITIES**

The Principal is responsible for determining the most appropriate response to the complaint and any reparations offered.

The Principal is ultimately accountable for ensuring that complaints are handled in accordance with this Policy and its Procedures and for ensuring that Catholic Education Melbourne is informed of all findings and recommendations which result from complaint investigations.

The Deputy Principal is responsible for acting as a ‘Designated Person’ where necessary in accordance with this Policy and its Procedures in handling all complaints.

A register and file system of all complaints will be maintained by the authorized person, usually the Principal or Deputy Principal.

**INCIDENTS INVOLVING A PAST STUDENT**

Any allegations or complaints made by a student or his or her representatives are to be referred

to the Principal or Deputy Principal who will make the initial contacts and notes.

* The Principal shall inform the relevant authorities, including Catholic Education Melbourne.
* The welfare of the student is paramount. Immediate access to counselling services is to be offered, as appropriate.
* The School will, as far as possible, seek to adopt an investigative process sympathetic to the complainant and appropriate to the circumstances.
* The Deputy Principal will convene a meeting with relevant Staff to plan an investigation

and record all relevant dates, details, names and locations. An outside agency such as the CEM may be used to ensure a balanced and professional investigation process.

* All evidence will be considered upon investigation and the outcome will determine further action as appropriate.
* All decisions will be explained and relayed personally to the complainant at the end of the investigative process.
* Should there be grounds for criminal investigation, the complainant will be strongly urged to refer the matter to the Police or, in matters of mandatory reporting, St Damian’s School will report the matter.

**INCIDENTS INVOLVING A CURRENT STAFF MEMBER**

Any allegations or complaints made about a current staff member are to be referred to the

Principal who will make the initial contacts and notes.

* The School will, as far as possible, seek to adopt an investigative process sympathetic to the complainant and appropriate to the circumstances.
* The staff member will be informed of allegations against them and be asked to take leave or be redeployed in another position while the matter is investigated.
* The Principal or Deputy Principal will convene a meeting with relevant staff to plan an investigation and record all relevant dates, details, names and locations. An outside agency such as the CEM may be used at this point to ensure a balanced and professional investigation process.
* All evidence will be given considered and suitable action taken as appropriate.
* All decisions will be explained and relayed personally to the complainant at the end of the investigative process.
* Should there be grounds for criminal investigation, the complainant will be strongly urged to refer the matter to the Police or, in matters of mandatory reporting, St Damian’s School will report the matter.
* The School’s Mandatory Reporting Policy is relevant**APAST STAFF MEMBEROYMENT PROACTIVE PROCEDURES**

St Damian’s School will apply thorough and rigorous screening processes in the recruitment of employees and volunteers involved in child-connected work. Our commitment to child safety and our screening requirements are included in all advertisements for such employee, contractor and volunteer positions, and all applicants are provided with copies of the school’s Child Safety Code of Conduct and the Child Safety Policy.

When recruiting and selecting employees, contractors and volunteers involved in child-connected work, the School will make all reasonable efforts to:

* always undertakes comprehensive reference checking and background checks, as are reasonable in the employment context.
* All teaching staff must hold current VIT registration.
* All other staff must hold either a current VIT registration or Working With Children Check National Police Check status and/or professional registration (as relevant)
* The School will obtain proof of personal identity and any professional or other qualifications
* The School will verify the applicant’s history of work involving children. The School maintains HR systems to ensure that VIT registrations and WWCC’s held by staff remain current.
* Where contractors come on site regularly in circumstances where they would not be directly supervised by a staff member holding a VIT or WWCC accreditation, they must have a current WWCC.
* All contractors are required to become familiar with and sign indicating their acceptance and adherence to the School’s Code of Conduct
* The School will obtain references that address the applicant’s suitability for the job and working with children.
* St Damian’s School will monitor and assess the continuing suitability of school staff to work with children, including regular reviews of the status of Working with Children Checks and staff professional registration requirements such as Victorian Institute of Teaching (VIT) registration.
* A register of complaints/allegations is to be held by the Principal

**Responsible Officer** Principal**/**Deputy Principal

**Approved by** Principal/Deputy Principal

**Approved and commenced** August 2016

**Reviewed** February 2018

**Relevant Legislation**

Children, Youth and Families Act 2005 (Vic.),

Child Wellbeing and Safety Act 2005

Crimes Act 1958 (Vic.)

Education and Training Reform Act 2006 (Vic.)

Equal Opportunity Act 2010 (Vic.)

Ministerial Order No 870 – *Child Safe Standards:*

*Managing the Risk of Child Abuse in Schools*

Privacy and Data Protection Bill 2014 (Vic )

Working with Children Act 2005

**Related Policies & Procedures**

 Child Safety Code of Conduct

 Child Safety Policy

 Duty of Care Policy

 Grievance Procedures

 ICT Staff Policy

 ICT Parent and Student Policy

 Pastoral Care Policy

 Privacy Policy

 Parent Code of Conduct

 Personnel Code of Conduct

 Staff Induction Policy

 Student Code of Conduct

 Student Supervision Policy

**Amendments** February 2018

 Reportable Conduct Scheme

 definition of “employee”

 Child Wellbeing and Safety Act 2005