

Title: Child Safe Standards - Allegations Against Staff or Volunteer		No: 52433
Practice Owner: CEO		
Practice Operational Delegate: Executive Manager P&C for Staff, Executive Manager community Engagement for Volunteers		
Date approved: October 2013 Date reviewed: September 2016 February 2017 December 2022		Suggested Review date: February 2019 December 2024
Reference or source: Victorian Child Safe Standards Department of Justice: Fact sheets on the implementation of legislation arising from the Betrayal of Trust Inquiry. Commission for Children and Young People - Reportable Conduct Scheme		
Purpose: To provide guidance on the procedures to be followed and other considerations, including legislative requirements, arising from a child safety allegation against a staff member, volunteer or associate of Family Life.		
Application Whole Agency	Type Practice	Policy group Health and Safety

1. Background

- 1.1. Family Life is a youth and child safe organisation. We value, respect and listen to children and young people. We are committed to the safety of all children and young people including the cultural safety of Aboriginal children and young people, the cultural safety of culturally and/or linguistically diverse children and young people, gender and sexually diverse children and young people, and children and young people with a disability.
- 1.2. Family Life supports children to meet their potential and thrive. We do not tolerate neglect, mistreatment or abuse of any kind.
- 1.3. Where allegations are made concerning child abuse or mistreatment, Family Life will respond to these allegations with sensitivity and diligence. The child or young person's immediate and long term safety is our priority.
- 1.4. Family Life's response to any allegation is to be consistent with Victorian criminal law requirements in all respects, including in the case of child sexual abuse, the requirements under the *Failure to Disclose* and the *Failure to Protect* offences.

2. Scope

- 2.1. This practice statement applies to all personnel associated with Family Life. This includes staff, volunteers, students, contractors and Board members engaged in the provision of services on behalf of the organisation.
- 2.2. This practice statement does not consider allegations made against persons who are not staff, volunteers, students, contractors or Board members of Family Life. In such cases, program procedures including mandatory reporting considerations will apply. Reference should be made to program procedures and avenues of consultation as applicable to the situation.

3. Objectives

- 3.1. In order to support Family Life's position as a child safe organisation, this practice statement sets out the procedures required in the event of an allegation of child abuse against a staff member, volunteer, or associate of Family Life. This procedure prioritises child safety, while maintaining confidentiality, supporting due process and legislative requirements, and providing clear guidance to staff or volunteers if confronted with this situation.

4. Definitions

4.1. Child or Young person

For the purposes of this practice, a child or young person is defined as any person under the age of 18. Where relevant legislation stipulates an alternative definition, to the extent of any inconsistency in the application of this practice, the applicable legislative definition will prevail.

4.2. Child Abuse

Any act committed against a child involving physical violence, sexual offences, serious emotional or psychological abuse, and serious neglect.

4.3. "Failure to Protect" Offence

Refers to the criminal offence for failing to protect a child under the age of 16 from a risk of sexual abuse.

The offence applies where there is substantial risk that a child under the age of 16 under the care, supervision or authority of a relevant organisation will become the 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 an 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.

4.4. "Failure to Disclose" Offence

Refers to the criminal offence 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 (with very limited exceptions).

5. Allegations

- 5.1. Allegations may vary in nature, including (but not limited to): an allegation of an occurrence of abuse; an allegation of substantial risk of abuse (for example, as addressed by the “failure to protect” offence); or an allegation of a suspicion of abuse.
- 5.2. Allegations may take several forms, such as (but not limited to): a disclosure by a child, their carer or another person; a witness reporting an occurrence of abuse; or a report of knowledge of past behaviour of a person indicating their unsuitability in working with a child.
- 5.3. Regardless of the nature or form of the allegation, all allegations will be listened to, investigated and responded to with the processes outlined in Clause 6 below.

6. Responding to Allegations

- 6.1. In the first instance, any immediate or perceived threat to the safety of children or others must be removed. This is the responsibility of all personnel, and must be done with the child or children’s interests as a priority.
- 6.2. The child or other person making the allegation is to be reassured by the person to whom they made the allegation that they will be listened to and that the allegation will be taken to a person or people of authority in the organisation. A child making a disclosure is not to be pressured into providing information, and care should be taken in not asking too many questions too early, as this may compromise police investigations if required.
- 6.3. A brief discussion is to be had with the child or person making the allegation to ensure that they understand that the allegation will be taken to a person or people of authority in the organisation. The confidentiality of the child or person making the allegation, and the accused, to the extent allowable under law, will be protected to enable a thorough investigation of the allegation. The child or person making the allegation must be informed of the necessity of disclosing allegations to police under criminal law where this is applicable (see clause 6.6).
- 6.4. The person receiving the notification is to discuss the allegation with their immediate manager and executive member. The CEO to be informed and consulted. Due to the seriousness of such allegations and the need to ensure a fair investigation may be undertaken, at this point no other persons within the organisation are to be informed, except upon the judgement of the

CEO that this would be necessary to ensure the safety of any child or other person.

- 6.5. The person about whom the allegation is made will be suspended from contact with children pending investigation of the allegation. This may involve suspension from all duties and is to ensure that the safety of children is the primary consideration.
- 6.6. A report to police is to be made in all circumstances where the allegation is of sexual abuse to a child under 16, and there is a reasonable belief that the offence has been committed. It is a criminal offence to not report these allegations to the police under the Failure to Disclose offence (with limited exceptions). Refer to the **Failure to Disclose** information for greater description of the requirements.
- 6.7. Other types of offences (not related to sexual abuse) may still be considered a police matter, and the need for reporting to police in other circumstances will be determined by the CEO in consultation with the other senior personnel aware of the circumstances.
- 6.8. In cases where the police are involved, Family Life personnel will cooperate fully with police investigations.
- 6.9. Where the allegation is not a matter reportable to police, a thorough internal investigation will be undertaken, led by either the CEO, Director, Services, People & Culture Executive Manager or appropriate delegate.
- 6.10. Where the allegation is found to be sufficiently evidenced, this is an unacceptable contravention of **41340 Code of Conduct** and will be deemed a serious breach and grounds for summary dismissal.
- 6.11. A critical incident report must be completed in all circumstances described in this practice and the incident is to be reported to stakeholders where required by contractual obligation or legislation.
- 6.12. In all cases, the child, the child's family (and the person making the allegation where these differ) are to be informed of the progress and outcome of the investigation or the report to police as applicable. This enables communication and reassurance that the organisation is fully investigating all matters.
- 6.13. Where applicable, Family Life staff, volunteers or associates impacted by an incident resulting in the allegation will be offered debriefing and will have access to the Employee Assistance Program (EAP).

7. Employee Reporting Obligations

- 7.1. Under the Failure to Disclose offence, 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. This practice statement details the organisation's support for personnel faced with any situation where this occurs in the workplace, and provides avenues of consultation and process assistance in such circumstances. It is noted that the failure to disclose offence applies to each individual aware of a sexual offence. For the reporting obligation to be met, the employee must ensure that they contact the police themselves or witness a member of the organisation contacting the police in reference to the matter. Consequently, Family Life recognises the right of the employee to report directly to police but encourages consultation and access to organisational support as outlined in this practice statement.

- 7.2. Under the Failure to Protect offence, it is a criminal offence for failing to protect a child under the age of 16 from a risk of sexual abuse. Any 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 authority to reduce or remove the risk, but negligently fail to do so. Where employees do not have the authority to remove such risks, but are aware of them, they should report such matters to senior personnel following the processes as outlined in this practice statement. This includes any concerns about the suitability of a staff member, volunteer, student, or contractor engaged to work with children or young people.
- 7.3. Employees who are alleged to have committed a Failure to Disclose or Failure to Protect offence will also be subject to investigation, led by either the CEO, Director, Services, or People and Culture Executive Manager. Where the allegation is found to be sufficiently evidenced, this is an unacceptable contravention of **41340 Code of Conduct** and will be deemed a serious breach and grounds for summary dismissal.
- 7.4. Employees who disclose allegations as detailed by this practice document or by the Child Safe Standards will not suffer any detriment as a result of any genuine attempt to protect a child or young person from abuse. A genuine attempt would exist if the disclosure was made on the grounds of 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.
- 7.5. Where employees raise allegations found on investigation to be sufficiently evidenced as vexatious, this is an unacceptable contravention of **41340 Code of Conduct** and will be deemed a serious breach and grounds for summary dismissal.
- 7.6. Employees are reminded that Family Life is a child and youth safe organisation and employees are encouraged to consult with Team Leaders, Program Managers, Executive Managers, Director, Services, Chief Impact Officer and/or the CEO on any matters of child safety which concerns them.

8. Victoria's Reportable Conduct Scheme

8.1 The Reportable Conduct Scheme does not conflict with the above reporting obligations, but will require additional reporting of allegations to the Commissioner for Children and Young people by the **Head of the organisation**. The report must be made to the Commission within 3 business days of receiving the allegation and where there is reasonable belief the reportable conduct has occurred. Additionally, certain information regarding findings of the investigation are to be reported to the Commission, where appropriate, within 30 days.

8.1. There are five types of reportable conduct that are to be reported under the Reportable Conduct Scheme:

- sexual offences committed against, with or in the presence of a child
- sexual misconduct committed against, with or in the presence of a child
- physical violence 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

8.3 Staff are to refer to <https://ccyp.vic.gov.au/reportable-conduct-scheme> for detailed information regarding Family Life's obligations to report.