



BDSAC Protocol for Managing Allegations of Abuse of Students by Employees in Catholic Education 2016

Written: February 2012
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PURPOSE:

The purpose of this protocol is to provide clear procedures on how to deal with allegations of sexual and other abuse of students by persons employed in Catholic Education.

These procedures acknowledge the special responsibility of Catholic Education employees towards the children and young people in their care, observe the legislative requirements in relation to matters of child protection in Victoria and respect the dignity of employees and their rights to procedural fairness.

This protocol applies to all lay employees of Catholic schools in the Diocese of Ballarat.

For schools governed or co-governed by religious congregations or public juridic persons, the Director of Catholic Education will liaise with the governing authority in the application of this protocol.

Clergy and Religious Staff operate under the Towards Healing 2010 set of procedures.

DEFINITIONS:

DHHS Child Protection	The Victorian Government agency that protects children at risk of significant harm and that is provided by the Department of Health & Human Services. Child Protection has statutory powers and can use these to protect a child.
Children, Youth and Families Act 2005	Provides the legislative basis for the system of services that provide support to vulnerable children and their families and, where necessary, protect children from significant harm.
Church Authority	The Bishop of the Diocese of Ballarat.
Diocesan Professional Standards Coordinator	Provides advice to the Bishop of Ballarat and the Director of Catholic Education on professional standards matters. Assists the Director of Catholic Education in determining the most appropriate investigator when an investigation into a professional conduct matter is required.
Grooming	Communication or conduct linked to the intention of facilitating the involvement of a child under 16 years of age in a sexual offence with an adult.
Governing Authority	Parish Priest, Canonical Administrator or person who holds governing authority for school.
Principal	A head teacher or principal of a school registered under Part 3 of the Education Act 1958.
PROTECT Protocol	Four critical actions outlined in the Department of Education, <i>Protect: Guide to Identifying and responding to all forms of abuse in Victorian schools 2016</i>
Student	Child or young person enrolled in a Catholic school in the Diocese of Ballarat.

ACRONYMS AND ABBREVIATIONS:

CECVR	Catholic Education Commission of Victoria Industrial Relations Unit
CEOB	Catholic Education Office Ballarat

Child FIRST	The Department of Health and Human Services, Child and Family Information, Referral and Support Teams (Child FIRST)
EAP	Employee Assistance Program
VIT	Victorian Institute of Teaching

PRINCIPLES:

1. “The Catholic Diocese of Ballarat is committed to providing a safe and supportive environment for people of all ages, with special concern for children, young people and vulnerable adults.” (Diocesan Professional Standards Policy Statement, 2014)
2. All adults have a responsibility to care for children, to positively promote their welfare and to protect them from any kind of harm due to misconduct or illegal behaviour.
3. Under Victorian law, any adult who has information that leads him/her to form a reasonable belief that a sexual offence has been or is likely to be committed in Victoria by an adult against a child is required to disclose the information to a member of the Victoria Police as soon as it is practicable to do so. In such a situation, the FOUR CRITICAL ACTIONS required under the PROTECT protocol are:
 - I. If a child is at immediate risk of harm, ensure their safety (eg. separate alleged victims from others; administer first aid; call 000; preserve evidence)
 - II. Report to authorities (Victoria Police or DHHS Child Protection; and Director of Catholic Education)
 - III. Contact Parents/Carers (where advised by Victoria Police and/or DHHS Child Protection)
 - IV. Provide Ongoing Support
4. All allegations of abuse of students by staff and/or volunteers must receive a response and be dealt with promptly.
5. Abuse of children by persons in positions of trust or authority is a serious matter. Whilst legal sanctions exist, these may not be the only response in dealing with misconduct situations.
6. Procedural and substantive fairness should be observed throughout the handling of any allegation.
7. Harm to the child and the employee is minimised by:
 - confidentiality;
 - adherence to agreed procedures, both at the school and at CEOB (involving authorities);
 - provision of appropriate emotional support and pastoral care.
8. The role of investigating an allegation of child abuse rests solely with Victoria Police and/or DHHS Child Protection.

RELATED DOCUMENTS:

This protocol should be read in conjunction with:

- BDSAC Child Protection Policy 2016. Available at <http://cevn.cecv.catholic.edu.au/FinanceLegal.aspx?id=9514>.
- CECV Victorian Catholic Education Multi Enterprise Agreement 2013. Available at <http://web.cecv.catholic.edu.au/frameset.htm?page=projects>.
- Towards Healing 2010. Available at <https://www.catholic.org.au/professional-standards/towards-healing>.
- Department of Education, **Protect: Guide to Identifying and responding to all forms of abuse in Victorian schools 2016**. Available at <http://www.education.vic.gov.au/about/programs/health/protect/Pages/default.aspx>.

SUMMARY PROCESS FOR MANAGING ALLEGATION OF SEXUAL OR OTHER ABUSE OF STUDENTS BY STAFF:



STAGE ONE: Initial Management of Allegations

An allegation may be made on the basis of:	<ul style="list-style-type: none"> • information received from a third party that indicates a child has been abused; • your own observation of the child's behaviour which suggests abuse has occurred; • witnessing abuse or a series of actions that suggest abuse; • direct disclosure from a child that abuse has occurred.
Reporting of Allegation	<p>Under Victorian law, any adult who has information that leads him/her to form a reasonable belief that a sexual offence has been or is likely to be committed in Victoria by an adult against a child is required to disclose the information to a member of the Victoria Police as soon as it is practicable to do so.</p> <p>It may be preferred by the person making the report that:</p> <ol style="list-style-type: none"> 1. any allegation of abuse of a student (whether sexual, physical or emotional) by an employee of the school be referred immediately to the Principal, who will provide support to the person in reporting the matter to the police. 2. any allegation against the Principal be referred immediately to the Director of Catholic Education, who will provide support to the person in reporting the matter to the police.
Observing confidentiality	<p>Those to whom the allegation is made should observe confidentiality throughout, which means that there should be no broadening of discussion on the allegation, apart from with those persons specified in these procedures.</p> <p>It is important that the employee's reputation be protected, especially in the early stages of the process.</p> <p>In certain matters that are brought before the courts, confidentiality may be required by a suppression order. Observing confidentiality in the early days of the process enables such orders to be met more readily.</p>
Police or Child Protection interviews at school	<p>Child Protection or Police may conduct interviews of children and young people in Victorian schools without parental knowledge or consent.</p> <p>When Child Protection practitioners or Police arrive at the school, the school principal or their nominee should ask to see their identification before allowing access to the child or young person.</p> <p>Children and young people should be advised of their right to have a supportive adult present during interviews. If a child is too young to understand the significance of the interview, a staff member should make arrangements for a supportive adult to attend with the child.</p> <p>A staff member may be identified as a support person for the child or young person during the interview.</p> <p>Independent persons must refrain from providing their opinions or accounts of events during interviews.</p>
Malicious, false or exaggerated allegations	<p>The possibility of a malicious, false or exaggerated allegation is acknowledged. After proper investigation, where the employee is found to be innocent of the allegation, the relevant Church Authorities will assist the employee to re-establish his/her credibility in the eyes of colleagues and the community and will provide appropriate emotional support and pastoral care.</p>

STAGE TWO: Management of Allegations of Sexual or Other Abuse of Students

<p>Role of Principal (or principal's nominee):</p> <p><i>NOTE: Where an allegation is made against the Principal, the nominee of the Director of Catholic Education undertakes this role. For schools governed by religious institutes or public juridic persons, the Director and the Governing Authority together nominate the officer who will undertake this role.</i></p>	<p>a. Document allegation as reported and ask person making the report to document the allegation as well. The CONTACT RECORD (see Appendix) may be used for this purpose.</p> <p>NOTE: The role of investigating an allegation of child sexual or other abuse rests solely with Victoria Police and/or Child Protection.</p> <p>NOTE: Allegations of Misconduct or Serious Misconduct should be referred to the Director of Catholic Education for advice and/or investigation.</p> <p>b. Notify Victoria Police of allegation.</p> <p>NOTE: Victoria Police will advise the Department of Human Services of any report made to them.</p> <p>c. Notify Director of Catholic Education by phone and/or email (may be via Educational Consultant, who will contact the Director).</p> <p>d. Notify Governing Authority</p> <p>e. Seek advice from Victoria Police with regards to further action to ensure that any investigation will not be compromised.</p> <p>f. Document any advice received by Victoria Police.</p> <p>g. Work with Educational Consultant to determine further action required that will not interfere in the police investigation. This may include:</p> <ol style="list-style-type: none"> a. Ensure pastoral support for student b. If permission is given by the Police, notify parents of student central to the allegation that an allegation has been made and that they will be contacted by the Police. c. Seek industrial advice from CECVIR with regards to managing the alleged offender. d. Ensure ongoing professional and/or pastoral supports for those involved e. Notify/update. VIT and/or Governing Authority and/or Director.
<p>Role of Director of Catholic Education</p>	<ol style="list-style-type: none"> 1. Ensure professional and pastoral support for Principal. 2. Notify Bishop and Victorian Director of Professional Standards of allegation and provide updates as/if possible. 3. Where allegation is made against the Principal, liaise with the Governing Authority. 4. Where a professional standards investigation may be needed, liaise with the Diocesan Professional Standards Coordinator to determine the most appropriate investigator.

STAGE THREE: Following the Police Investigation

NOTE: Seek advice from CECVIR prior to determining the appropriate next step.

<p>Malicious, false or exaggerated allegations</p>	<p>The possibility of a malicious, false or exaggerated allegation is acknowledged. After proper investigation, where the employee is found to be innocent of the allegation, the relevant Church Authorities will assist the employee to re-establish his/her credibility in the eyes of colleagues and the community and will provide appropriate emotional support and pastoral care.</p>
<p>During the period of the investigation</p>	<p>The employee remains on full pay but may not attend the school or undertake work for the school.</p> <p>Victoria Police will advise the Principal if and/or when any statement can be made to the community.</p> <p>Appropriate pastoral and professional support for the suspended employee should be considered.</p>
<p>Investigation by Police:</p> <ul style="list-style-type: none"> • no charges • allegation not substantiated 	<p>A decision by the Police not to lay charges may be made where:</p> <ol style="list-style-type: none"> a. there is no evidence to support the charge, following Police investigation OR b. there is insufficient evidence to proceed to court with the charge. An example may be a case where the student and/or parents are unwilling for the student to appear as a witness in any court proceedings. <p>For the purposes of protecting a child, the standard of proof required to support an allegation of misconduct is different from that required to secure a conviction in criminal justice proceedings. There may be sufficient standard of proof to support an allegation in the absence of a charge or conviction.</p> <p>In such an event, the matter is referred to the Director of Catholic Education for advice and/or investigation as a matter of Misconduct or Serious Misconduct.</p> <p>The employee is entitled to have a support person present during the investigation.</p> <p>Of particular concern will be the school's duty of care to the student, employee and others who may be affected by the alleged behaviour.</p>
<p>Investigation by Police</p> <ul style="list-style-type: none"> • charges laid 	<p>If charged, the employee is not required to present him/herself for duty until such time as the charge is heard, but will remain on full pay.</p> <p><i>NOTE: Seek advice from CECVIR about your industrial responsibilities with regards to the employee.</i></p> <p>If the employee admits guilt, it may not be possible for the employee to continue working at the school.</p> <p><i>NOTE: Seek advice from CECVIR about your industrial responsibilities with regards to such an employee.</i></p> <p>If, with the approval of the school's governing authority, termination of employment occurs, the principal will:</p> <ul style="list-style-type: none"> • Inform the VIT (if employee is a teacher). • Inform the Director of Catholic Education.
<p>No court conviction</p>	<p>The failure of a court to record a conviction against an employee charged with criminal act does not necessarily signal that the charge was unwarranted or that the employee has no case to answer.</p>

	<p>Failure to return a conviction may result from any one of a number of circumstantial events, unrelated to the original allegation e.g. refusal of the child to give evidence.</p> <p>In such an event, the matter is referred to the Director of Catholic Education for advice and/or investigation.</p> <p>The employee is entitled to have a support person present during the investigation.</p> <p>After investigation (should that action be taken), there may be sufficient standard of proof to support an allegation of serious misconduct in the absence of a conviction. In such a case, action may still be taken in accordance with the Victorian Catholic Education Multi Enterprise Agreement (Managing Employment Concerns).</p> <p>If, with the approval of the school's governing authority, termination of employment occurs, the principal will:</p> <ul style="list-style-type: none"> • Inform the VIT (if employee is a teacher). • Inform the Director of Catholic Education.
Court conviction	<p>A conviction in a court of law will result in the summary dismissal of the employee.</p> <p>Action on dismissal must not proceed without the principal seeking approval of the school's governing authority or without making contact with the Director of Catholic Education.</p> <p>Termination of employment is to be in accord with the Victorian Catholic Education Multi Enterprise Agreement.</p> <p>The principal will notify the Manager of the Victorian Institute of Teaching if the employee is a teacher.</p>

APPENDIX:

CONFIDENTIAL CONTACT RECORD – DIOCESE OF BALLARAT	
<p>The FOUR CRITICAL ACTIONS required under the PROTECT protocol are:</p> <ol style="list-style-type: none"> 1. If a child is at immediate risk of harm, ensure their safety (eg. separate alleged victims from others; administer first aid; call 000; preserve evidence) 2. Report to authorities (Victoria Police or DHHS Child Protection; and Director of Catholic Education) 3. Contact Parents/Carers (where advised by Victoria Police and/or DHHS Child Protection) 4. Provide Ongoing Support 	
School Name and Town	
Date and time of this report	
Name and role of person making this report to school	
Address of person making this report	
Telephone No. of person making this report	
Name and role of person at school taking report	
Method	Telephone <input type="checkbox"/> Written <input type="checkbox"/> Personal <input type="checkbox"/>
Substance of Conversation (What is the allegation/report? Name of alleged perpetrator and child/student? When and where is it alleged to have occurred?)	
Has contact been made with Victoria Police or Child Protection?	YES <input type="checkbox"/> NO <input type="checkbox"/>
If YES, name of authority	
Name of contact person at authority	
Phone at authority	
Time and date of your report to authority	
Signature of person completing this record	
<p><i>RETAIN one copy for the school file. PROVIDE one copy to the Director of Catholic Education either by fax (03 5331 5166) or email director@ceoballarat.catholic.edu.au.</i></p>	