

## REPORTING OBLIGATIONS IN VICTORIA

*Crimes Act 1958*

1. Names of the elders calling and from what congregation?
  2. Names of the alleged victim/s?
    - Age now?
    - Age at time of alleged offence?
    - Spiritual status – (baptised/unbaptised/unbaptised pub/nonJW)?
  3. Name of the alleged perpetrator?
    - Age now?
    - Age at time of alleged offence?
    - Spiritual status – (baptised/unbaptised/unbaptised pub/nonJW)?
    - Date of offence – (recent or if historical, approximate year/s)?
    - Does alleged perpetrator presently have access to children?
    - Relationship to the alleged victim?
  4. In what State or Territory did the alleged abuse occur?
  5. Who reported the matter to the elders?
  6. Has this matter been, or will be, reported to the police or other authorities?
  7. If the victim is still a child (under 18), is he/she still in danger? If so, the Service Department will provide necessary direction to ensure the child's protection.
  8. The Victorian mandatory reporting law needs to be carefully considered. In ***virtually every instance***, ask the elders to take no further action until the office calls them back with needed direction.
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9. Obtain legal advice from solicitor concerning this matter.
  10. ***All adults*** have a mandatory reporting obligation where someone under 16 is sexually abused in Victoria by someone over 18.
  11. If the victim was over 16 on 27 Oct. 2014 and the perpetrator over 18 at the time of the offence, the matter does not need to be reported if the victim requests that the matter not be reported.
  12. Irrespective of the legal advice, advise the elders to pass on the following information to the victim, if he/she is an adult, or the child's parent/s if the victim is still a minor:
 

**“Please understand that you have the absolute right to report this matter to the authorities if you want to and the elders will support you in whatever decision you make.”**
  13. If the matter has been or will be reported to the authorities, the elders need to ensure that their actions do not interfere with any police investigation.

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### General position:

- The age of consent is 16 years or if between 12-16 and the other party not more than 2 years older.<sup>1</sup>
- Person (foster parent, step-parent, minister of religion) commits an offence if they have intercourse with someone under 18 years over whom he/she has supervision, care or authority.<sup>2</sup>

### Reporting obligation:

Since October 2014,<sup>3</sup> adults (whether in Victoria or elsewhere) who form a reasonable belief that a sexual offence has been committed in Victoria by an adult (over 18) against a child under 16 years must disclose that information to the police as soon as practicable unless they have a reasonable excuse for not doing so.<sup>4</sup>

**Grooming:** An adult must not communicate, by words or conduct, with a child under 16 or a person under whose care, supervision or authority the child is (whether or not a response is made to the communication) with the intention of facilitating the child's engagement in or involvement in a sexual offence with that person or another person who is of or over 18 years.<sup>5</sup>

The obligation to report applies if the victim was under 16 on 27 October 2014 irrespective of when the information forming the basis of the reasonable belief is received. The obligation does not apply if the victim was over 16 on 27 October 2014 and requests that the offence not be reported provided the victim has capacity to make an informed decision concerning the matter.<sup>6</sup>

A reasonable excuse is listed as follows:<sup>7</sup>

- Person fears on reasonable grounds for their safety if they do so.
- Person believes on reasonable grounds police are already informed.
- The information was received by way of confession.
- The victim was 16 on 27 October 2014 & requests that the matter not be reported.

### Analysing calls about abuse:

- If the victim is under 16 and the perpetrator over 18 and the abuse occurred in Victoria – **The matter must be reported.**
- If the victim was under 16 on 27 October 2014 and the perpetrator was over 18 when the abuse occurred in Victoria – **The matter must be reported.**
- If the victim was over 16 on 27 October 2014, the perpetrator was over 18 when the abuse occurred in Victoria, and victim requests that the matter not be reported – **The matter need not be reported.**

### How to Report:

- Reports to be made to member of Victorian police force or to the Sexual Offences and Child Abuse Investigation Team.<sup>8</sup>
- When someone over 16 on 27 Oct. 14 requests the matter not be reported, to protect the elders, a note should be put on file stating that the victim does not want the matter reported.

<sup>1</sup> *Crimes Act 1958, s.45.*

<sup>2</sup> *Crimes Act 1958, ss.48, 49.*

<sup>3</sup> See *Victoria Government Gazette*, No S 350, 7 October 2014.

<sup>4</sup> *Crimes Act 1958, s.327(2).*

<sup>5</sup> *Crimes Act 1958, s.49B.* Grooming itself is a sexual offence.

<sup>6</sup> *Crimes Act 1958, ss.327(5), (7)(b), 622(1), (2).*

<sup>7</sup> *Crimes Act 1958, s.327(5).* Includes religious confession. See *s.327(7)(b)*.

<sup>8</sup> *Crimes Act 1958, s.327(2).*