

# FORM 4

## Reportable Conduct Scheme Policy

October 2022

Sandhurst Catholic Early Childhood Education and Care Ltd. (SCECE&C) is an incorporated company constituted by the Bishop of Sandhurst and is a subsidiary company of Catholic Education Sandhurst Limited (CES Ltd.), who is its Member, and it is governed by an independent Board of Directors.

SCECE&C Ltd.'s Vision is to create high quality environments which are authentically Catholic, where each child and family is accompanied on their journey of development, supported by the pastoral ministry of our Church as embodied in our Sandhurst communities.

St Mel's Kindergarten is an Early Childhood Education and Care service within the Diocese of Sandhurst which is operated by SCECE&C as the Approved Provider.

### 1. Purpose

From 1 July 2017, the Victorian Government legislated the introduction of a Reportable Conduct Scheme (RCS) to improve how organisations, including early childhood education and care services (service), respond to allegations of child abuse and child-related misconduct by employees, volunteers and contractors.

The Reportable Conduct Scheme is focussed on employee, volunteer and contractor conduct and how organisations investigate and respond to suspected child abuse. St Mel's Kindergarten must ensure that it maintains systems that:

- prevent reportable conduct by employees of the early childhood services within the course of their employment
- ensure reportable allegations are made to the Nominated Supervisor or made directly to the Chief Early Childhood Officer if the reportable allegation concerns the Nominated Supervisor
- ensure reportable allegations that involve employees, volunteers, contractors are reported to the CCYP.

## 2. Scope

This policy applies to all SCECE&C Ltd employees, volunteers and contractors and those listed in the *Victorian Child Wellbeing & Safety Act 2005, Children's Legislation (Reportable Conduct) Act 2017*.

## 3. Definitions

### Who is an Employee?

For the purposes of the Act, employee is defined as a person aged 18 years or over who is:

- employed by SCECE&C whether or not that person is employed in connection with any work or activities of the Early Childhood Services that relate to children; or
- engaged by the service to provide services, including as a volunteer, contractor, office holder or officer, whether or not the person provides services to children.

**Early childhood Staff** means an individual working in an early childhood service environment who is:

- directly engaged or employed by SCECE&C Ltd
- a volunteer or a contracted service provider (whether or not a body corporate or any other person is an intermediary) such as members of committees, contractors or cleaners
- a minister of religion (clergy, and religious personnel (Brother, Sister, Monk).

## 4. Policy Statement

St Mel's Kindergarten will abide by the requirements of the Reportable Conduct Scheme in dealing with allegations of misconduct or child abuse, based on a reasonable belief, that relate to employees, volunteers and contractors in the early childhood service. This includes where a reportable allegation is made against the Nominated Supervisor.

The Nominated Supervisor, or in the case of an allegation about the Nominated Supervisor, another person in charge, will ensure the reporting of any reportable allegation made about an employee, volunteer or contractor to the Chief Early Childhood Officer who is required to report the matter to the Chief Executive Officer as the head of entity for reportable conduct matters.

The Nominated Supervisor does not have to agree with or share the belief that the alleged conduct has occurred. However, they must notify the Chief Early Childhood Officer for further advice as to whether the allegation is reportable to the CCYP by the Chief Executive Officer.

The Chief Executive Officer will then report the alleged misconduct to the SCECEC Ltd Board and the CCYP within three days of becoming aware of the allegation and update CCYP of progress of the investigation within 30 calendar days. The actual notification to CCYP can be made by the Chief Early Childhood Officer on behalf of the Chief Executive Officer.

## 5. Policy Implementation

The Chief Executive Officer as Head of Entity, in consultation with the Chief Early Childhood Officer and Nominated Supervisor, will report the alleged misconduct to the CCYP within the three (3) days. In the event that an allegation of reportable conduct is made about the Nominated Supervisor, the matter must be reported to the Chief Early Childhood Officer who will then notify the Chief Executive Officer.

### What is Reportable Conduct?

Table 1: Reportable conduct categories

Sexual Abuse	Sexual Misconduct	Physical Abuse	Psychological or Emotional Harm	Significant Neglect
<ul style="list-style-type: none"> <li>• Rape or Sexual Assault</li> <li>• Sexual activity with or in the presence of a child</li> <li>• Grooming or encouraging a child to engage in sexual activity</li> <li>• Offences relating to child abuse material</li> </ul>	<ul style="list-style-type: none"> <li>• Behaviour, physical contact, speech or other communication of a sexual nature</li> <li>• physical contact without valid reason</li> <li>• Crossing professional boundaries</li> <li>• Voyeurism</li> </ul>	<ul style="list-style-type: none"> <li>• Hitting, kicking, punching</li> <li>• Pushing, shoving, grabbing, throwing, shaking</li> <li>• Use of an object</li> <li>• Inappropriate restraint, excessive force</li> </ul>	<ul style="list-style-type: none"> <li>• Exposure to violence or threats of violence</li> <li>• Anti-social behaviour</li> <li>• Self-destructive behaviour</li> <li>• Persistent hostility or rejection</li> <li>• Humiliation or belittling</li> <li>• Scapegoating</li> </ul>	<ul style="list-style-type: none"> <li>• Deprived from the following:</li> <li>• Clothing or food</li> <li>• Medical Attention or care</li> <li>• Shelter</li> <li>• Supervision</li> <li>• Access to drugs or alcohol.</li> </ul>

Any reportable allegation listed above will be immediately reported by the Nominated Supervisor.

It is important to note that existing Mandatory Reporting obligations have not changed. The early childhood service will report any allegation of abuse to 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 Police and DFFH.

### Reportable conduct, Mandatory reporting and reporting to VIT

Reportable conduct allegations as listed above are referred to 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 DFFH according to Attachment One

If the staff member is a registered teacher and the misconduct involves a charge, conviction or finding of guilt of a sexual offence, the Nominated Supervisor must notify VIT immediately

under Conduct that is Reportable to the Victorian Institute of Teaching.

If the staff member is a registered teacher, the Nominated Supervisor should notify the VIT or misconduct, even if it does not involve a charge, conviction or finding of guilt of a sexual offence.

### **Responsibilities of the Nominated Supervisor**

The Nominated Supervisor is responsible for the initial notification of any reportable conduct matter arising from their service and for participating in the investigation of any reportable allegation, in consultation with the Chief Early Childhood Officer or delegated authority.

St Mel's Kindergarten staff are not required to make a report directly to the CCYP. It is the responsibility of the Nominated Supervisor to notify Chief Early Childhood Officer.

In the event of a reportable allegation against the Nominated Supervisor, this must be reported to the Chief Early Childhood Officer who will then notify the Chief Executive Officer of SCECEC Ltd who is ultimately responsible for reporting to the CCYP.

### **Reporting to CCYP**

Upon becoming aware of alleged misconduct St Mel's Kindergarten will commit to meeting the following milestones and reporting to the CCYP as included in Table 2: Reporting to CCYP at the end of this document. The head of an organisation (Head of Entity) is the person who is primarily responsible for an organisation's compliance with the Reportable Conduct Scheme. For the purposes of the Reportable Conduct Scheme, the Head of Entity has been identified as the Chief Executive Officer of SCECEC Ltd. While heads of organisations are responsible for ensuring their organisations comply with the Scheme, the Commission does not expect heads to carry out their responsibilities alone. Heads of organisations can get help from other people within their organisation to fulfil their obligations under the Scheme. This may include creating and developing systems, sending approved notifications to the Commission, and conducting investigations on their behalf. While heads of organisations can seek internal support and assistance from within their organisations, it is ultimately their responsibility to ensure the Commission is notified of any reportable allegations they become aware of.

### **Investigating Reportable Allegations**

St Mel's Kindergarten will ensure procedural fairness throughout the entire investigation process.

*NOTE: It is anticipated that any investigation will be undertaken by a suitably qualified, third party engaged in consultation with the Chief Early Childhood Officer.*

The service will however, ensure that all relevant policies and procedures are used to guide the investigation including Codes of Conduct, processes for managing and investigating complaints, misconduct, discipline, grievances, dispute resolution and employee welfare and support.

### **Procedural Fairness**

St Mel's Kindergarten acknowledges that the procedures used to conduct an 'initial investigation' into 'reportable conduct' are fair and reasonable. This will usually include ensuring that, before any findings are made or disciplinary action is taken, the subject of an allegation:

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

Procedural fairness; however, *does not* require the Nominated Supervisor to notify the subject of the allegations when the Chief Early Childhood Officer or CCYP are first notified or when the reportable allegations are deemed to be unsubstantiated.

The Nominated Supervisor will give consideration to when the subject of the reportable allegation should be first told about an allegation, in order to ensure the investigation is not compromised, but remains procedurally fair.

### **Initial Investigation**

Upon receipt of a reportable allegation the Nominated Supervisor will immediately contact the Chief Early Childhood Officer for advice and counsel. Subsequent to this the Nominated Supervisor will commence an initial investigation into the alleged misconduct to determine if it can be substantiated.

When participating in an initial investigation into reportable conduct the Nominated Supervisor in consultation with the Chief Early Childhood Officer will apply the balance of probabilities as the standard of proof. This means that all preliminary enquiries will consider whether it is more likely than not that reportable conduct has occurred.

To establish the balance of probabilities the Nominated Supervisor will gather information by conducting and documenting interviews with the alleged victims, their parents or guardians and any other witness or individual identified as having knowledge of the misconduct.

Time will be taken to compare versions of events given by different witnesses in order to decide which version is the more probable. However, investigations will not undertake a mathematical or mechanical assessment of probabilities. Rather, the person conducting the investigation must be persuaded, based on the information available, that reportable conduct has occurred and must be further investigated.

Upon the conclusion of the initial investigation into the reportable allegation, the Nominated Supervisor will provide a written brief to Chief Early Childhood Officer for further advice and counsel to ensure the service meets its legislative obligations.

**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.**

## Record Keeping and Privacy Act

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

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

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

The Act provides more information on the meaning of publish, which includes making the information publicly available in writing or email.

**Table 2: Head of Entity (Chief Executive Officer) Reporting to CCYP**

Within 3 Business Days	Within 30 Calendar Days	Advice on Investigation	Outcomes of Investigation	Additional Documents
<ul style="list-style-type: none"><li>•Service Contact Details</li><li>•Name of the employee, volunteer or contractor</li><li>•Their date of birth</li><li>•Initial advice on the nature of the allegation</li><li>•Any Police Report</li></ul>	<ul style="list-style-type: none"><li>•Details of the allegation</li><li>• Details of the service's response</li><li>•Details regarding disciplinary or other action proposed</li><li>•Any written response from the employee, volunteer or contractor regarding the allegation, proposed disciplinary or other action</li></ul>	<ul style="list-style-type: none"><li>•As soon as is practical:</li><li>•Name of the investigator</li><li>•Their contact details</li></ul>	<ul style="list-style-type: none"><li>•Copies of the investigation findings</li><li>•Details regarding disciplinary or other action proposed</li><li>•Reasons for taking or not taking action</li></ul>	<ul style="list-style-type: none"><li>•Promptly providing any further information to the CCYP as requested</li></ul>

## RELEVANT LEGISLATION

*Child Wellbeing & Safety Act 2005 (Vic)*

*Children Legislation Amendment (Reportable Conduct) Act 2017 (Vic)*

[Protecting Children — Reporting and Other Legal Obligations, Victorian Department of Education, 2020](#)

## EVALUTION

In order to assess whether the values and purposes of the policy have been achieved, the Approved Provider will:

- regularly seek feedback from educators, staff, parents/guardians, children, management and all affected by the policy regarding its effectiveness
- monitor the implementation, compliance, and incidents in relation to this policy
- keep the policy up to date with current legislation, research, policy and best practice
- revise the policy and procedures as part of the service's policy review cycle, or as required
- notify parents/guardians at least 14 days before making any change to this policy or its procedures.

## ATTACHMENTS

Early years Reporting Flowchart

## AUTHORISATION

This policy was adopted by the Approved Provider of [the service] on 13 August 2021 and reviewed in June 2022.

**REVIEW DATE:** JUNE 2024

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# Early Years obligations and the Reportable Conduct Scheme



I am concerned about a child's safety. What should I do?

Follow the PROTECT guidelines: the Four Critical Actions for Early Childhood Services in responding to incidents, disclosures and suspicions of child abuse



Call Victoria Police on 000 if you have immediate concerns for a child's safety

### Victoria Police

You must notify Victoria Police immediately if you have reasonable belief that a child has been abused or that criminal behaviour has occurred. Failure to notify Victoria Police that an adult may have committed a sexual offence against a child is a criminal offence.

### DFFH Child Protection

You must report to DFFH Child Protection if you have significant concern for a child's safety and wellbeing and the child's parent/carer has not protected or is unlikely to protect the child from harm.

### Department of Education and Training/Victorian Institute of Teaching

You must notify your regulatory body (such as DET) of any incidents, circumstances or complaints which raise concerns about the safety and/or wellbeing of children using your service. This includes notifying the Victorian Institute of Teaching if the source of suspected harm is an early childhood teacher.

### Reportable Conduct

The Reportable Conduct Scheme (the Scheme) operates alongside other reporting obligations. The scheme applies to all Victorian early childhood services from 1 January 2019. All workers, volunteers and contractors are covered by the Scheme and the Scheme captures allegations about reportable conduct and misconduct that may include reportable conduct which occurs both within and external to your organisation.

There are five categories of Reportable Conduct:

Against, with, or in the presence of a child

Physical violence

Sexual offences

Sexual misconduct

Behaviour that causes significant emotional or psychological harm

Significant neglect

### Report to the Commission

If you, or anyone else, forms a reasonable belief that reportable conduct has taken place, you should follow your organisation's reporting procedures and should notify your Head of Organisation. The Head of Organisation must notify the Commission within 3 business days of becoming aware of the allegation(s) of reportable conduct and must wait for clearance from Victoria Police before commencing an internal investigation. If you form reasonable belief that a person associated with another organisation who is covered by the Scheme has committed reportable conduct, you may make a public notification to the Commission through its website.