

Reporting child safety related misconduct and/or child abuse

WHO CAN REPORT?

Any person (e.g. child, young person, parent, priest, employee, volunteer, parishioner) can make a report in relation to child-safety related misconduct and/or child abuse.

REPORTING OBLIGATIONS: CLERGY, EMPLOYEES AND VOLUNTEERS

All clergy, employees and volunteers have a duty of care to protect children and young people from harm and a moral, legal and ethical duty to effectively respond to and report all concerns, allegations or complaints of child-safety related misconduct and/or child abuse.

It is a requirement of the Safeguarding Children and Young People Policy that CAM clergy, employees and volunteers make a report if they have formed a reasonable belief that a child or young person has experienced abuse, is experiencing abuse or is at risk of harm (even if others do not hold a reasonable belief or do not believe a report should be made).

Not reporting child safety concerns, complaints or allegations or preventing, influencing or coercing a person from making a report is a breach of the Safeguarding Children and Young People Policy and may result in disciplinary action and/or possible legal action.

Please note:

- It is important for all child safety concerns, allegations or complaints to be taken seriously. Too often in the past those reporting child abuse were not believed, their concerns were dismissed, and the interests and status of the alleged perpetrator (or the organisation) were given priority over the welfare of the victim.
- Legal action cannot be taken against a person if a report is made in good faith (e.g. When there is a reasonable belief that abuse may be occurring) in compliance with the expectations set out in the safeguarding children and young people policy.
- Victimising or harassing behaviour toward a person who has made a report is unacceptable and may result in disciplinary action.
- Support (e.g. counselling, pastoral support) will be provided to all parties involved in relation to any child safety concerns, allegations or complaints.

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MANDATORY REPORTERS

Sections 162, 182 and 184 of the *Children, Youth and Families Act 2005 (Vic)* and s 67ZA of the *Family Law Act 1975 (Cth)*, establish a legal obligation for certain professionals to report child abuse to statutory authorities if they have formed a belief on reasonable grounds that a child is in need of protection from physical injury or sexual abuse and the child's parents are unable or unwilling to protect the child. The failure of a mandatory reporter to make a report is considered a criminal offence.

Mandatory reporting

The legal obligations under s 162, 182 and 184 of the *Children, Youth and Families Act 2005 (Vic)* and s 67ZA of the *Family Law Act 1975 (Cth)* for certain professionals to report

In Victoria, the following professionals are mandated to report:

- Registered medical practitioners
- Nurses and midwives
- Registered teachers, including early childhood teachers
- School principals
- Members of the police force.

From March 2019, legislative changes will extend mandatory reporting obligations to include:

- Out-of-home care workers
- Early childhood workers
- Youth justice workers
- Registered psychologists.

School counsellors will become mandatory reporters under the *Children, Youth and Families Act 2005* in January 2020.

S 67ZA of the *Family Law Act 1975 (Cth)* imposes a mandatory reporting obligation on:

- The Registrar or a Deputy Registrar of a Registry of the Family Court of Australia
- The Registrar or a Deputy Registrar of the Family Court of Western Australia
- A Registrar of the Federal Circuit Court of Australia
- A family consultant
- A family counsellor
- A family dispute resolution practitioner
- An arbitrator
- A lawyer independently representing a child's interests.

http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/fla1975114/s67za.html

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WHEN TO ACT?

Reporting child abuse requires a person to form a 'reasonable' belief that a child or young person has experienced abuse, is experiencing abuse or is at risk of harm.

A reasonable belief is formed if a reasonable person in the same position would have formed the same belief on the same grounds. Definitive proof or evidence that abuse has occurred, is occurring, or that a child or young person is at risk is not required and it is not appropriate to undertake an investigation.

A reasonable belief might be formed by one or more of the following:

- A child or young person discloses abuse
- Observing one or more physical and/or behavioural indicators of abuse
- A complaint or allegation is made about behaviour that compromises the safety, health or wellbeing of children or young people
- Witnessing behaviour that suggests that a child or young person is being harmed or at risk of abuse
- A child or young person reports that someone else is experiencing abuse (they may be referring to themselves)
- A perpetrator discloses that they are harming a child or young person
- A child or young person creates drawings or stories that involve themes or events involving abuse
- An adult discloses historical abuse that occurred when they were a child.

It is important to note that each concern, allegation or complaint that arises will vary. In some instances, we can immediately form a reasonable belief and proceed to make a report (e.g. a child has made a disclosure of abuse). In other instances, forming a reasonable belief may require careful observation and monitoring of the situation (e.g. observing possible indicators that may suggest that a child is experiencing abuse) over a period of time.

The disclosure of abuse can be a very difficult and emotionally challenging process for a child, young person or adult and needs to be handled sensitively and respectfully. See **INFORMATION SHEET: Responding to Disclosures** for useful information and guidelines for responding to disclosures in a supportive and effective manner.

All information relating to a concern, allegation or complaint is to be treated with sensitivity and the upmost confidentiality. Disclosing or sharing information with those not directly responsible for responding to a concern or allegation (e.g. gossip) may have serious consequences for the safety and wellbeing of those involved and the integrity of any future investigation (e.g. evidence may be destroyed, witnesses may be threatened or the alleged perpetrator may be 'tipped off'). Unauthorised breaches of confidentiality will result in disciplinary action.

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HOW DO WE REPORT A CONCERN, ALLEGATION OR COMPLAINT?

Making a child-safety related misconduct and/or child abuse report involves notifying statutory authorities and the Professional Standards Unit (PSU) of the Catholic Archdiocese of Melbourne in a timely manner (as soon as practicable after forming a reasonable belief, unless the child or young person is in imminent danger).

Immediate danger

If a child or young person is in imminent danger, a report to Victoria Police must be made immediately (phone '000').

Reports to statutory authorities can be made directly and/or with the assistance of an immediate supervisor or the PSU. The PSU can provide advice, support and information to assist any person making a disclosure and/or report.

All reports are to be documented on the **Child-safety Related Misconduct and/or Child Abuse Report Form** and emailed to the Professional Standards Unit – psu@cam.org.au – as soon as practicable.

The Professional Standards Unit (PSU) is responsible for coordinating child-safety related misconduct and/or child abuse reports in relation to the safety and wellbeing of children and young people and liaising with statutory authorities e.g. Victoria Police, Reportable Conduct Scheme – Commission for Children and Young People. See section - PSU's role in relation to reports of alleged child abuse.

All concerns, allegations or complaints of child-safety related misconduct and/or child abuse will be taken seriously, treated with sensitivity, and acted upon consistent with the Catholic Archdiocese of Melbourne's moral, ethical and legal obligations.

In Victoria, alleged child abuse perpetrated by:

- Clergy, employees and volunteers is reported to the sexual offences and child abuse investigation team (SOCIT) within Victoria Police
- Family members (or children) is reported to Child Protection - Department of Health and Human Services (DHHS).
- A child or young person is reported to Child Protection (DHHS) and/or the SOCIT (Victoria Police) (e.g. sexually harmful behaviour, aggression, violence, online exploitation).

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REPORTABLE CONDUCT SCHEME

The Catholic Archdiocese of Melbourne has a legal responsibility under the Reportable Conduct Scheme to report current and historical incidents of suspected child abuse (e.g. Physical, sexual, emotional abuse and neglect, grooming) or child-related misconduct of clergy, employees and volunteers to the Commission for Children and Young People (CCYP).

The CCYP provides independent oversight of an organisation's investigative response to allegations of child abuse and misconduct perpetrated by an employee or volunteer of an organisation. Under the scheme, reportable conduct will include allegations against clergy, workers or volunteers of child abuse and misconduct involving children and young people. See **INFORMATION SHEET: Reportable Conduct Scheme** - provides an overview of the Reportable Conduct Scheme.

VICTORIA POLICE

Sexual Offences and Child Abuse Investigation Team (SOCIT):

http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/fla1975114/s67za.html

CHILD PROTECTION (DHHS) REGIONS

Child Protection performs a range of functions including:

- Investigating matters where it is alleged that a child or young person is at risk of harm
- Referring families to services to support them to provide a safe and supportive environment for their children (e.g. Counselling, parenting support)
- Taking action to ensure the safety of children and young people.

When making a report to Child Protection, the reporting person may choose to identify themselves or make a report anonymously. Notifying family members that a report is being made, may in some cases, place the child or young person at further risk. It is advisable not to inform family members that a report is being made to Child Protection unless Child Protection has indicated it is safe to inform the family.

Welfare concerns

If a child does not appear to be experiencing abuse but there are significant concerns for their welfare (e.g. lack of food, significant relationship difficulties with their parents), a referral can be made to Child and Family Information, Referral and Support Teams (Child FIRST) located across Victoria.

Child and Family Information, Referral and Support Teams (Child FIRST) is a Victorian State Government initiative set up under the Children, Youth and Families Act 2005 (Vic) to support families when there are concerns about the wellbeing of a child. This service provides assistance to families in situations where the issues of concern have a low to medium impact on the child and where the immediate safety of the child is not compromised.

Child FIRST links families with relevant services to provide assistance with the care and wellbeing of children and young people.

Child FIRST

Contact details of a local Child FIRST provider can be located through:

<https://services.dhhs.vic.gov.au/referral-and-support-teams>

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- North and West (Metro): 1300 664 9777
- South: 1300 655 795
- East: 1300 360 391
- West (Rural): 1800 075 599

After-hours and weekends: 13 12 78

PROFESSIONAL STANDARDS UNIT

- Phone: 9926 5630
- Email: psu@cam.org.au

Please note:

If you are reporting this matter to your supervisor, it is important to consider whether your immediate supervisor is implicated in the alleged abuse that has taken place. If that is the case, report the matter directly to the PSU for advice and guidance.

Where an allegation involves a staff member of the Professional Standards Unit, the matter should be referred to the CAM Director of Human Resources to take the necessary action to report the matter to statutory authorities and/or organise an independent investigation of the matter.

Where the matter involves the Archbishop or bishop, procedures articulated in Motu Proprio “Vos Estis Lux Mundi” (Apostolic Letter of Pope Francis) will be activated with oversight from the Australian Catholic Centre for Professional Standards (ACCPs).

It is important to remember that the safety and wellbeing of the child, young person or adult making a disclosure takes priority over the interests of any other person or the parish, agency or entity.

RESPONDING TO HISTORICAL ABUSE

Where the allegation or complaint relates to historical abuse by or on behalf of someone who is now over 18 years of age but was under 18 years of age when the alleged abuse took place. It is important to note that as an adult, a survivor/victim can decide whether to report the matter to the Victoria Police. Reports in relation to historical abuse can be referred to SANO Taskforce of Victoria Police.

VICTORIA POLICE

The SANO Task Force investigates historical abuse that has occurred in religious and non-government organisations:

- Phone: 1800 110 007
- Email: sanotaskforce@police.vic.gov.au

The victim/survivor may also choose to report the matter to the PSU as CAM has legal obligations under the Reportable Conduct Scheme in relation to historical, as well as current incidents of abuse – see Reportable

The Archdiocese is committed to the safety, wellbeing and dignity of all children, young people and vulnerable adults.

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Conduct Scheme section. The victim/survivor can also make a direct report to the Reportable Conduct Scheme.

REPORTABLE CONDUCT SCHEME (CCYP)

Phone: (03) 8601 5281

Email: contact@ccyp.vic.gov.au

www.ccyp.vic.gov.au

Alternatively, a victim/survivor may choose to contact the following bodies in relation to redress:

- Melbourne Response deals with complaints of sexual and other abuse by priests, religious and lay persons in the Catholic Archdiocese of Melbourne. Mr Jeff Gleeson QC is the Independent Commissioner.
(03) 9225 6422
www.cam.org.au/Professional-Standards/Melbourne-Response
- National Redress Scheme (effective from the 1 July 2018) allows survivors of institutional child sexual abuse to seek redress.
1800 737 377
www.nationalredress.gov.au

PSU'S ROLE IN RELATION TO REPORTS OF ALLEGED CHILD-SAFETY RELATED MISCONDUCT AND/OR CHILD ABUSE

The Professional Standards Unit (PSU) is responsible for coordinating child abuse reports and liaising with statutory authorities. The PSU will be guided by the recommendations of Victoria Police and/or Child Protection in relation to any action that may be required to promote the safety of those involved and the integrity of future investigations.

The PSU will conduct a risk assessment to ensure the safety and wellbeing of the alleged victim (i.e. the child or young person), and the safety of others who may be at risk (e.g. the alleged perpetrator, other children and young people, family members, employees or volunteers). The risk assessment will inform action to be taken (e.g. alleged perpetrator may be suspended from their position until an investigation has been completed).

The safety and support needs of all parties involved in a report will be considered and addressed as part of this process e.g. counselling.

An investigation may be carried out by Victoria Police, if the matter meets the threshold for criminal investigation.

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The PSU will facilitate investigations:

- of criminal matters once Victoria Police has concluded its own investigation, to determine appropriate action in relation to the alleged perpetrator
- if the alleged misconduct does not meet the threshold for a criminal investigation but places the wellbeing and safety of children, young people and vulnerable adults at risk
- in accordance with the requirements of the Reportable Conduct Scheme – into behaviour, defined as ‘reportable conduct’ under the scheme.

The PSU will coordinate all investigations of alleged misconduct within CAM in relation to the safety and wellbeing of children, young people and vulnerable persons. Investigations into misconduct allegations will be conducted by an independent and qualified third party (e.g. Private investigation firm).

An investigation is comprised of an examination of a concern, complaint or allegation in relation to the safety of children and young people. The investigator(s) consults with witnesses and stakeholders to gather relevant information and evidence to determine whether on the balance of probabilities the alleged behaviour occurred. Confidentiality and privacy will be maintained during the investigation process, with information provided to those who have a right or need to be informed, consistent with the principles of natural justice and our duty of care to safeguard children and young people.

Following an investigation, an outcome is determined and recommendations are made. If an allegation is substantiated, recommendations may include disciplinary sanctions such as additional supervision, training or education, redeployment, adjustment of role duties or termination of employment or volunteering role.

In the case of clergy, disciplinary action will be considered in accordance with Canon Law and may include:

- pastoral supervision
- counselling
- suspension of faculties
- permanent removal of faculties
- recommendation to the Holy See for a penal precept or dismissal from the clerical state (laicisation)
- excommunication.

Confidentiality and privacy in relation to reports of child abuse will be maintained consistent with the principles of natural justice and our duty of care to safeguard children and young people.

The PSU will centrally record and monitor child-safety related misconduct and/or child abuse to provide the Archbishop with oversight in relation to the safety and wellbeing of children and young people across the Archdiocese. Records of complaints and allegations of abuse will be kept in their entirety by the PSU in a secure location with access restricted to the Archbishop and PSU personnel. These records will be kept for 100 years from the date of the allegation.

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CHILD-SAFETY RELATED MISCONDUCT AND/OR CHILD ABUSE REPORT FORM

All clergy, employees and volunteers have a duty of care to protect children and young people from harm and a moral, legal and ethical duty to effectively respond to and report all concerns, allegations or complaints of child abuse and/or misconduct which impacts the safety of children and young people.

Immediate danger

Please contact Victoria Police (phone '000') immediately if the child or young person is in imminent danger.

This form must be completed and submitted to the Professional Standards Unit (as soon as practicable after forming a reasonable belief) that misconduct or abuse may be occurring that places a child or young person is at risk of harm.

Please do not hesitate to contact the Professional Standards Unit, if you require any assistance.

- phone: 9926 5621 (Monday to Friday 9am–5pm)
- email: psu@cam.org.au



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Professional Standards Unit
psu@cam.org.au

