



MELBOURNE
GRAMMAR SCHOOL
AN ANGLICAN SCHOOL

Historical Sexual Abuse Policy

Purpose

Melbourne Grammar School (the School) will operate at all times with the health, wellbeing and welfare of all students in its care as a primary objective.

The School will comply with all relevant government legislation and standards, including the *Children, Youth and Families Act 2005 (Vic)*, the *Working with Children Act 2005 (Vic)*, *Child Safety and Wellbeing Act 2005 (Vic)*, the *Crimes Amendment (Protection of Children) Act 2014* and the Child Safe Standards. The School will comply with all relevant School policies, procedures and guidelines.

This policy outlines the broad considerations applicable when the School receives an allegation of historical sexual misconduct or abuse from or about a person, having occurred during their time at the School. It sets out the general procedures for responding to complaints and allegations of misconduct or abuse against current or former employees, contractors, volunteers or students, from or on behalf of former students.

Intent

The School will investigate all formal complaints related to allegations of sexual abuse of a past student, in a manner that is fully considerate of the physical and emotional needs of the complainant and/or past student and will manage and investigate all complaints with primary consideration being given to the health and wellbeing of the complainant and/or past student.

Definitions

In this policy context, the following definitions apply:

'Child' refers to any person under the age of eighteen years of age.

'Complainant' refers to a past student who makes a complaint about being sexually abused, or another member of the school community (e.g. other current or former student, staff member, contractor, volunteer), parent or a representative of a past student who wishes to report a complaint about the sexual abuse of that past student

'Sexual abuse' refers to sexual assault, exploitation or sexual harassment which is illegal. In relation to a child, it includes the use of a child by another person for his or her own sexual stimulation or gratification or for that of others.

'Sexual assault' means any intentional or reckless act, use of force or threat involving any form of sexual activity against a child.

'Sexual exploitation' means any form of sexual contact with another person, who is in a position of trust or authority, whether or not there is consent, and regardless of who initiated the contact or invitation.

'Sexual harassment' means unwelcome conduct of a sexual nature, whether intended or not, in relation to a student where that person feels offended, belittled or threatened.

'Sexual misconduct' captures a broader range of inappropriate behaviours of a sexual nature that are not necessarily criminal. Sexual misconduct refers to conduct that amounts to misconduct, is of a sexual nature, and occurred against, with, or in the presence of, a child.



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'Sexual offences' means non-consensual crimes such as rape or sexual assault, crimes against children including child sexual abuse or grooming, and crimes that exploit others for a sexual purpose, whether in person or online.

'De-identified information' refers to copies of reports, files, and information in which the individual identity of persons has been protected by redacting the names of individuals or other information about them that might cause them to be identified.

'Confidentiality' refers to the School's duty to protect and respect the privacy of complainants and other parties involved in any process or investigation carried out under this policy. Complainants are under no obligation to keep their complaint secret or confidential and the School acknowledges that they may disclose allegations to the Police or to other parties at any time.

'Designated person' refers to the person appointed to manage the complaint process. The Designated Person is responsible for ensuring that the process is as supportive as possible for all parties, that it is kept within acceptable and agreed timeframes, and considers what implications should be drawn from the complaint for the School.

The Designated Person is responsible for meeting with the complainant in the first instance, clarifying their complaint and the outcome they are seeking. They should ensure that appropriate support is available to the complainant to assist them in this process. The Designated Person will be the Headmaster in most circumstances. However, there may be circumstances where that is not appropriate and the responsibility would be assigned to another member of the School Executive, the Chair of School Council or an appropriate independent expert or agency in accordance with this Policy.

'Investigator' refers to any person appointed by the Designated Person to analyse the complaint, inquire into allegations made and to prepare a report with findings on the complaint. The enquiries must always be based on the principles of procedural fairness. The findings should as much as practicable be evidence based.

'Blind report' refers to a formal report made by the School to the Police, or other relevant authority, referring to allegations of a criminal nature made by a complainant, with or without the complainant's permission, which identifies the alleged respondent, but not the complainant.

'Reportable Conduct' the five types of 'reportable conduct'; are sexual offences, sexual misconduct, physical violence, behaviour that causes significant emotional or psychological harm and significant neglect.

'Reportable Conduct Scheme' the scheme which requires the School to respond to allegations of child abuse and child related misconduct made against Staff, to notify CCYP of those allegations, and enable CCYP to oversee the School's responses to these allegations.

Guiding Principles

Any past student has the right to make a complaint about any aspect of their School experience.

Complainants who raise allegations of a criminal nature will be advised of their right, and may be encouraged, to make a formal complaint to the Police or other appropriate authority. The School will always reserve its right to refer a complaint to the Police or other relevant authority, with or without the complainant's permission (e.g. via a blind report).

The School may need to notify the Commission for children and young people through the Reportable Conduct Scheme about the complainants allegations.



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All formal complaints will be taken seriously and will be addressed, and complainants responded to, in a timely manner. The School will offer the complainant access to the School's pastoral and counselling services, or other services as deemed appropriate, to assist and support the complainant throughout the process.

As far as it is in its power to do so and as is appropriate in the circumstances, the School will consider claims for reparation in cases where historical sexual abuse is found, on balance, to have occurred. Such reparations may include, but are not limited to, assistance with access to counselling or other support services, remedial actions to prevent reoccurrence of similar actions (if the risk remains) and or compensation and apologies.

Reparations may only be offered to the claimant, complainant or complainants with the approval of the School Council.

The School's processes, as set out in this Policy, will:

- be based on principles of procedural fairness for all parties
- treat complainants with respect, compassion and professionalism, rather than a legalistic approach
- be as open and transparent as possible, whilst respecting people's rights to privacy and confidentiality
- reflect a commitment to address past grievances and provide a pathway towards recovery, healing and justice
- endeavour to ensure staff maintain confidentiality and appropriate record-keeping
- consider the complainant's expressed wishes, gender, culture, language and accessibility, throughout the process
- respect the rights of the respondent with regard to untested allegations
- subject to privacy considerations, empower the School to release a relevant student file to the complainant, subject to redacting or removing material that would identify others (breaching the privacy rights of other persons)
- use de-identified information, where it is appropriate to do so, during the investigation
- where a crime appears to have been committed, encourage the complainant to report the matter to the Police or other appropriate authority. In addition, the School will act in accordance with its ethical and legal obligations. Relevant authorities (including the Victoria Police and/or the Victorian Institute of Teaching) will be notified, where such notification is mandated under law, or in circumstances where the School views this action as necessary to prevent further harm (e.g. where the alleged respondent is still employed by the School, or elsewhere).
To this extent, the School may not be able to provide an undertaking as to confidentiality to either the complainant or the respondent. The School will fully cooperate with any investigations undertaken by an Authority.
- provide pastoral care and support to the complainant throughout the process

It is generally expected that the Headmaster will take responsibility for receiving and resolving a formal complaint in accordance with this policy. However, there may be circumstances where the Headmaster's direct involvement would be inappropriate. These include:

- Where the complaint involves an allegation concerning the Headmaster or a close associate of the Headmaster. In this case, the matter should be directed to the Chair of School Council, or to the Head of Counselling Services or Senior Chaplain, who will immediately and confidentially refer it to the Chair of School Council. The Chair of School Council will ensure that the matter is handled appropriately and in accordance with the School's Child Safe policies. This includes selection of the Designated Person.



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- Where the complainant would be more comfortable in dealing with a member of the pastoral staff rather than the Headmaster. In this instance, the complainant will be referred to the Head of Counselling Services or the Senior Chaplain. The Headmaster must be informed of the complaint as soon as possible and remains accountable for ensuring an appropriate process. The Headmaster must in this situation also inform the Chair of School Council of the complaint. The Headmaster, in consultation with the Chair of School Council, will be responsible for the selection of a Designated Person, having regard to the complainant's wishes.

Accountabilities

- The Headmaster or Designated Person is responsible for ensuring that the School Council is informed of all findings and recommendations which result from complaint investigations.
- The Director of Business and Finance is responsible for providing summaries and statistics regarding such complaints to the School Council and School Executive.
- Any complaint about the management of a complaint by the Headmaster or Designated Person, can be referred to the Chair of School Council, or alternatively the Director of Human Resources or Senior Chaplain, both of whom must inform the Chair of School Council.

Receiving and Managing Complaints

The School will investigate all formal complaints that relate to sexual abuse that may have occurred to a past student while they were in the School's care.

- A formal complaint is a registration of dissatisfaction with the School, lodged verbally or in writing, by a past student or their representative. A complaint may be related to a specific episode or failure in provision of service that has resulted in an impact on an individual or group. A general expression of concern is not a complaint.
- A complaint may be made by a past student who suffered the alleged conduct, or their representative. Where the person making the complaint is not a past student, they must demonstrate that the past student has authorised them to make the complaint on their behalf, unless this involves a child as a complainant, being represented by a parent or legal guardian.
- A complaint may relate to the conduct of a current or past employee, contractor, volunteer, or student.
- The complaint will be managed with full regard to this Policy and/or the School's Child Safety and Wellbeing Policies and Procedures.
- In most instances, it is anticipated that the complainant would direct his or her complaint to the appropriate person as identified in this policy, which is publicly available.
- Should a complainant make initial contact via School reception, or a general member of staff, they should be referred to the Headmaster. However, should the complainant be reluctant, or unwilling to communicate with the Headmaster on the matter, they may be referred to the Director of Human Resources or the Senior Chaplain (at the option of the complainant), who will then proceed in accordance with the above Guiding Principles.
- The complainant will be referred to this Policy and/or the Child Safety and Wellbeing Policies and Procedures and will be encouraged to outline their complaint in writing if they have not already done so.
- The School will report the matter to relevant authorities as required under its Child Safe obligations.
- Subject to Privacy legislation, the School will provide the complainant with full access to, and copies of, any information and records that contain information about them and their time at the School.



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- The Designated Person will offer the complainant access to the School's pastoral support services, through the Head of Counselling Services, the School Chaplain, or an independent counselling service.
- Should the complainant decide that they do not wish to proceed with the complaint, the Designated Person will offer the complainant appropriate access to Melbourne Grammar School counselling services, or an independent counselling service for an agreed period, by way of follow-up to support any healing process.
- Where deemed appropriate by the School, the School may seek to proceed with an investigation after a complaint has been withdrawn by the complainant, particularly when the School holds any concerns for the welfare of any current or former students, or other members of the community, and/or in line with any Mandatory Reporting or Child Safe requirements.

Investigations

The School will investigate the allegations in all cases when a complaint has been formalised.

When the School is made aware, informally, of an allegation, e.g. via rumour or hearsay, it will record the specific details in writing, in so far as they can be ascertained. In deciding whether to investigate such matters further, the School will have regard to factors such as:

- the circumstances involved and whether further investigation is likely to lead to additional relevant information being obtained
- whether corroborative evidence exists (e.g. similar allegations have been made by other students against an alleged respondent)
- whether there is a reasonable belief that further harm could be done (e.g. the alleged respondent is still employed at the School or elsewhere)
- the potential impact on the former student or students allegedly abused

If it is determined, on reasonable grounds, that a complaint or informal allegation, rumour or hearsay is vexatious or frivolous, it will not be investigated further.

Process

The complaint will be referred in accordance with the above Guiding Principles. The person to whom it is

- referred will make the initial contacts and take relevant notes.
- The health and wellbeing of the past student is to be of key consideration at all times. Immediate access should be offered by the Designated Person to the complainant regarding access to pastoral support, such as the School's counselling or chaplaincy services.
- The School will, as far as possible, operate an investigative process that is considerate of, and sympathetic to the complainant's circumstances, health and wellbeing, and appropriate to the nature and circumstances of the complaint.
- As appropriate, the Designated Person will convene a meeting with relevant Senior Staff to plan any investigation and to record all relevant dates, details, names, and locations. The Designated Person may choose to use an independent investigator or agency to ensure an independent investigation process. As deemed necessary, Insurers will be informed and may become involved, if and when the School is on notice that a claim might be made, or a formal legal claim is made.
- All evidence will be collated by the Designated Person, who will discuss the outcome of the investigation and recommendations for further action with the Headmaster, the Chair of Council, and the School Council, as appropriate.



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- Findings of the investigation, and any decisions related to further actions to be taken as a result, will be explained clearly and relayed personally to the complainant at the end of the investigative process, by the Designated Person.
- Should there be grounds for criminal investigation, the complainant will be encouraged to refer the matter to the Police or, in the case of it being subject to any mandatory reporting requirements, the School will report the matter itself. The School may also decide to report the matter to Police as a 'blind report', if the complainant does not intend to report the matter, if permission for the School to provide the complainant's details is not given and/or the School holds ongoing concerns for the potential safety of others.

Further Information

Further information concerning any aspect of this policy may be directed to the Headmaster.

Relevant legislation and School Policies

- Children, Youth and Families Act 2005 (Vic)
- Education and Training Reform Act 2006 (Vic)
- Crimes Act 1958 (Vic)
- Crimes Act Amendment (Protection of Children) 2014
- Working with Children Act 2005
- Child Safety and Wellbeing Act 2005 and the Child Safe Standards
- Child Safety and Wellbeing Policy
- Child Safety Code of Conduct
- Child Safety and Wellbeing Procedure
- Staff Code of Conduct
- Child Safe Standards Human Resources Procedures
- Privacy Policy
- Record Keeping, Retention and Destruction Policy
- Whistleblower Policy