

# Guide to Reporting Conduct in Catholic Schools under the Reportable Conduct Scheme

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# 1 Scope

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## 1.1 Who is the Guide for?

This Guide to Reporting Conduct in Catholic Schools under the Reportable Conduct Scheme ('**Guide**') has been developed for:

- school principals and
- other school leaders with specific responsibilities for human resources, employment of staff and managing staffing matters; for example: deputy principals, business managers and human resource managers.

## 1.2 What is the purpose of the Guide?

The Guide has been prepared to assist schools to understand their obligations under the Reportable Conduct Scheme ('**RCS**') and aims to:

- give an overview of the scope of the RCS ([section 2](#))
- explain what matters need to be reported under the RCS ([section 3](#))
- explain what happens after a matter is reported under the RCS ([section 4](#), [section 5](#) and [section 6](#))
- answer common questions regarding the RCS ([section 7](#))
- provide a list of resources and contacts ([section 8](#) and [section 9](#) and [Appendix 2](#))
- provide illustrative examples of matters that may need to be reported under the RCS and explain what schools should do ([Appendix 3](#)).

## 1.3 What is the scope of the Guide?

While much of the information in the Guide is relevant to all Catholic schools in Victoria, it deals specifically with Catholic schools in the Diocese of Sale.

This Guide does not outline the processes in relation to parish employees, volunteers or contractors.

If you have a concern in relation to parish employees, you or the parish priest should contact the Parish Safeguarding and Professional Standards Officer for the Diocese of Sale on (03) 5614 5140 for advice and assistance.

## 2 The Reportable Conduct Scheme

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### 2.1 Background

Introducing minimum child safe standards and a reportable conduct scheme formed a key part of the Victorian Government's response to the [Betrayal of Trust Report](#) following the Parliamentary Inquiry into the Handling of Child Abuse by Religious and other Non-Government Organisations.

The Inquiry found that while the majority of children are safe in organisations, there are inadequate and inconsistent approaches to child safety in child-related organisations across Victoria.

The Betrayal of Trust Report contained 15 recommendations, which were all accepted by the Victorian Government. The recommendations were centred on three themes:

- Criminal Law Reform (three new criminal laws were introduced in 2014 and 2015)
- Prevention and Response (the Child Safe Standards and Reportable Conduct Scheme relate to this theme)
- Civil Law Reform (focused on redress schemes).

The reforms that followed the Betrayal of Trust Report, including the RCS, are strongly supported by Diocese of Sale Catholic Education Limited (**DOSCEL**) as positive initiatives to assist in ensuring the safety of students in our schools.

### 2.2 Overview

The RCS is established by the [Child Wellbeing and Safety Act 2005](#) (Vic.) (**Act**) and aims to implement a system of independent oversight into the responses of organisations to allegations of child abuse and neglect. The aim of the RCS is to identify people who are not suitable for work in a child related space and to restrict their involvement with children in the future.

The RCS covers organisations that exercise care, supervision and authority over children, including schools, hospitals, kindergartens and child care centres.

### 2.3 Commission for Children and Young People

The Commission for Children and Young People (**CCYP**) is responsible for administering the RCS. The intention of the RCS is for CCYP to be made aware of all allegations of certain types of employee misconduct involving children in organisations covered by the RCS.

The role of CCYP includes:

- supporting and guiding organisations that receive allegations in order to promote fair, effective, timely and appropriate responses
- independently overseeing, monitoring and, where appropriate, making recommendations to improve the responses of those organisations<sup>1</sup>.

Under the RCS, CCYP has the power to:

- receive allegations and findings of reportable conduct
- review an organisation's systems to prevent, notify and investigate reportable conduct
- provide oversight of workplace investigations
- investigate allegations in some circumstances
- refer findings to professional registration bodies and the Working with Children Check Unit
- build the capacity of organisations to respond to allegations of abuse
- report to Parliament on performance of the Scheme and trends.<sup>2</sup>

## 2.4 Head of Entity

The RCS places legal obligations on the 'Head of Entity'. Within the Diocese of Sale, the Head of Entity has been appointed by, and acts on behalf of, the Bishop. Ms Maria Kirkwood, Director of Catholic Education – Diocese of Sale and Chief Executive Officer – Diocese of Sale Catholic Education Limited, is the Head of Entity for all primary and secondary schools of the Diocese of Sale, regardless of the school's governance arrangement.

The Head of Entity may rely on the leadership of the school for gathering information in relation to a reportable allegation.

## 2.5 How does the RCS complement the Child Safe Standards?

Both the [Child Safe Standards](#) and the RCS aim to prevent and ensure appropriate responses to child abuse in organisations.

The Child Safe Standards aim to do this by driving cultural change in organisations, ensuring that protecting children from the risks of abuse is embedded in everyday thinking, operations and practice, including in all aspects of recruitment and human resources practices.

The RCS is focused towards an organisation's response to allegations of child abuse and sets up a scheme of independent oversight over the responses of organisations to ensure that schools (and other organisations) respond to allegations appropriately.

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<sup>1</sup> CCYP, ['Information Sheet 1: About the Victorian Reportable Conduct Scheme'](#) 21 March 2018, accessed 28 April 2020

<sup>2</sup> CCYP, ['About the Reportable Conduct Scheme'](#), accessed 28 April 2020

For further information on how the RCS and Child Safe Standards work together see CCYP 'Information Sheet 6: [Child Safe Standards and Reportable Conduct Scheme](#)' available from the CCYP website.

## 2.6 How does the RCS relate to other reporting requirements?

The RCS does not replace existing reporting requirements for the protection of children. Schools are still required or authorised by law to continue to report to, or share information with, for example:

- Victoria Police where criminal conduct has been committed or is suspected
- the Department of Families, Fairness and Housing (**DFFH**) in accordance with mandatory reporting obligations
- DFFH (Child Protection) if the child is considered to be in imminent danger of harm
- any government funding bodies as part of any funding and service agreement obligations
- other prescribed Information Sharing Entities (**ISEs**) under the Child Information Sharing Scheme (**CISS**) and Family Violence Information Sharing Scheme (**FVISS**). For more information about these schemes, see: DOSCEL Child and Family Violence Information Sharing Schemes Policy and Procedure, [Information Sharing and Family Violence Reforms Contextualised Guidance](#), [Child Information Sharing Scheme Ministerial Guidelines](#), [Family Violence Information Sharing Guidelines](#), and [Family Violence Multi-Agency Risk Assessment and Management Framework](#)
- the Victorian Institute of Teaching (**VIT**) in accordance with relevant requirements under the [Education and Training Reform Act 2006](#) (Vic.).

Schools should still operate in accordance with the PROTECT Protocol [Identifying and Responding to All Forms of Abuse in Victorian Schools](#), while also complying with the RCS. For more information on a school's reporting obligations, see CCYP 'Information Sheet 5: [Other reporting obligations](#)' available from the CCYP website.

## 3 Reporting and other obligations under the RCS

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### 3.1 Requirement to have systems in place

There are a number of requirements under the RCS. The first of those requirements is for the head of entity to have the following systems in place:

#### *A system for preventing reportable conduct*

This requires schools to take a systematic and preventative approach to keeping children safe and includes, for example, implementing child safe policies and systems of work.

#### *A system for enabling people to notify the Head of Entity of a reportable allegation*

This requires schools to have processes in place to enable staff and others to make a report about conduct that may be reportable conduct. In a school situation, the reporting line will generally be to the Head of Entity via the school principal. There should also be capacity for people to report directly to the Industrial Relations / Human Resources (**IR/HR**) Unit, DOSCEL, if the principal is involved in the reportable allegation (see section 3.5).

Whether the report is made to the principal, DOSCEL IR/HR Unit or other person, the reporting process should not be onerous and may include, for example, having a discussion in person, sending an email or making a telephone call. Schools should train staff on the relevant policies and processes including outlining what reportable conduct is and how to report.

Confidentiality surrounding the allegation and people involved in a report is of paramount importance. Care should be taken to protect the rights of individuals and safeguard the integrity of evidence.

#### *A system for enabling people to notify the CCYP of a reportable allegation involving the Head of Entity*

This means that school processes must permit people to notify CCYP directly where the conduct involves the head of entity. Schools should ensure that this point is covered in staff training as well as in school policies and processes.

#### *A system for investigating and responding to a reportable allegation against an employee*

Schools should have a process as to how they investigate and respond to allegations against staff, including for reporting matters to Victoria Police and other relevant authorities. For further information about the responsibilities of the head of an entity see CCYP 'Information Sheet 3: [Responsibilities of the head of an organisation](#)' available from the CCYP website.



### *DOSCEL Reportable Conduct Process*

In summary, the DOSCEL process for managing reportable conduct is as follows:

- STEP 1:** Principal to promptly seek assistance from DOSCEL IR/HR Unit.
- If the issue is about the principal, then enquiries can be made directly to the Executive Manager: IR/HR who will manage the matter.
- STEP 2:** Depending on the circumstances:
- the matter can be referred to Police immediately and the employee may be stood down and CCYP will be notified
  - preliminary enquiries can be made to obtain more information before determining the next steps
- STEP 3:** The Executive Manager: IR/HR will brief the Head of Entity about the matter.
- Where applicable, the *Managing Employment Concerns* process in the enterprise agreement will commence.
- STEP 4:** The Head of Entity will determine if there is a reasonable belief that there is a reportable allegation and will report the allegation to CCYP within three days.
- STEP 5:** The Head of Entity will appoint an appropriate Investigator to provide findings in relation to the reportable allegation.
- STEP 6:** The Head of Entity will consider the findings of the Investigator and determine if the matter is reportable conduct and any proposed further action.
- STEP 7:** The Head of Entity will provide a report to CCYP in relation to the findings

## 3.2 Reporting Requirements

The key obligation under the RCS is for the Head of Entity to report to CCYP any 'reportable allegations' involving an employee, volunteer or contractor of the Entity. The Head of Entity has three business days in which to notify CCYP of a reportable allegation (see section 4.2).

### *What is a 'reportable allegation'?*

A 'reportable allegation' is defined under the Act as:

'any information that leads a person to form a reasonable belief that an employee, volunteer or contractor has committed –

- reportable conduct; or
- misconduct that may involve reportable conduct –

- whether or not the conduct or misconduct is alleged to have occurred within the course of the person's employment'.

The different aspects of this definition are explained in paragraphs b) to g) below.

If you have a 'reportable allegation', it needs to be reported. However, it does not necessarily mean that the allegation will be found to be reportable conduct. It will depend on the individual circumstances and the outcome of the investigation.

Schools should also consider whether a request for information should be made or whether any information should be voluntarily provided to another ISE under the CISS or FVISS to promote the wellbeing and/or safety of the child or to help assess or minimise the risk of family violence.

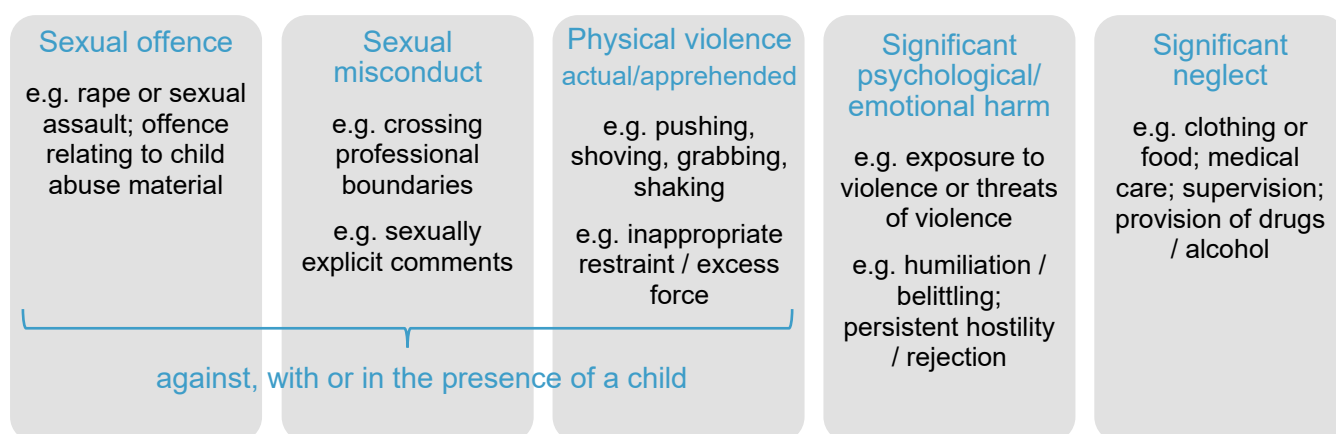
Schools are encouraged to use the terminology 'reportable allegation' unless a finding of reportable conduct has been made.

#### a). What is 'reportable conduct'?

Reportable conduct is defined in the Act to mean:

- a sexual offence committed against, with or in the presence of a child, whether or not a criminal proceeding in relation to the offence has been commenced or concluded; or
- sexual misconduct committed against, with or in the presence of a child; or
- physical violence committed against, with or in the presence of a child; or
- any behaviour that causes significant emotional or psychological harm to a child; or
- significant neglect of a child.

Each of these categories is discussed in further detail below (see section 3.3).



b). What is 'misconduct that may involve reportable conduct'?

The head of entity must report to CCYP, as a reportable allegation, misconduct that may involve reportable conduct. Misconduct is generally considered to be a departure from the accepted standards of the role; that is behaviour that breaches a professional code of conduct or workplace expectation. Misconduct may include conduct that is wrongful, improper or unlawful.

Only those instances of misconduct that may involve reportable conduct need to be reported to CCYP. Many forms of employee misconduct will be unrelated to reportable conduct. For example, an employee speaking aggressively to colleagues in the staff room or an employee stealing school property.

However, there will be circumstances where an employee has committed misconduct and it appears that their behaviour may involve reportable conduct (i.e. may involve a sexual offence, sexual misconduct or physical violence committed against, with or in the presence of a child; behaviour causing significant emotional or psychological harm; or significant neglect).

An example of a reportable allegation that fits within this category is where a principal receives a complaint that a teacher has contacted and met with students outside of school, without any proper professional basis for doing so, and without the approval or awareness of the principal. This behaviour is likely to amount to misconduct and it may involve reportable conduct. The matter would therefore need to be discussed with the CEOSale IR/HR Unit as a potential reportable allegation.

c). What is a 'reasonable belief'?

A reportable allegation is made where a person makes an allegation, based on a 'reasonable belief' that an employee has committed reportable conduct (or misconduct that may involve such). The threshold for forming a reasonable belief is low. CCYP has advised that reasonable belief 'is more than suspicion'. There must be some objective basis for the belief. However, it is not the same as having proof and does not require certainty<sup>3</sup>.

It is important to be aware that the head of entity is **obliged to** report allegations to CCYP (and principals/school leaders should facilitate such reporting through the CEOSale IR/HR Unit) even if they did not witness the conduct and even in circumstances where they do not share the person's belief that the conduct has occurred.

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<sup>3</sup> CCYP, 'Information Sheet 2: What is reportable conduct?' 2017, accessed 25 July 2018  
<https://ccyp.vic.gov.au/assets/resources/RCSInfoSheetUpdates/FINALPDF-Information-Sheet-2-What-is-reportable-conduct.pdf>

Given that the threshold of 'reasonable belief' is low, principals are encouraged to contact the CEOSale IR/HR Unit as soon as practicable for further advice in any circumstances where they believe that a matter may be reportable.

A fundamental principle of the RCS is that the voice of a child or student should be valued. As such, the fact that an adult says the conduct did not occur, is no reason not to report a reportable allegation.

#### d). Who is classed as an 'employee'?

The RCS covers all 'employees' of a relevant organisation. The definition of employee under the RCS is broad. 'Employee' means people aged 18 years or over who are:

- employees
- persons engaged by the entity such as volunteers, contractors, office holders, school board members and officers of a religious body
- members of the DOSCEL Board.

These people are classed as 'employees' for the RCS irrespective of whether they are employed or engaged to provide services in connection with any work or activities that relate to children. This means the RCS applies to persons employed or engaged in schools even if they are not engaged to work in direct contact with children e.g. administration staff, cleaners.

For further information on who is an 'employee' and specific examples relating to volunteers see CCYP 'Information Sheet 1: About the Reportable Conduct Scheme' available from the CCYP website: <https://ccyp.vic.gov.au/assets/resources/About-the-Reportable-Conduct-Scheme.pdf>.

The definition of 'employee' under the RCS is very broad and may arguably extend to people performing work under a labour-hire arrangement as an agency worker or subcontractor. If in doubt, it is recommended that principals contact the CEOSale IR/HR Unit for advice as to whether a specific person is considered an 'employee' of the school under the RCS.

#### e). Conduct outside of employment

Another key aspect of the RCS is that it covers any conduct/misconduct by an employee or a volunteer that occurs in relation to a child, whether or not that child is a student at the school, and whether or not the conduct occurs in the course of the person's employment.

For example, if a principal becomes aware of a reportable allegation in relation to a teacher of the school, but the conduct occurred in the course of that person's role as a football coach at the local football club, then it must still be referred to the CEOSale IR/HR Unit for report to CCYP. This will be so regardless of whether any children concerned are students of the school. The key point is that the obligation arises because the teacher is an employee of the school.

f). Conduct prior to 1 July 2017

If a matter occurred prior to the commencement of the RCS on 1 July 2017 but the allegation is made after 1 July 2017, the principal must refer the matter to the CEOSale IR/HR Unit. However, any reportable matters which were raised and handled prior to 1 July 2017 do not need to be reported again under the RCS (unless additional information is received).

### 3.3 Types of reportable conduct

a). What is a 'sexual offence'?

The RCS covers sexual offences committed against, with or in the presence of a child. Under the RCS, a sexual offence is an offence listed in clause 1 of schedule 1 of the *Sentencing Act 1991* (Vic.). Sexual offences in Victoria include:

- sexual assault
- being involved in the production of child abuse material (e.g. child pornography)
- encouraging a student to be involved in a sexual activity
- possession of child abuse material (e.g. child pornography)
- facilitating sexual offences against children
- grooming a child in order to commit a sexual offence
- using internet, emails, mobile phone to groom a child.

A person does not need to be charged with, or found guilty of, a sexual offence for their behaviour to be reportable conduct.

b). What is 'sexual misconduct'?

Reportable conduct includes sexual misconduct committed against, with or in the presence of a child. Sexual misconduct captures a broad range of inappropriate behaviours of a sexual nature that are not necessarily criminal. Under the RCS, sexual misconduct may include physical contact, speech or other communication of a sexual nature, inappropriate touching, voyeurism and grooming a child in order to commit a sexual offence.

Examples of sexual misconduct include:

- inappropriate discussions of a sexual nature with a student
- sexually suggestive acts or gestures in front of a student
- developing a relationship of a sexual nature with a student
- inappropriate personal communication with a student that explores intimate personal/sexual feelings
- inappropriate touching between adults in the presence of a student.

In deciding whether alleged conduct is sexual misconduct, CCYP has advised organisations to consider whether that conduct:

- amounts to misconduct (i.e. a departure from the accepted standards of the role)

- is of a sexual nature (having regard to the area of the body involved in the contact, whether one of the reasons for the conduct was sexual arousal/gratification and whether the conduct was overly personal or intimate)
- occurred against, with or in the presence of a child.<sup>4</sup>

For further guidance see CCYP 'Information Sheet 9: Sexual misconduct under the Reportable Conduct Scheme' available from the CCYP website:

<https://ccyp.vic.gov.au/assets/resources/RCSInfoSheetUpdates/Information-Sheet-9-Sexual-misconduct-29.11.22.pdf>.

#### c). What is 'physical violence'?

The RCS covers physical violence against, with or in the presence of a child. There are two types of physical violence under the RCS:

1. actual physical violence and
2. apprehended physical violence.

**Actual physical violence** is where a person intentionally or recklessly uses physical force against, with or in the presence of a child without a lawful reason, which has the **ability to cause injury or harm** to the child<sup>5</sup>. Actual physical violence can include but is not limited to:

- scratching / pushing / shoving / hitting / kicking
- grabbing / throwing / shaking / pulling / hair-pulling / dragging
- using an object to hit or harm a student
- inappropriate restraint or use of strength against a student (excessive force).

**Apprehended physical violence** is where a person intentionally or recklessly engages in conduct or behaviour against, with or in the presence of a child that is capable of **causing a child to think that physical force is about to be used** against them or another person. An example of apprehended physical violence is a staff member angrily punching the wall next to a child's head causing the child to fear they were about to be punched<sup>6</sup>.

Physical violence does not include 'lawful reasons' for physical contact. Such lawful reasons may include for example:

- reasonable steps taken to protect a child from immediate harm, such as taking a child's arm to stop them from going into oncoming traffic
- reasonable steps taken by a teacher to protect themselves, a student or others from immediate harm, such as touching a student to break up a fight.

For further guidance see CCYP 'Information Sheet 10: Physical violence under the Reportable Conduct Scheme' available from the CCYP website:

<sup>4</sup> CCYP, 'Information Sheet 9: Sexual misconduct under the Reportable Conduct Scheme' 2018, accessed 25 July 2018 <https://ccyp.vic.gov.au/assets/resources/RCSInfoSheetUpdates/FINALPDFv2Information-Sheet-9-Sexual-Misconduct.pdf>.

<sup>5</sup> CCYP, 'Information Sheet 10: Physical violence under the Reportable Conduct Scheme' 2018, accessed 25 July 2018 <https://ccyp.vic.gov.au/assets/resources/RCSInfoSheetUpdates/Information-Sheet-10-Physical-violence-21.05.18.pdf>.

<sup>6</sup> Ibid.

Our school leaders work towards creating a climate where positive behaviour is explicitly taught and reinforced and prevention approaches are emphasised. However, there are times when physical or other exceptional interventions may be necessary for safety reasons.

Restraint and seclusion must not be used except in an emergency situation that satisfies the following three conditions:

1. The student's behaviour poses an imminent threat of physical harm or danger
2. The action is reasonable in all the circumstances
3. There is no less restrictive means of responding in the circumstances.

The restraint or seclusion should be discontinued as soon as the immediate danger has passed.

Using restraint or seclusion in any other circumstances could amount to reportable conduct. For example, inappropriate restraint could amount to physical violence. Depending on the circumstances, inappropriate use of seclusion could be significant neglect of a child or behaviour that causes significant emotional or psychological harm to a child.

Catholic schools in the Diocese of Sale draw upon the CECV Guidelines titled Whole-School Approaches to Supporting Positive Student Behaviour for direction on when it is and is not appropriate to use any form of restraint or seclusion involving a student. Schools should familiarise themselves with this publication and ensure staff are appropriately trained.

d). What is 'behaviour that causes significant emotional or psychological harm'?

Reportable allegations of significant emotional or psychological harm can be difficult to assess as:

- the alleged behaviour of the person must be identified
- there must be a link between the alleged behaviour and the harm to the student
- the harm must be significant.

Examples of behaviour that may cause significant emotional or psychological harm include severe or sustained instances of:

- verbal abuse
- coercive or manipulative behaviour
- hostility towards, or rejection of, a child
- humiliation, belittling or scapegoating.<sup>7</sup>

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<sup>7</sup> Commission for Children and Young People, 'Information Sheet 2: What is reportable conduct?' 2017, accessed 25 July 2018 <https://ccyp.vic.gov.au/assets/resources/RCSInfoSheetUpdates/FINALPDF-Information-Sheet-2-What-is-reportable-conduct.pdf>.

In considering whether there is a link between the alleged conduct and harm to the student, schools should consider whether the student would have been harmed if the alleged conduct had *not* occurred.

CCYP has stated that emotional or psychological harm may also be caused where an existing mental health disorder, such as anxiety or depression, has been exacerbated.<sup>8</sup>

'Significant' is defined in the Act to mean '*more than trivial or insignificant but need not be as high as serious and need not have a lasting permanent effect*'. CCYP has also provided guidance that the harm must be more than trivial or temporary.<sup>9</sup>

Schools should be aware of signs that suggest a student may have been significantly emotionally or psychologically harmed, including:

- suicidal action, suicidal ideation, or self-harm
- patterns of out-of-character, self-destructive, antisocial or anxious behaviour
- ongoing sleep disturbance, nightmares or bedwetting
- regression in behaviour.<sup>10</sup>

For a matter to be a reportable allegation, schools do not need to have medical information or a medical assessment (although a medical assessment may assist and form part of the investigative process discussed below).

In a school environment, staff who are struggling to manage students or understand their educational needs, may be exposed to reportable allegations if these concerns are not addressed and the staff member is not supported. Improving practice, differentiation and regular professional conversations are vital to avoid emotional or psychological harm to students.

#### e). What is 'significant neglect'?

Neglect of a child occurs when an employee does not meet their obligations and responsibilities to keep a child safe and well. Neglect can cover a range of different types of conduct, including failure to adequately shelter, clothe, or provide food, medical care or supervision. It may also include the provision of drugs and alcohol. In a school context, a key concern is supervisory neglect, which is inattention or lack of supervision which places a student at risk of physical harm or injury or allows abuse.

'Significant' has the same meaning as above, that is, '*more than trivial or insignificant, but need not be as high as serious and need not have a lasting permanent effect*'.

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<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.



### 3.4 What conduct is not reportable?

For a matter to be reportable, it must fall within the definition of a 'reportable allegation' in section 3.2. A reportable allegation does not include, for example:

- allegations made by a student against another student
- allegations made against a parent of a student at the school (unless the parent is otherwise an employee or volunteer of the school)
- misconduct that does not include any aspect of reportable conduct
- physical contact that is lawful behaviour, such as reasonable steps taken by a teacher to protect a student from immediate harm (e.g. touching a student to break up a fight)
- any conduct/misconduct that was being dealt with by the school before the introduction of the RCS on 1 July 2017.

Where it is possible that conduct has occurred that falls outside the definition of a 'reportable allegation', consideration should still be given to whether a request for information should be made or whether any information should be voluntarily provided to another ISE under the CISS or FVISS.

If principals are unsure whether alleged conduct amounts to a reportable allegation, they are advised to contact the CEOSale IR/HR Unit for advice as soon as practicable. Even if the allegation is not reportable, concerns about conduct or performance should be addressed and may need to be managed in accordance with the enterprise agreement.

### 3.5 What if the principal or head of entity is the subject of the reportable allegation?

Schools should have processes in place to ensure people know how to report allegations involving the school principal or head of entity. In general,

- if a reportable allegation involves the principal, a person may report the matter directly to the CEOSale IR/HR Unit
- if a reportable allegation involves the head of entity, a person may report the matter to the principal or the CEOSale IR/HR Unit
- alternatively, a reportable matter can be reported directly to CCYP.

Where the principal or head of entity is involved in the allegation, as with any other case, the CEOSale IR/HR Unit is able to discuss the circumstances and provide advice to the appropriate person representing the school. Contact should be made with the CEOSale IR/HR Unit for advice on specific circumstances.

### 3.6 I think I have a reportable allegation; what do I do?

Below are the steps you should take as principal if you have a potential reportable allegation. The steps are in general order of priority, but the guidance below may change depending on the circumstances.

What if a student or another child informs you of a reportable allegation?	What if a staff member or another adult informs you of a reportable allegation?
1. The first step should always be to ensure the student/child is safe.	
<p>2. When speaking with a child or young person, it is important to remember that if they have decided to speak to you, then there is a good chance they trust you.</p> <ul style="list-style-type: none"> <li>• Give the child or young person your full attention.</li> <li>• Listen calmly and empathically.</li> <li>• Reassure the child or young person that it is right to tell.</li> <li>• Accept the child or young person will disclose only what they are comfortable disclosing and recognise the bravery/strength of the child for talking about something that is difficult.</li> <li>• Let the child or young person take his or her time.</li> <li>• Let the child or young person use his or her own words. Do not use leading questions.</li> <li>• Don't make promises you can't keep.</li> <li>• Do not be judgmental.</li> </ul> <p>3. Tell the child or young person what you plan to do next.</p>	<p>2. Thank the individual for bringing the allegation to your attention. Offer them support and assistance as necessary. If they are a staff member, where available, refer them to the Employee Assistance Program.</p> <p>3. Explain to the person making the report that the school will manage the concern confidentially and to protect all parties they should not discuss the matter.</p>
<p>4. Take a moment to make a record of the allegations. If appropriate, use the PROTECT template: <a href="#">Responding to Suspected Child Abuse: A Template for all Victorian Schools</a>. You may also use the template record in Appendix 1 and/or make a note in your diary. If a staff member, parent or other adult was present, ask them to make a record as well.</p> <p>5. Consider whether you need to refer the matter to Victoria Police or DFFH (see Appendix 2 – Useful Contact Numbers).</p> <p>If necessary, report the matter in accordance with the actions documented in the PROTECT protocol: <a href="#">Four Critical Actions: Identifying and Responding to all Forms of Child Abuse in</a></p>	

[Victorian Schools](#) and the [Four Critical Actions for Schools: Responding to Incidents, Disclosures and Suspicions of Child Abuse](#), using the PROTECT template.

6. Consider whether a request for information should be made or whether any information should be voluntarily provided to another ISE under the CISS or FVISS.
7. If relevant, notify the child's parents following advice in the PROTECT protocol.
8. As soon as practicable, contact the CEOSale IR/HR Unit for advice (including advice as to whether the alleged conduct is reportable), support and assistance to discuss the circumstances.
9. If the matter does involve a reportable allegation, the CEOSale IR/HR Unit will notify the CCYP with authorisation from the head of entity.
10. Conduct a risk assessment with the assistance of CEOSale IR/HR Unit resources, to determine any measures that should be put in place to manage the person against whom allegations have been made and to protect the student(s)/child(ren) against whom reportable conduct may have occurred.

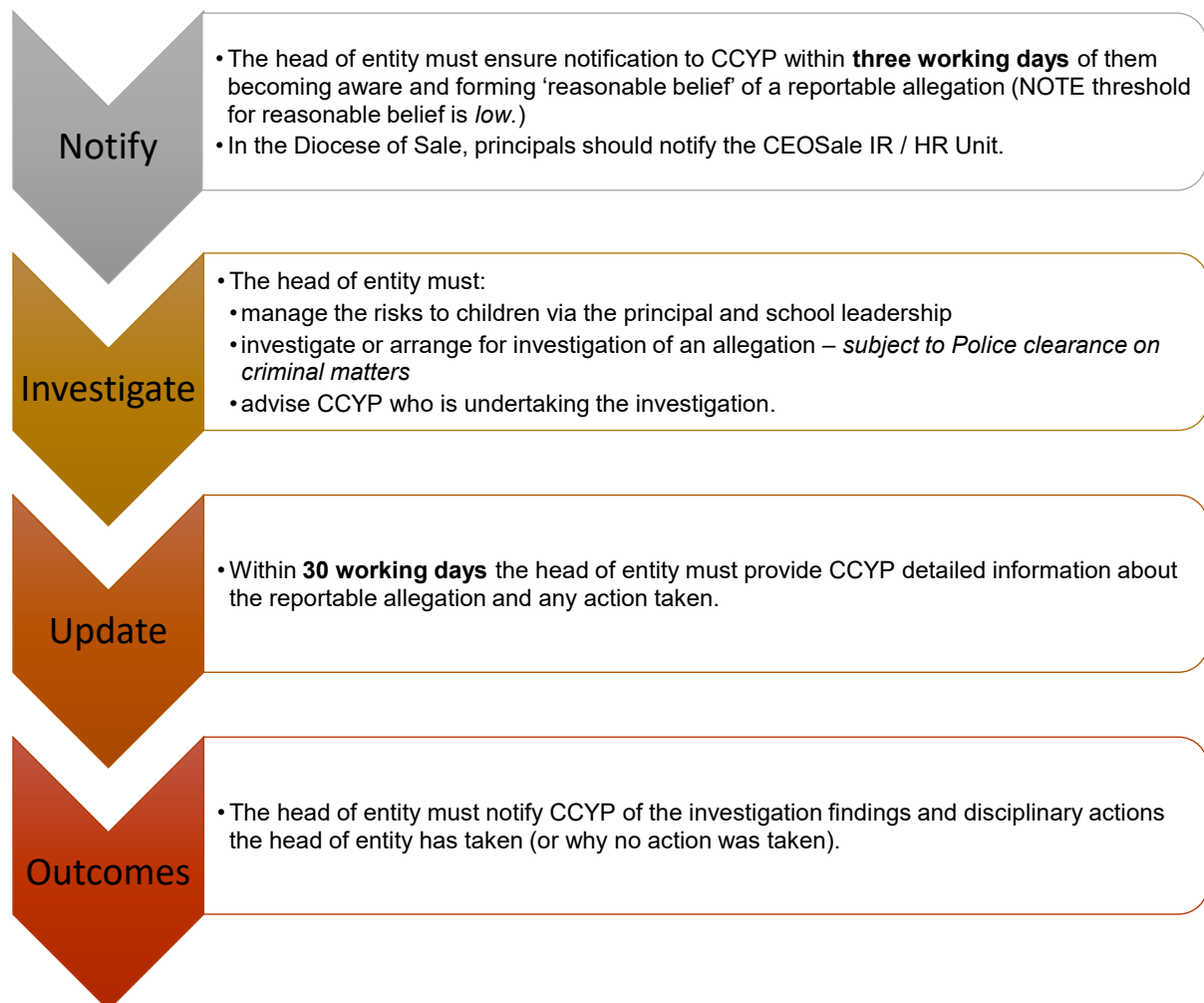
If you think you have a reportable allegation, it is important that you:

- Do not say or do anything to suggest to the student that you doubt them or make them feel ashamed to have revealed the allegation.
- Do not start investigating the allegation, including unnecessarily questioning the student or speaking with the person who is the subject of the allegation. This is because without conducting a risk assessment, you may be putting the student, the staff member, the school or the investigation at risk.

## 4 Reporting to CCYP

### 4.1 Overview

The diagram below summarises the process from the time the head of entity notifies CCYP of a reportable allegation.<sup>11</sup>



<sup>11</sup> Diagram adapted from Commission for Children and Young People, 'Information Sheet 1: About the Victorian Reportable Conduct Scheme' 2017, accessed 25 July 2018 <https://ccyp.vic.gov.au/assets/resources/About-the-Reportable-Conduct-Scheme.pdf>

## 4.2 What is the timeframe for reporting?

The head of entity must notify CCYP of a reportable allegation within *three business days* of the head of entity becoming aware of the reportable allegation.

For schools, it is important to note that the three business days **are not** necessarily the same as the school days of business. For example, if a principal becomes aware of a reportable allegation on the last Friday of term, it must be promptly reported to the CEOSale IR/HR Unit, but the 'three days' requirement won't come into effect until the head of entity is informed.

Given the tight timeframe, principals are advised to contact the CEOSale IR/HR Unit for advice as soon as practicable after becoming aware of a potential reportable allegation.

## 4.3 Initial information to be given to CCYP

CCYP requires specific information when a matter is first reported, including:

- the name of the person against whom an allegation has been made (including alias or former name)
- the date of birth of the person against whom an allegation has been made
- whether the matter has been reported to Victoria Police
- the name, address and telephone number of the school
- the name of the head of entity.

## 4.4 Updates to CCYP

After the initial notification to CCYP, there are several points at which the head of entity must provide updates or additional information to CCYP.

### a). Notification of investigator

As soon as practicable, the head of entity must advise CCYP of the name of the person conducting the investigation and their contact details.

### b). 30 calendar day update

As soon as practicable and within 30 calendar days after becoming aware of the reportable allegation, the head of entity must provide a further notification to CCYP that includes:

- detailed information about the reportable allegation
- whether any disciplinary or other action, or no action, has been taken in relation to the employee and reasons
- any written submissions made by the employee about the allegation or disciplinary action.

If the matter is not resolved within 30 days, the head of entity should continue to provide updates to CCYP.

c). Notification of outcome of investigation

As soon as practicable after the investigation has concluded, the head of entity must provide a copy of the investigation report to CCYP. The investigation report should include the findings and reasons for the findings.

d). Disciplinary or other actions

As soon as practicable after the investigation has concluded, the head of entity must provide CCYP with details of any disciplinary or other action proposed to be taken and reasons why or, if no such action is proposed, the reasons why not.

e). Additional documents

CCYP may also require the head of entity to provide it with additional documents or information at other times.

## 4.5 Role of CCYP in relation to investigations

In relation to investigations, the CCYP has powers to:

- oversee the investigation
- disclose information about the investigation to children, parents and carers
- conduct their own investigation into reportable allegations
- investigate whether the reportable allegations have been inappropriately handled or responded to
- make recommendations to schools following a CCYP investigation into reportable allegations or into a school's handling of the investigation
- refer investigation findings and reasons for findings to VIT, the Department of Justice (for Working with Children Checks) or other regulators.

## 4.6 Role of VIT

Under the RCS, on becoming aware that a registered teacher is the subject of a reportable allegation, CCYP must notify VIT.

VIT has the power under the *Education Training and Reform Act 2006* (Vic.) to conduct their own investigation into the alleged reportable conduct if they deem it necessary.

VIT may suspend a teacher's registration if the Institute reasonably believes that the person poses an unacceptable risk of harm to children and that the suspension is necessary to protect children.

VIT may write to a school to seek further information relating to the reportable allegation to determine if they deem further action needs to be taken in respect to the matter.

The CEOSale IR/HR Unit is able to assist schools with their response to VIT.

## 5 Conducting an investigation

### 5.1 Requirement to investigate

Under the RCS, as soon as practicable after becoming aware of a reportable allegation against an employee, the head of entity must initiate an investigation. The investigation into the allegation will be conducted by a trained investigator from DOSCEL or by an external contractor.

### 5.2 Police investigations have priority

If the alleged conduct is criminal in nature, a Victoria Police investigation will have priority. This means that if a Victoria Police investigation is being conducted, the head of entity must wait until Victoria Police has completed their investigation before commencing.

### 5.3 Before commencing an investigation

#### Risk assessment

Before commencing an investigation, the principal in conjunction with the CEOSale IR/HR Unit must arrange for a risk assessment to be undertaken. The risk assessment examines what steps should be taken to appropriately ensure child safety, i.e. what will the arrangements be for the person against whom allegations have been made and for the students/children involved?

The CEOSale IR/HR Unit has resources to assist schools to conduct a risk assessment to determine what measures will be appropriate in the circumstances. This will consider the risks to the students/children involved, other students, the person against whom allegations have been made and how the investigation process can be best managed. Schools must seek advice from the CEOSale IR/HR Unit on the appropriate steps to be put in place.

#### Risk Assessment Template

RISK DESCRIPTION	EXISTING CONTROLS	RATING			TREATMENT
<i>Describe the risk event, cause/s and consequence/s. For example, Something occurs ... caused by ... leading to ...</i>	<i>Describe any existing policy, procedure, practice or device that acts to minimise a particular risk</i>	<i>Effectiveness of existing controls</i>	<i>Risk Consequences</i>	<i>Risk Likelihood (What is the likelihood if you are satisfied with existing controls?)</i>	<i>For those risks requiring treatment in addition to the existing controls. List:</i> <ul style="list-style-type: none"><li><i>What will be done?</i></li><li><i>Who will do it?</i></li><li><i>When will it be done?</i></li></ul>



## Risk Assessment Calculator

Use the table below to decide the overall risk rating and represent the priority of each risk for treatment.

		Impact				
		Negligible	Minor	Moderate	Significant	Severe
Likelihood		Very small impact. Rectified by normal processes	Easily remedied. With some effort the objectives can be achieved	Some objectives affected. Considerable effort to rectify	Most objectives threatened, or one severely affected	Most objectives may not be achieved, or several severely affected
<b>Very Likely</b>	Event expected to occur most times (e.g. >90% chance)	Medium	High	Very High	Very High	Very High
<b>Likely</b>	Will probably occur at some stage based on evidence of previous incidents (e.g. Between 50% and 90% chance)	Medium	Medium	High	Very High	Very High
<b>Possible</b>	Not generally expected to occur but may under specific circumstances (e.g. Between 10% and 50% chance)	Low	Medium	Medium	High	Very High
<b>Unlikely</b>	Conceivable, but not likely under normal operations. No previous incidents (e.g. Between 3% and 10% chance)	Low	Low	Medium	Medium	High
<b>Very Unlikely</b>	Only ever occurs under exceptional circumstances (e.g. < 3% chance)	Low	Low	Low	Medium	Medium

## Managing Employment Concerns under the Enterprise Agreement

Importantly, when investigating under the RCS, employers must still comply with the requirements of the enterprise agreement for employees. This may be necessary if concerns exist regarding the conduct of an employee which would warrant taking any of the actions set out in the enterprise agreement (i.e. issuing a warning, implementing an employee improvement plan, removing a position of leadership or terminating employment). Note that the enterprise agreement does not apply to independent contractors, volunteers or other categories of people covered by the RCS.

By following the process outlined in the enterprise agreement, schools will also be complying with the obligations under the RCS to:

- provide procedural fairness
- provide support to an employee against whom an allegation has been made
- ensure the collection of relevant information
- consider all of the relevant issues.

Under the RCS, allegations must be appropriately investigated. This means that in some cases, an external investigator will be appropriate, though this will not always be necessary. The Executive Manager: IR/HR will recommend to the head of entity whether a DOSCEL investigator can be appointed, or whether it is necessary to refer an investigation to an independent external investigator.

When considering who will investigate consideration should include:

- the experience and availability of staff
- conflicts of interest
- the time it will take to investigate
- the seriousness of the allegations
- the number of witnesses including whether students will need to be interviewed.

## 5.4 Standard of proof

The outcome of an investigation will be based on clear and cogent evidence and not guesswork, suspicion or rumour.<sup>12</sup>

The standard of proof for substantiating allegations of reportable conduct is 'the balance of probabilities'. This means that in order for an investigator to make a finding that alleged conduct is 'substantiated', the investigator must form the view that, on the basis of available evidence, on balance, it is 'more probable than not' that the alleged conduct occurred. The balance of probabilities test is not purely a mechanical comparison of mathematical probabilities but requires the investigator to be 'reasonably satisfied' that the conduct occurred.<sup>13</sup>

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<sup>12</sup> New South Wales Ombudsman, 'Making a finding of Reportable Conduct' 2017, accessed 25 July 2018 [https://ocg.nsw.gov.au/sites/default/files/2022-02/fs\\_rc\\_making\\_finding\\_reportable\\_conduct.pdf](https://ocg.nsw.gov.au/sites/default/files/2022-02/fs_rc_making_finding_reportable_conduct.pdf)

<sup>13</sup> This approach stems from the High Court decision of *Briginshaw v Briginshaw* (1938) 60 CLR 336.

The more serious the wrongdoing, the more care the decision maker must exercise when deciding whether they are satisfied that the conduct is substantiated.<sup>14</sup> This means that in cases which examine serious allegations, the person investigating will need to closely consider the evidence to be satisfied that the evidence is strong enough to substantiate the allegations on the balance of probabilities. This approach has been described as the 'rule of prudence'. It requires investigator findings as 'calling for considerable caution before being made and for care being exercised in respect to the evidence upon which the finding is made.'<sup>15</sup>

## 5.5 Investigation – possible findings

The aim of an investigation is for the investigator to make findings, on the balance of probabilities, as to whether the alleged conduct did or did not occur and whether this amounts to reportable conduct (i.e. what actually happened and does it fit the definition of 'reportable conduct?'). This will not only involve a finding that alleged conduct is substantiated or otherwise but also an indication as to the reasoning behind this conclusion (see the five possible findings below).

In the context of reportable conduct, five possible findings are available to an investigator. They are explained in the table below.

POSSIBLE INVESTIGATION FINDINGS <sup>16</sup>	
Substantiated	This finding will be used when a decision maker has decided that the reportable conduct has been proven to have happened on the balance of probabilities. <b>The evidence suggests it is more likely than not the reportable conduct happened because there is reliable and convincing evidence of weight.</b>
Unsubstantiated – insufficient evidence	This finding will be used when there was some evidence of weight to support the allegation, but not enough for the decision maker to make a substantiated finding. <b>The evidence does not suggest that it is more likely than not that the reportable conduct happened.</b>
Unsubstantiated – lack of evidence of weight	This finding will be used when there is not enough evidence to properly investigate the allegation, or the small amount of evidence available is contradictory or confusing. <b>There is not enough evidence to establish whether the reportable conduct did, or did not happen.</b>

<sup>14</sup> New South Wales Ombudsman, 'Making a finding of Reportable Conduct' 2017, accessed 25 July 2018

[https://ocg.nsw.gov.au/sites/default/files/2022-02/fs\\_rc\\_making\\_finding\\_reportable\\_conduct.pdf](https://ocg.nsw.gov.au/sites/default/files/2022-02/fs_rc_making_finding_reportable_conduct.pdf)

<sup>15</sup> Sullivan v Civil Aviation Safety Authority [2014] FCAFC 93 at 111.

<sup>16</sup> CCYP 'Information sheet 8: Investigation findings' 2018, accessed 25 July 2018, <https://ccyp.vic.gov.au/assets/resources/RCSInfoSheetUpdates/Information-Sheet-8-Investigation-findings-26.03.18.pdf>.

Unfounded	This finding will be used when there is strong evidence that the reportable conduct did not happen. <b>The evidence suggests that it is more likely than not that the reportable conduct did not happen.</b>
Conduct outside scheme	This finding will be used when the decision maker has investigated the conduct and, although the conduct occurred, <b>it does not fit any of the types of reportable conduct listed in the Act.</b>

## 5.6 Investigation report

The investigator will present the head of entity with an investigation report that contains the findings and reasons for findings.

The investigation report should also include:

- the terms of reference of the investigation
- how the investigation was undertaken
- what evidence and information were obtained during the investigation
- lists of witnesses interviewed and an explanation on how the witnesses were determined and selected
- an assessment of the evidence
- clear explanation as to the reasons for the findings.

For further details on the investigation process see CCYP 'Information Sheet 4: Investigation overview' available from the CCYP website:

<https://ccyp.vic.gov.au/assets/resources/RCSInfoSheetUpdates/Information-Sheet-4-Investigation-overview-13.06.17.pdf>.

See also CCYP 'Information Sheet 8: Investigation findings' available from the CCYP website:

<https://ccyp.vic.gov.au/assets/resources/RCSInfoSheetUpdates/Information-Sheet-8-Investigation-findings-26.03.18.pdf>.

## 6 After the Investigation

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### 6.1 What happens at the school level?

#### Employees

In matters involving an employee covered by the enterprise agreement, the process detailed in the agreement will need to be followed before determining the outcome in relation to the employee. For instance, the potential outcome, where an allegation has been substantiated, may be a warning or termination of employment. The CEOSale IR/HR Unit must be consulted.

#### Volunteers and contractors

In cases involving volunteers or contractors, the principal will need to consider whether it is safe for the services of those people to be retained. The CEOSale IR/HR Unit must be consulted.

#### General approach

In respect of all individuals, the appropriate action will depend on the circumstances, including the nature of any substantiated conduct, whether there is a history of prior inappropriate conduct, the level of insight of the person involved and, crucially, the risk to children and young people posed by the person.

It is important to note that just because an allegation was not 'substantiated' under the RCS, does not mean that no action will be taken in relation to alleged conduct. Whether any further measures or steps need to be implemented will depend on the basis of the finding. As seen in section 5.5, there are different reasons why an allegation may not be 'substantiated' under the RCS. For example, an allegation may be unsubstantiated on the basis of insufficient evidence, which is different from a finding that the conduct was unfounded, or the conduct may have occurred but is found to be conduct outside the RCS. There are many circumstances in which—depending on the nature of the alleged conduct—it may still be appropriate to implement proactive measures to monitor and address the conduct of a person going forward. For example, in relation to an employee, it may be appropriate to provide an employee with additional training and temporary additional supervision.

As in all cases, the appropriate steps to be taken will depend on all the circumstances, considering that the paramount focus must be on ensuring the safety of the child at all times. In some cases, it may be appropriate for information to be requested from another ISE or voluntarily provided to another ISE under the CISS or FVISS in order to promote the wellbeing and/or safety of the child or to help assess or minimise the risk of family violence.

## 6.2 What is reported to CCYP?

As outlined in section 4.4, as soon as practicable after the investigation has concluded, the head of entity will provide to CCYP:

- a copy of the investigation report, including the findings and reasons for the findings
- details of any disciplinary or other action proposed to be taken and reasons why or, if no such action is proposed, the reasons why not.

## 6.3 What does CCYP do with the findings?

CCYP will consider the findings and reasons for the findings. CCYP may have additional questions for the school. These queries will be directed to the CEOSale IR/HR Unit who will assist with the school's response to such questions.

Following the satisfactory completion of an investigation, where it considers it appropriate to do so, CCYP may report substantiated allegations to the Working with Children Check (WWCC) Unit of the Department of Justice. The WWCC Unit may ultimately decide to suspend a person's WWCC, having regard to that finding. This is part of ensuring that individuals who pose a risk to children are not permitted to work with children, even if they do not have a criminal record.

CCYP may also refer investigation findings and reasons for findings to VIT.

## 6.4 What is reported to CCYP?

As outlined in section 4.4, as soon as practicable after the investigation has concluded, the head of entity will provide to CCYP:

- a copy of the investigation report, including the findings and reasons for the findings
- details of any disciplinary or other action proposed to be taken and reasons why or, if no such action is proposed, the reasons why not.

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Following the satisfactory completion of an investigation, where it considers it appropriate to do so, CCYP may report substantiated allegations to the Working with Children Check (WWCC) Unit of the Department of Justice. The WWCC Unit may ultimately decide to suspend a person's WWCC, having regard to that finding. This is part of ensuring that individuals who pose a risk to children are not permitted to work with children, even if they do not have a criminal record.

CCYP may also refer investigation findings and reasons for findings to VIT.

## 7 Common questions from principals and employers

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Question	Answer
Who do I contact if I think I have a reportable allegation?	<p>If a principal considers they have a reportable allegation then contact should be made with the CEOSale IR/HR Unit as soon as practicable to discuss the circumstances and seek advice.</p> <p>Be mindful that the head of entity must report allegations to CCYP within three business days of becoming aware of the allegation.</p>
Who should the principal notify about reportable conduct?	<p>The principal will normally advise the CEOSale IR/HR Unit of the allegation.</p> <p>If the allegation involves the principal or head of entity, contact the CEOSale IR/HR Unit for advice about the particular circumstances.</p>
Do I have to report all misconduct?	<p>Under the RCS, only misconduct that may involve reportable conduct must be reported to CCYP.</p> <p>If you have any misconduct concerns you should seek advice from the CEOSale IR/HR Unit as to how to manage the situation. Even though a situation may not be a reportable allegation under the RCS, you may still need to manage the conduct either informally or formally under the enterprise agreement.</p> <p>See section 3.2 c).</p>
What if I don't report a reportable allegation?	<p>Under the RCS, CCYP has powers to prosecute heads of entity for a failure to notify CCYP of a reportable allegation. A failure to notify the head of entity may expose the head of entity to an offence if it is later found to be a reportable allegation.</p> <p>Ultimately, whatever the justification, a failure to report a reportable allegation compromises the safety of children and young people.</p>



Question	Answer
<p>What about my other reporting / information sharing obligations?</p>	<p>The RCS does not change your other reporting obligations. As mandatory reporters, principals and teachers must continue to report matters to the Victoria Police, DFFH or VIT as relevant.</p> <p>Consideration should also be given to whether a request for information should be made or whether any information should be voluntarily provided to another ISE under the CISS or FVISS to promote the wellbeing and/or safety of the child or to help assess or minimise the risk of family violence.</p> <p>See section 2.6.</p>
<p>Is there a priority in my reporting obligations?</p>	<p>Yes. Ensuring a student is safe and contacting the police where relevant, should always be your first priority. You can refer to the four critical actions for schools in the <a href="#">PROTECT Resources</a>. See section 3.6.</p> <p>The RCS does require reportable allegations to be made within three business days of the head of entity becoming aware of the allegation, so if you believe you have a reportable allegation, it is important to contact the CEOSale IR/HR Unit for assistance as soon as practicable.</p>
<p>What if I don't believe that the alleged conduct has occurred?</p>	<p>Even if you do not believe the alleged conduct occurred, you should still contact the CEOSale IR/HR Unit to discuss the matter. The RCS has different thresholds compared with other reporting obligations, such as to VIT. CCYP has advised that conduct may still need to be reported even if you did not witness it yourself and even if you do not share the person's belief that the conduct occurred.</p> <p>See section 3.2 d).</p>

Question	Answer
How is it fair to report allegations to CCYP before they have been proven?	<p>A key aspect of the RCS is for CCYP to provide independent oversight of investigations into allegations of reportable conduct. This means CCYP needs to be made aware of the allegations from the outset. It is essential that allegations are reported to CCYP before they are investigated and proven.</p> <p>In terms of fairness to the employee, the RCS requires allegations to be investigated and for the employee to be given the right to respond. Under both the RCS and the enterprise agreement, the principles of natural justice and procedural fairness apply. This means the employee will be given an opportunity to respond to the allegation before any finding is made.</p>
What are the obligations of my staff if they become aware of a reportable allegation?	<p>School staff and others are advised to follow the relevant processes in their school for reporting allegations. In general, reports should be made to the principal who will notify the CEOSale IR/HR Unit.</p> <p>If the allegation involves the principal, a report should be made directly to the CEOSale IR/HR Unit.</p> <p>See section 3.5.</p>
Can I report a parent to CCYP?	<p>It depends on the circumstances. If you have an allegation regarding a parent, it may be reportable to CCYP if the parent is an 'employee' under the RCS (e.g. a staff member, contractor or volunteer at the school or parish).</p> <p>If the parent is not an 'employee' of the school, the matter may still need to be reported to DFFH or Victoria Police as relevant.</p>
Do allegations involving volunteers and contractors need to be reported?	<p>Yes. Reportable allegations involving volunteers and contractors will still be reportable under the RCS. The CEOSale IR/HR Unit will assist you to report and deal with the matter.</p> <p>See section 3.2 e).</p>

Question	Answer
Where do I go to regarding concerns about parish employees?	If you have a concern regarding a parish employee or volunteer, you should speak with the Parish Priest. If the matter concerns a member of the clergy, you should contact the Parish Safeguarding and Professional Standards Officer for the Diocese of Sale on (03) 5614 5140 for advice and assistance.



## 8 Further Information

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Who can be contacted for further assistance or information?

Industrial Relations Unit (IR/HR Unit)

DOSCEL

6 Witton Street

Warragul VIC 3820

Phone: (03) 5622 6600

Email: [employment@ceosale.catholic.edu.au](mailto:employment@ceosale.catholic.edu.au)

## 9 What are some other useful resources?

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The Commission for Children and Young People (CCYP)

Information Sheets and other resources available from the CCYP website:

<https://ccyp.vic.gov.au/>

[Information sheet 1: About the Reportable Conduct Scheme](#)

[Information sheet 2: What is reportable conduct?](#)

[Information sheet 3: Responsibilities of the head of an organisation](#)

[Information sheet 4: Investigation overview](#)

[Information sheet 5: Other reporting obligations](#)

[Information sheet 6: Child Safe Standards and Reportable Conduct Scheme](#)

[Information sheet 7: Reporting to the Commission](#)

[Information sheet 8: Investigation findings](#)

[Information sheet 9: Sexual misconduct](#)

[Information sheet 10: Physical violence](#)

[Frequently asked questions](#)

Department of Education and Training PROTECT <https://www.vic.gov.au/protect>

Child Safe Standards [Resources](#)

Available from <https://www.vic.gov.au/grants-and-programs-offered-department-education>

[\*Child Wellbeing and Safety Act 2005 \(Vic.\)\*](#)

[\*Child Wellbeing and Safety \(Information Sharing\) Regulations 2018\*](#)

[\*Family Violence Protection Act 2008 \(Vic.\)\*](#)

[\*Family Violence Protection \(Information Sharing\) Regulations 2018\*](#)

[DOSCEL Child and Family Violence Information Sharing Schemes Policy and Procedure](#)

[Child Information Sharing Scheme Ministerial Guidelines](#)

[Family Violence Information Sharing Guidelines](#)

[Family Violence Multi-Agency Risk Assessment and Management Framework](#)

[Information Sharing and Family Violence Reforms Contextualised Guidance](#)

## Appendix 1 – Template record of reported issue

Record of Issue					
Name:		Date:		Time:	
What has happened?					
Who is the child or young person involved? (Note: may be more than one, may not be a student)					
Who is the adult involved?					
When did this happen? (Specify date and time)					
Where did this happen?					
Who told you this?					
What did the person say? (Use their words as far as possible)					
Was anyone else present when you saw/were told this?					
Other details					
Explain any documents					

## Appendix 2 – Useful contact numbers

Organisation / Department	Contact
DOSCEL Industrial Relations / Human Resources Unit	(03) 5622 6600
Diocese of Sale Professional Standards Officer	(03) 5614 5140
Victoria Police	Emergency 000 Your local police station _____
Department of Health and Human Services – Child Protection	North Division 1300 664 9777 South Division 1300 655 795 East Division 1300 360 391 West Division (Rural) 1800 075 599 West Division (Metro) 1300 664 9777 After hours, weekends, public holidays 13 12 78
Commission for Children and Young People (CCYP)	General enquiries 1300 782 978 Child Safe Standards and Reportable Conduct Scheme (03) 8601 5281
Victorian Institute of Teaching (VIT) – Principal Hotline	1300 650 375
Victoria Police, Sexual Offences and Child Abuse Investigation Team (SOCIT) Dandenong	(03) 8769 2200
SOCIT Morwell	(03) 5120 0300
SOCIT Bairnsdale	(03) 5150 2600

## Appendix 3 – Example scenarios

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### Scenario 1

Katherine is a music teacher at your school and is highly experienced. While conducting bus duty you notice Amanda, a Year 3 student (who is difficult to manage), behaving out of character and looking anxious. You ask Amanda if she is okay. Amanda responds that she does not like school on Wednesday as it is a music day and Katherine calls her 'a silly little girl' and today pulled her pony tail to make her sit down in her chair.

**Are these allegations reportable?**

**Yes.** The alleged conduct potentially involves:

- physical violence against a child (pulling hair) and
- behaviour that causes significant emotional or psychological harm to a child (note: must be a link between alleged behaviour and harm to the child; harm must be significant).

**What should the principal do?**

The principal should ensure Amanda is safe, and then make a record of the conversation and Amanda's allegations. The principal should contact Amanda's parents.

The principal should then contact the CEOSale IR/HR Unit to seek advice and support. The CEOSale IR/HR Unit will report the matter to the head of entity. With the assistance of the CEOSale IR/HR Unit, the principal should conduct a risk assessment. Arrangements will be made by the head of entity for the allegations to be investigated.

The principal should ensure appropriate steps are taken to support the welfare and wellbeing of both Amanda and Katherine. This includes considering whether a request for information should be made or whether any information should be voluntarily provided to another ISE under the CISS or FVISS.

NOTES:



## Scenario 2

Jemma, a teacher at your school, overhears a group of Year 8 boys huddled during homeroom talking about camp. During the conversation Jemma overhears Jonathon say that he can't wait until they go on camp as his older brother in Year 10 told him Mr Matthews allowed a group of his friends to stay up late and drink alcohol.

Is this allegation reportable?

**Yes.** The alleged conduct potentially involves:

- significant neglect in supervision and provision of alcohol to students (and may be a criminal offence) and
- misconduct which may involve reportable conduct.

What should the principal do?

The principal should thank Jemma for reporting the allegation and ask her to complete a written record of what she overheard. The principal should also make a written record of the discussion.

The principal should then contact the CEOSale IR/HR Unit to seek advice and support. The CEOSale IR/HR Unit will report the matter to the head of entity. With the assistance of the CEOSale IR/HR Unit, the principal should conduct a risk assessment. Arrangements will be made for the allegations to be investigated.

Considering the potentially criminal nature of the allegation, the principal should also contact the police.

The principal should ensure appropriate steps are taken to support Mr Matthews and any students involved. This includes considering whether a request for information should be made or whether any information should be voluntarily provided to another ISE under the CISS or FVISS.

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### Scenario 3

Your school runs a school sports program for students and as part of the program parents volunteer to coach or manage the various teams. After a state gala competition, Lauren, a Year 9 student, tells you that she wants to drop out of the netball team. When you ask why, Lauren explains that a parent volunteer, Julie, is making her feel uncomfortable as she is always finding an excuse to come into the girls' change rooms while students are changing. Lauren claims that while staying overnight at a state gala competition, another girl claims she saw Julie looking through a hotel window while the girls were changing.

#### Are these allegations reportable?

**Yes.** The alleged conduct appears to involve voyeurism and is potentially sexual misconduct.

Volunteers are school 'employees' for the purposes of the Reportable Conduct Scheme and therefore these are reportable allegations.

#### What should the principal do?

The principal should comfort and ensure Lauren is okay. The principal should make a written record of the discussion. The principal should contact Lauren's parents.

The allegation may potentially amount to a criminal offence and therefore the principal should also contact the police.

The principal should then contact the CEOSale IR/HR Unit to seek advice and support. The CEOSale IR/HR Unit will report the matter to the head of entity. With the assistance of the CEOSale IR/HR Unit, the principal should conduct a risk assessment and ensure appropriate steps are taken to support Lauren's welfare and wellbeing.

Consideration should also be given to whether a request for information should be made or whether any information should be voluntarily provided to another ISE under the CISS or FVISS.

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#### Scenario 4

A school parent, Rita, comes into your office to complain that she attended church on Sunday and Rachel, the parish's receptionist, used the parish newsletter to tap her son on the shoulder to pay attention during church. Rita says her son was embarrassed and upset.

#### Is this allegation reportable?

**No.** The alleged conduct is not reportable because the allegation does not meet the definition of reportable conduct. This conduct does not appear to be behaviour that may cause significant emotional or psychological harm or physical violence to a child under the Reportable Conduct Scheme.

Note that even if the allegation did meet the threshold for reportable conduct, Rachel is employed by the parish, not the school. This means that the matter would be referred to the Parish Priest.

#### What should the principal do?

The principal should thank Rita for raising the matter and make a written record of the discussion. As the concern is regarding Rachel, a parish employee, the principal should speak with the Parish Priest and refer Rita to the parish. Alternatively, the principal can contact the Diocese of Sale Professional Standards Officer for assistance.

Consideration should also be given to whether a request for information should be made or whether any information should be voluntarily provided to another ISE under the CISS or FVISS.

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## Scenario 5

A school parent, Nancy, comes to you before school and tells you that she is part of the local football club with Michael, a teacher at your school. Nancy tells you that Michael coaches the under 14s and she has a concern with the types of conversations she has overheard Michael have with the boys about the girl he is seeing and how he is taking her to 'Sexyland'. On one occasion she said that Michael was showing the boys a YouTube video involving a naked teenager and making a comment, 'See boys, she is sexy and would be your age'.

### Are these allegations reportable?

**Yes.** The alleged conduct may amount to:

- a sexual offence (including possession of child pornography) and
- sexual misconduct, as the communications with children are of a sexual nature.

Even though the alleged conduct occurred outside of school and was not necessarily with students of the school, the matter is still reportable under the Reportable Conduct Scheme as Michael is an employee of the school.

### What should the principal do?

The principal should thank Nancy for reporting the allegation and ask her to complete a written record of what she overheard. The principal should also make a written record of the discussion.

Given the potentially criminal nature of the allegations, the principal should contact Victoria Police.

The principal should contact the CEOSale IR/HR Unit to seek advice and support. The CEOSale IR/HR Unit will report the matter to the head of entity. With the assistance of the CEOSale IR/HR Unit, the principal should conduct a risk assessment and ensure appropriate steps are taken to support the welfare and wellbeing of Michael and any students who may be involved.

Consideration should also be given to whether a request for information should be made or whether any information should be voluntarily provided to another ISE under the CISS or FVISS.

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## Scenario 6

Alice is a student at your school and has been diagnosed with anxiety disorder and often has panic attacks. According to Alice's behaviour support plan, there is a clear process in which Alice is aware that when she has a panic attack she is able to take herself to a calming space (with set strategies in place for her to access).

Alice's mother Judy calls to complain that following a power outage at home, Alice had a severe panic attack and revealed to her mum that Sharon (Alice's teacher last year) would at times put her in a darkened room on her own until she stopped crying. Alice felt that she was not able to leave the room and was frightened of the dark (this was significantly different to the calming space that was provided). Judy believes that this may be a factor which explains why Alice has wanted to sleep in her parents' room with the night light on for the last six months.

**Is this allegation reportable?**

**Yes.** The alleged conduct appears to be seclusion and potentially involves behaviour that causes significant emotional or psychological harm to a child.

**What should the principal do?**

The principal should thank Judy for reporting the allegation and ask her to complete a written record of what happened and what Alice said. The principal should also make a written record of the discussion.

The principal should then contact the CEOSale IR/HR Unit to seek advice and support. The CEOSale IR/HR Unit will report the matter to the head of entity. With the assistance of the CEOSale IR/HR Unit, the principal should conduct a risk assessment, ensure that Alice is safe and contact the Manager: Learning and Teaching at CEOSale to access further advice. The principal should also ensure that appropriate steps are taken to support the welfare and wellbeing of both Alice and Sharon.

Consideration should also be given to whether a request for information should be made or whether any information should be voluntarily provided to another ISE under the CISS or FVISS.

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## Scenario 7

Sean is a Grade 6 student who often demonstrates challenging behaviour and noncompliance with instructions. This sometimes involves being extremely loud, pushing objects off his or others' tables, calling out and using inappropriate language. When this happens, the school had a process in place to alert the deputy principal who would attend the classroom and seek to remove Sean to his office. The deputy principal did this by grabbing the student's arm and forcefully pulling him to his office. When in the office, if Sean did not settle down, the deputy principal would hold him in a 'bear hug' type embrace, with the intention of supporting the student to 'calm down'. On occasion, this would take up to 30 minutes. A concern is raised about this protocol by an emergency teacher with the Parish Priest, and the Parish Priest informs the principal.

### Are these allegations reportable?

**Yes.** The alleged conduct is potentially:

- physical violence (excessive use of physical restraint – see below) and
- behaviour that could cause significant emotional or psychological harm to the child.

In this situation, it is likely that the use of physical restraint (grabbing arm, pulling, 'bear hug' hold) was excessive: the physical restraint was not being used in circumstances where the student's behaviour posed an imminent threat of harm or danger; the action would not be considered reasonable in all the circumstances and it is likely that there were less restrictive means of responding in the circumstances.

### What should the principal do?

The principal should make a record of the conversation with the Parish Priest and ask the Parish Priest to make a record of what was said to him (if he has not already done so). The principal should ensure Sean is safe and contact Sean's parents.

The principal should contact the CEOSale IR/HR Unit to seek advice and support. The CEOSale IR/HR Unit will report the matter to the head of entity. With the assistance of the CEOSale IR/HR Unit, the principal should conduct a risk assessment and ensure appropriate steps are taken to support the welfare and wellbeing of both Sean and the deputy principal.

The principal should review the CECV Guidelines titled 'Whole-School Approaches to Supporting Positive Student Behaviour' and seek advice from the Manager: Learning and Teaching at CEOSale regarding further support for the student and school.

Consideration should also be given to whether a request for information should be made or whether any information should be voluntarily provided to another ISE under the CISS or FVISS.

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## Scenario 8

A Grade 4 class is going on an excursion to the zoo. Ben is at times a challenging student, who can be easily distracted. The class has travelled to the zoo by train, with appropriate numbers of teachers and additional parent volunteers to accompany the students for the day. At the train station platform, Ben is quite excited and when playing with his friends, makes a sudden movement towards the edge of the platform. A parent volunteer standing nearby, sees Ben about to fall off the platform and grabs him firmly by the arm and pulls him back to safety, and releases his arm. Ben got quite a shock and was a bit upset by the incident. That night, Ben's mum calls the principal and raises a concern about Ben being grabbed by another parent on the excursion and mentions a bruise on his arm from the contact.

### Is this allegation reportable?

**No.** The alleged conduct:

- is not physical violence (appropriate use of restraint – see below) and
- is not behaviour that would cause significant emotional or psychological harm to the child.

Physical violence does not include lawful behaviour such as reasonable steps to protect a child from immediate harm. In this situation, physical restraint was appropriate as it was used to protect the student from imminent harm, it would be considered reasonable in all the circumstances and was the least restrictive form of intervention to use (i.e. the student was released immediately) as per the school's policy on behaviour management.

### What should the principal do?

The principal should thank the parent for reporting the matter and ensure that Ben is safe. The principal should make a written record of the discussion.

If unsure whether the allegations are reportable, the principal should contact the CEOSale IR/HR Unit to discuss the circumstances and seek advice.

The principal should ensure that in future, a written report of the incident is made at the time and that parents are informed.

The principal should follow their school's complaints policy for managing the parent's concern. Consideration should also be given to whether a request for information should be made or whether any information should be voluntarily provided to another ISE under the CISS or FVISS.

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## Scenario 9

Jane is a PE teacher at a country secondary college. All staff have been trained on the college's social media policy and instructed not to be friends with students on social media, or to provide students with their personal contact details. Another teacher at the school informs the principal that she has become aware that Jane has been speaking to a male student, Anthony, on her personal mobile phone about some of Anthony's personal issues to do with his parents. The principal is also told that Jane has been seen meeting with Anthony alone in a classroom after school hours.

**Are these allegations reportable?**

**Yes.** The alleged conduct is misconduct which may involve reportable conduct.

**What should the principal do?**

The principal should thank the teacher and ask her to make a written record of the matter. The principal should also make a written record of the discussion. The principal should ensure that Anthony is safe and notify his parents.

The principal should then contact the CEOSale IR/HR Unit to seek advice and support. With the assistance of the CEOSale IR/HR Unit, the principal should conduct a risk assessment and ensure appropriate steps are taken to support the welfare and wellbeing of both Anthony and Jane.

Consideration should also be given to whether a request for information should be made or whether any information should be voluntarily provided to another ISE under the CISS or FVISS.

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