

## Reportable Conduct Policy

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### 1. Statement of Context and Purpose

Ivanhoe Grammar School (the **School**) is committed to the safety of its students, particularly where they may be vulnerable or lacking capacity to advocate for themselves.

The safety and wellbeing of all students is of fundamental importance to the School.

Under the *Child Wellbeing and Safety Act 2005* (Vic) (the **CWS Act**), the School must investigate and report reportable allegations to the Commission for Children and Young People (the **Commission**). This policy outlines how the School will respond to reportable conduct allegations for the purpose of *Ministerial Order No. 1359 – Implementing the Child Safe Standards - Managing the Risk of Child Abuse in Schools and School Boarding Premises* and the CWS Act.

This policy aims to:

- a) Set out the School's approach to complying with the Reportable Conduct Scheme (**RCS**)
- b) Enable the School to eliminate or minimise risks of harm to children in our care or who attend our School
- c) Provide employees, volunteers, contractors and other authorised personnel with an understanding of their lawful obligations and the School's expectations.

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### 2. Scope

This policy applies to any person who is over the age of 18 and defined as an employee for the purposes of the CWS Act, including any person employed or engaged by the School, whether or not the person is employed in connection with any work or activities of the School that relate to its students (collectively referred to as **staff**).

For example, **staff** can include employees, contractors, board members and volunteers.

This policy also extends to any person who is engaged in child-connected work that has direct contact with children.

This policy is not intended to override or form part of the terms of any award, enterprise agreement or contract that applies to an employee, but should be considered a reasonable direction to staff. As such all staff are expected to abide by this policy and report any suspected or known breaches of this policy.

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### 3. Policy

#### 3.1 How to raise concerns about a reportable allegation

The School's Student Safety - Concerns Management Procedure sets out how a safety concern about a child's wellbeing (including a concern about grooming, child abuse, reportable conduct and/or sexual harassment) may be raised with the School, and about how such concerns will be managed.

The School notes that any person may also disclose a reportable allegation directly to the Commission. However, reporting the reportable allegation to the Commission does not displace

the requirement to notify the School of the matter in accordance with the Student Safety - Concerns Management Procedure.

### 3.2 What is Reportable Conduct?

Reportable conduct is defined in the CWS Act to include:

- a) A sexual offence committed against, with or in the presence of, a child
- b) Sexual misconduct committed against, with or in the presence of, a child
- c) Physical violence committed against, with or in the presence of, a child
- d) Any behaviour that causes significant emotional or psychological harm to a child
- e) Significant neglect of a child.

Conduct by School staff may not be reportable conduct if it relates to a person:

- a) who has taken reasonable steps to protect a child from immediate harm
- b) who has responsibility for discipline, and has taken lawful and reasonable disciplinary action (such as by sending a child to sit in 'time out' for a period of time, in line with school policy)
- c) who is an appropriately qualified worker or volunteer who has given medical treatment in good faith, such as a senior first aid officer administering first aid.

For the purposes of this definition (and all definitions referred to in this policy), child has the meaning provided by the CWS Act.

#### Sexual misconduct

Sexual misconduct includes:

- a) Behaviour, physical contact or speech or other communication of a sexual nature, for example, 'sexting'
- b) Inappropriate touching or physical contact
- c) Grooming behaviour
- d) Voyeurism.

Other examples of sexual misconduct include:

- a) Developing an intimate relationship with a child, for example, through regular contact with a child without the knowledge or approval of the School
- b) Inappropriately discussing sex and sexuality with a child
- c) Other overtly sexual acts that could lead to the School taking disciplinary or other action.

#### Physical violence

Physical violence includes an act that causes physical injury or pain. Examples of physical violence can include:

- a) Hitting/kicking/punching
- b) Pushing/shoving/grabbing/throwing/shaking
- c) Using an object to hit or strike
- d) Using inappropriate restraint/excessive force.

Threats of physical violence that do not cause physical injury or pain may still amount to behaviour that causes serious or significant emotional or psychological harm.

Importantly, physical violence does not include lawful behaviour.

For example:

- a) 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
- b) Medical treatment given to a child in good faith by an appropriately qualified person, such as the School Nurse or a First Aid Officer administering first aid.

#### Behaviour that causes emotional or psychological harm

Behaviour that causes emotional or psychological harm to a child and includes sexual offences, sexual misconduct, physical violence, and significant neglect. However, other types of behaviours can also cause emotional or psychological harm, including, for example, severe or sustained instances of verbal abuse; coercive or manipulative behaviour, hostility towards, or rejection of, a child and humiliation, belittling or scapegoating. The behaviour also requires a clear link between the alleged conduct and the significant harm suffered.

Signs that a child may have been emotionally or psychologically harmed may include:

- a) Patterns of out of character behaviour
- b) Regression in behaviour
- c) Distress or anxious behaviours
- d) Other physical symptoms, such as self-harm.

#### Neglect

Neglect refers to an individual's failure to meet their obligations and responsibilities to keep a child safe and well.

The neglect:

- a) Must be more than minor and insignificant
- b) Does not need to have a lasting or permanent effect
- c) May be an ongoing situation or a one-off incident, as long it is not minor in nature.

Examples of neglect may include:

- a) Supervisory neglect, which is the absence or inattention of an employee which places the child at risk of physical harm or injury, sexual abuse or allows other criminal behaviours towards the child
- b) Physical neglect, which is the failure to provide basic physical necessities for a child, such as adequate food, clothing and housing
- c) Medical neglect, which is the failure to provide for appropriate medical care for a child, including a failure to acknowledge the seriousness of an illness or condition, or deliberately withholding appropriate care.

### 3.3 What must be notified to the Commission?

Under the CWS Act, the School must notify the Commission of a reportable allegation against an employee (as defined by the CWS Act).

Reportable allegation is defined in the CWS Act to mean any information that leads a person to form a reasonable belief that an employee of the School has committed:

- a) Reportable conduct
- b) Misconduct that may involve reportable conduct – whether or not the conduct/misconduct is alleged to have occurred in the course of the person's employment at the School.

There are two stages of reporting. The Commission must be notified by the Principal or their delegate in writing of:

- a) The reportable allegation as soon as possible, and in any event within 3 business days of being notified (Stage One Report)

- b) The proposed next course of action, as soon as practicable, and within 30 days of becoming aware of the reportable allegation (Stage Two Report).

### Stage One Report

The Report to the Commission must state:

- a) That a reportable allegation has been made against an employee
- b) The name (including any former name and alias, if known) and date of birth, if known, of the employee
- c) Whether the Victoria Police has been contacted about the reportable allegation
- d) The name, address and telephone number of the School
- e) The name of the Principal.

If the concerned employee is a registered teacher, and the misconduct involves a charge, conviction or finding of guilt of a sexual offence, the School must also notify the Victoria Institute of Teaching (**VIT**) in accordance with the Mandatory Reporting Policy.

### Stage Two Report

The Report to the Commission must state:

- a) Detailed information about the reportable allegation
- b) Whether or not the School proposes to take any disciplinary or other action in relation to the employee and the reasons why it intends to take, or not to take, that action
- c) Any written submissions made to the Principal concerning the reportable allegation that an employee wished to have considered in determining, what if any, disciplinary action or other action should be taken in relation to the staff member.

### **3.4 Who must notify the Commission?**

Under the CWS Act, any person may disclose a reportable allegation to the Commission. A disclosure can be made using an online form available from the Commission's [website](#). The Commission may also be contacted by phone on 1300 78 29 78 or by email to [contact@ccyp.vic.gov.au](mailto:contact@ccyp.vic.gov.au) in relation to any queries.

In all circumstances however, the Principal or their delegate will notify the Commission of any reportable conduct or misconduct that may involve reportable conduct in respect to an employee.

Where the reportable allegation involves the Principal, a Student Safety Officer must be notified in accordance with the Student Safety - Concerns Management Procedure.

### **3.5 Obligations of the Principal**

The RCS requires the Principal to do certain things following receipt of a reportable allegation, or otherwise becoming aware of a reportable allegation against an employee.

The Principal must:

- a) Manage any immediate risks to children which, for allegations of suspected reportable conduct, will involve reporting the concern to Victoria Police.
- b) Ensure the Commission is notified in writing within 3 business days of becoming aware of the reportable allegation of the following:
  - i. That a reportable allegation has been made against an employee
  - ii. The name and date of birth of the employee concerned
  - iii. Whether Victoria Police has been contacted about the reportable allegation
  - iv. The address and telephone number of the School
  - v. The Principal's name.

- c) As soon as practicable, investigate the reportable allegation or permit an independent investigator to do so (subject to police clearance on criminal matters). The Principal or their delegate must inform the Commission of the person conducting the investigation. The investigator must provide information or documents obtained in the investigation to the Commission if the Commission makes such a request.
- d) Notify the Commission in writing within thirty (30) business days of becoming aware of the reportable allegation of the following:
  - i. Detailed information about the reportable allegation
  - ii. Whether or not the School proposes to take disciplinary or other action in relation to the employee concerned and the reasons for this decision
  - iii. Any written submission made by the employee concerned regarding whether disciplinary or other action should be taken.
- e) Advise the Commission of the outcome of the investigation as soon as practicable.

### 3.6 Investigations

Allegations of suspected reportable conduct will be investigated in accordance with the School's Student Safety - Concerns Management Procedure. The investigation can be conducted internally or the School can appoint an independent investigator.

The Principal or their delegate must notify the Commission of who will be conducting the investigation. The investigation must be conducted in accordance with the rules of procedural fairness and natural justice.

Where a reportable allegation is reported to Victoria Police, the School will work with Victoria Police and the Commission to ensure:

- a) Allegations of criminal conduct are dealt with appropriately
- b) Any internal investigation, aimed at gathering and examining information to establish and make findings in relation to allegations of child abuse against an employee, does not interfere with police investigations.

The School must obtain clearance from Victoria Police, if the allegation is criminal in nature, before initiating an investigation.

In circumstances where the School is unable to investigate or otherwise engage an independent person or body to investigate a reportable allegation, the School will work with the Commission, to the greatest extent possible, to support the Commission's independent oversight and investigation into the matter.

Upon the conclusion of the investigation, the Principal must give the Commission:

- a) A copy of the findings of the investigation and the reasons for those findings
- b) Details of any disciplinary or other action that the Principal proposes to take in relation to the employee and the reasons for that action
- c) If the Principal does not propose to take any disciplinary or other action in relation to the employee, the reasons why no action is to be taken.

### 3.7 Confidentiality

Under the CWS Act, the Principal or their delegate may disclose to the children, the subject of the allegation and their parents/guardians:

- a) Information about the progress of the investigation
- b) The findings, reasons for the findings and the recommendations at the conclusion of the investigation
- c) What actions have been or will be taken in response to those findings.

The School must not disclose any information that would enable the identification of a person who notified the Commission, or a student or child in relation to whom a report allegation was made.

### 3.8 Interaction with other policies

This Policy operates in conjunction with the Mandatory Reporting Policy, Student Safety - Concerns Management Procedure and the Student Safety Policy. The obligations under the Reportable Conduct Scheme are in addition to the obligations set out in the Mandatory Reporting Policy and the Student Safety Policy.

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## 4. Related Documents

### 4.1 External Documents

#### Relevant Legislation or Authority:

- *Child Wellbeing and Safety Act 2005 (Vic)*
- *Ministerial Order 1359 - Implementing the Child Safe Standards - Managing the Risk of Child Abuse in Schools and School Boarding Premises*
- *Crimes Act 1958 (Vic)*
- *Education and Training Reform Act 2006 (Vic)*
- *Education and Training Reform Regulations 2017 (Vic)*

### 4.2 Internal Documents

#### Policies and Procedures:

- Student Safety Policy
  - Student Safety Code of Conduct
  - Student Safety - Concerns Management Procedure
  - Student Safety Responsibilities
  - Mandatory Reporting Policy
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## 5. Breach of this Policy

The School emphasises the need to comply with the requirements of this policy. Any employee found to be in breach of the requirements of this policy may be subject to disciplinary action, up to and including termination of employment (or engagement, where appropriate). Breaches may also result in appropriate authorities and/or the Police being informed.

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## 6. Communication

This policy is available to parents, students and the School community via the School's website.

This policy is available to staff as part of the School's internal policies and procedures, and forms part of the School's induction program for incoming staff. Aspects of (and updates to) the School's student protection framework will be addressed in the School's professional development updates, training programs, bulletins and newsletters.

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## 7. Definitions

**Child** for the purposes of this policy has the same meaning as that provided in the CWS Act.

**Child-connected work** means work authorised by the School and performed by an adult in the school environment while children and other students are present or reasonably expected to be present.

**Commission** means the Commission for Children and Young People.

**CWS Act** means the *Child Wellbeing and Safety Act 2005* (Vic).

**Grooming** is defined in the *Crimes Act 1958* (Vic) and refers to communication, by words or conduct, between an adult and a child with the intention of facilitating the commission of a sexual offence involving a child. Grooming may be identified by attempts being made at establishing an intimate relationship with befriending, or influencing a child (or in some cases, members of the child’s family). In this respect, grooming involves psychological manipulation that is usually very subtle, drawn out, calculated, controlling and premediated (Victorian Parliamentary Inquiry, 2013).

**Immediately** means as soon as reasonably practicable, within a period of 24 hours (or if after hours, the next business day).

**Reasonable belief** means a belief that would lead a reasonable person in the same position as you, and with the same information as you to form a belief that reportable conduct (or child abuse including sexual abuse) or is occurring or may occur. There must be some objective basis for the belief. However, it is not necessary to have proof to form a reasonable belief, nor do you need to make a judgement about the truth of an allegation. However, a reasonable belief is more than suspicion, mere rumour, or speculation. For examples on circumstances where a reasonable belief may be formed, refer to the Student Safety – Concerns Management Procedure.

**Reportable Conduct Scheme** means the scheme to report reportable conduct established under Part 5A of the CWS Act.

**School** means Ivanhoe Grammar School.

**Sexual abuse** is when any person uses their authority or power over a child to engage in sexual activity. Examples include sexual penetration, inappropriate touching, and exposure to sexual acts or pornographic materials.

**Sexual misconduct** includes behaviour, physical contact or speech or other communication of a sexual nature, inappropriate touching, grooming behaviour, and voyeurism.

**Sexual offence** means a sexual offence referred to in the *Sentencing Act 1991* (Vic), which includes but is not limited to rape, attempted rape, sexual assault, incest, grooming, and distribution and possession of child abuse material.

**Significant** means, in relation to emotional or psychological harm or neglect, that the harm or neglect is more than trivial or insignificant but need not be as high as serious and need not have a lasting permanent effect.

**Student** means student who is enrolled at Ivanhoe Grammar School and includes any student who is aged 18+.

**Student Safety Officer** means the Student Safety Officer as set out in section 5.6 of the School’s Student Safety Policy.

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