

Sexual consent, disclosure and school obligations

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Diocese of Sale
Catholic Education Ltd

Inspiring *Faith* Inspiring *Learning*

Introduction

Issues of consent, sexual assault and gender inequality have been a prominent feature in the media and community.

These issues reinforce the need to support students and young people to build and manage safe and respectful relationships.

Media coverage may encourage current and former students to make disclosures to schools about student sexual offences. The guidance below will prepare you to act if your school receives a disclosure.

Definitions

Consent is defined as free agreement¹. Any sexual activity without consent is an offence regardless of the age of the participants.

Disclosure is a fact that is made known or an exchange of information between parties.

Student sexual offending means sexual behaviour by a student 10 years and over which may amount to a sexual offence. A sexual offence includes rape, sexual assault, indecent acts and other unwanted sexualised touching, all of which are offences under the [Crimes Act 1958](#) (Vic.).

Additionally under Victorian Law:

- children between 12-15 can only consent to sexual activity with a peer no more than two years their senior (therefore sexual contact led by a student with a child outside of these age parameters may amount to student sexual offending)
- in order for a person to consent to sexual activity they have to have the capacity to understand the context and possible consequences of the act (therefore sexual contact led by a student involving a person with a cognitive impairment or affected by alcohol and/or other drugs may also amount to student sexual offending).

For more detailed information and definitions refer to [PROTECT Identifying and Responding to Student Sexual Offending](#).

¹ [Crimes Act 1958](#) (Vic.), Section 36



Duty of Care

In accordance with the Diocese of Sale Catholic Education Limited (**DOSCEL**) Duty of Care Policy², school staff employed at DOSCEL schools have a duty of care in relation to students. Principals, teachers and other staff working with students must take reasonable steps to minimise the risk of reasonably foreseeable harm, including by:

- providing suitable and safe premises to ensure that persons on the premises will not be injured or damaged because of the state of the premises, including things done or omitted to be done on the premises
- providing of an adequate system of student supervision
- ensuring the school complies with the Child Safe Standards
- taking reasonable precautions to minimise the risk of child abuse by an individual associated with the school or DOSCEL.

Taking reasonable steps to reduce the risk of reasonably foreseeable harm includes taking steps to promote respectful relationships and to prevent unwanted or inappropriate sexual conduct at school, during school events and excursions. This also means staff may need to take steps to support students where a student may have been a victim of, or engaged in student sexual offending outside of school hours and the school premises. This may include historical student sexual offences.

In relation to suspected student sexual offending, reasonable steps school staff may take include, but are not limited to:

- acting on concerns and suspicions of student sexual offending quickly³
- seeking appropriate advice or consulting with the DOSCEL Executive Manager: Industrial Relations / Human Resources or the DOSCEL Child Protection Officer when the staff member is unsure of what steps to take
- reporting the suspected student sexual offending to appropriate authorities such as Victoria Police (Sexual Offences and Child Abuse Investigation Teams, or **SOCIT**) and Department of Families, Fairness and Housing (**DFFH**) Child Protection
- arranging counselling and/or other appropriate welfare support for impacted students and their families, including the alleged victim(s) and the student(s) who has allegedly engaged in student sexual offending
- providing ongoing support to all students involved in suspected sexual offending. This may include attending Child Protection Case Planning meetings, and convening regular Student Support Group meetings
- sharing information with other school-based staff who will also be responsible for monitoring and providing ongoing support to the student(s) (see Information Sharing below)

² DOSCEL [Duty of Care Policy](#) (August 2020)

³ Refer to [PROTECT Identifying and Responding to Student Sexual Offending](#) and [PROTECT Four Critical Actions for Schools: Responding to Student Sexual Offending](#)

- taking proactive measures for students and staff who may be triggered by discussion of student sexual offending, including by communicating to the school community or offering wellbeing support.

Information Sharing

The Child Information Sharing Scheme (**CISS**) and Family Violence Information Sharing Scheme (**FVISS**) have been developed by the Victorian Government to enable information sharing between organisations to promote a child's wellbeing or safety.

The Schemes have expanded legal permissions for professionals to share and request information from other professionals. This ensures that professionals working with children can gain a complete view of the children they work with, making it easier to identify wellbeing or safety needs earlier, and to act on them sooner.

Privacy laws allow school staff to share a child's personal and health information to enable other school staff to:

- support the education of the student, plan for individual needs and address any barriers to learning
- support the social and emotional wellbeing and health of the student
- fulfil duty of care obligations to the student, other students, staff and visitors
- make reasonable adjustments if the student has a disability, including a medical condition or mental illness
- provide a safe and secure workplace.

Therefore, DOSCEL employees are permitted to share certain information about a child with other staff members, without the consent of a parent/guardian and without breaching privacy laws.

Strategies for managing disclosures

When managing a disclosure of allegation(s) of student sexual offending, it is important that staff respond in an appropriate and supportive manner. All disclosures must be taken seriously and addressed immediately by following:

- [PROTECT Four Critical Actions for Schools: Responding to Student Sexual Offending](#)
- [PROTECT Responding to Student Sexual Offending: Principal Checklist](#)



When managing a disclosure, staff should:

- listen to the person making the disclosure and allow them to speak
- stay calm and not display expressions of panic or shock
- use a neutral tone with no urgency and where possible use similar language and vocabulary as the person making the disclosure
- be patient and non-judgmental throughout the discussion
- highlight to the person making the disclosure that it was important for them to tell you about what has happened and that it is not their fault
- be patient and allow the person making the disclosure to talk at their own pace and in their own words
- reassure the person making the disclosure that you believe them and that disclosing the matter was important for them to do
- use verbal facilitators such as, "Okay, I see". Restate the previous statement of the person making the disclosure, and use non-suggestive words of encouragement, designed to keep the person making the disclosure talking in an open-ended way
- tell the person making the disclosure that you are required to report the allegation(s) to the relevant authorities to help stop the abuse. Staff should also explain the role of these authorities if appropriate.

When managing a disclosure, staff should avoid:

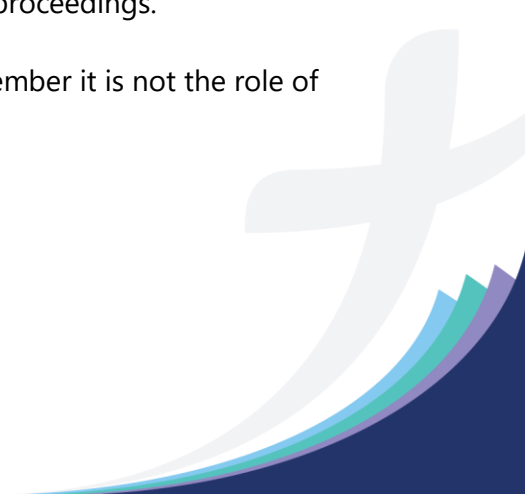
- asking questions that are investigative and potentially invasive. This may make the person making the disclosure feel uncomfortable and may cause them to withdraw
- going over the information time and time again (you are only gathering information to help you form a belief on reasonable grounds that you need to make a report to the relevant authorities)
- asking leading questions
- pressuring the person making the disclosure into telling you more than they want to.

Documenting disclosures

Staff must document any disclosures in the [PROTECT Responding to Suspected Student Sexual Offending: Template](#).

Documenting disclosures should not impact on reporting times but should be actioned promptly by school staff. This may be critical for further investigations and/or legal proceedings.

Whilst staff may need to gather the information to make a report, remember it is not the role of school staff to investigate student sexual offending.



Responding to allegations of student sexual offending

School staff must follow [PROTECT Four Critical Actions for Schools: Responding to Student Sexual Offending](#) as soon as they witness an incident, receive a disclosure, or form a suspicion that a student or young person is a victim of, or has engaged in student sexual offending.

Former students

If a staff member receives a disclosure that a former student of your school may have been a victim of historical student sexual offending, they must act.

If any student involved in the alleged conduct is currently of school age and attending a Victorian school, staff must follow the PROTECT Four Critical Actions for Schools: Responding to Student Sexual Offending.

If all impacted students are no longer of school age or attending a Victorian school, staff must still act by:

- responding to any belief that the former student or another person is at **immediate risk** by contacting Victoria Police on 000
- seeking appropriate advice or consulting with the DOSCEL Executive Manager: Industrial Relations / Human Resources or the DOSCEL Child Protection Officer when the staff member is unsure of what steps to take
- reporting the suspected student sexual offending to appropriate authorities such as Victoria Police / SOCIT and DFFH Child Protection.

Responding to allegations of child abuse

If a staff member witnesses an incident, receives a disclosure or forms a reasonable belief that a child has been or is at risk of being abused by an adult, they must follow the [PROTECT Four Critical Actions for Schools: Responding to Incidents, Disclosures and Suspicions of Child Abuse](#).

Staff must also follow the [Four Critical Actions](#) if they form a reasonable belief that a student's sexual offending is a result of child abuse.

Respectful Relationships

The Royal Commission into Family Violence identified the critical role that schools and early childhood education have in creating a culture of respect to change the story of family violence for future generations.

Respectful Relationships is about embedding a culture of respect and equality across our entire community, from our classrooms to staffrooms, sporting fields, fetes and social events. This approach leads to positive impacts on student's academic outcomes, their mental health, classroom behaviour, and relationships between teachers and students.

The [Respectful Relationships](#) initiative supports schools to promote and model respect, positive attitudes and behaviours and teaches students how to build healthy relationships, resilience and confidence. In undertaking work in this area schools will be reflective of approaches promulgated and approved by the Bishop of Sale.

The whole school approach to Respectful Relationships helps to embed a culture of respect and gender equality across the entire school community.

Respectful Relationships education is a key resource for the delivery of the Victorian Curriculum and aims to build students' social, emotional and positive relationship skills.

The [Resilience, Rights and Respectful Relationships](#) and [Building Respectful Relationships](#) teaching and learning materials support schools to deliver this curriculum.

The age-appropriate resources include lesson plans and activities that help students learn and practice social skills and apply them in a positive way to learning, life and relationships. The resources also include topics on sexual harassment and consent.

The Catholic Education [Addendum A Guide to Support Victorian Schools to Meet Child Safe Standard 7](#) provides guidance for schools on how to address Child Safe Standard 7 - Element 2: Healthy and respectful relationships (including sexuality).

Engaging with the school community

Some members of the school community may be concerned about recent media reports, particularly if your school has been named. Some students may have experienced sexual assault and may require support.

[Template correspondence](#) is provided to schools for distribution amongst the school community to provide information and offer support.

Support for staff members

We understand that this may be a challenging time for the school community. A number of wellbeing supports are available for staff including:

- Employee Assistance Program (refer to School arrangements)
- [1800 RESPECT](#) (1800 737 732) provides family violence and sexual assault counselling and is available via telephone or online chat, 24 hours a day, seven days a week.
- [Centre Against Sexual Assault \(CASA\)](#) provides support services against sexual assault and provides 24-hour crisis support.
- [Kids Helpline](#) (1800 55 1800) provides counselling support service for young people aged 5–25 years old and for parents, available 24 hours a day, seven days a week.

- [Parentline Victoria](#) (132 289) provides parenting counselling support service 8am to midnight, 7 days a week, including support for parents experiencing family violence.
- [Headspace](#) provides tailored and holistic mental health support from 9am–1am, 7 days a week, to young people aged 12–25 years old. The website also provides resources and a local directory for headspace centres.

Additional contacts are available on the DOSCEL Intranet / [Child Safety](#).

Media support

Principals should contact the DOSCEL Media and Communications team via email communications@doscel.catholic.edu.au for advice and support prior to responding to media enquiries on this issue.

