

POLICY & PROCEDURAL STATEMENTS

Topic: Mandatory Reporting and Reportable Conduct

Scope: All Committee of Management, staff, tutors, volunteers, and contractors at ANH@E must adhere to this policy.

Background: In addition to the Child Safe Standards, The Commission for Children and Young People (the Commission) also administers the Reportable Conduct Scheme, which took effect in Victoria in 2017. The Scheme places particular responsibilities on the Head of an organisation who has ultimate responsibility for children while in the care of the organisation. The Head of an organisation is required to:

- Report to the Commission any allegations of child abuse and misconduct involving children made against employees, volunteers, and contractors, including professional misconduct.
- Ensure appropriate investigation of the allegation.
- Report to the Commission any findings and the reasons for the outcome of an investigation at the conclusion of the investigation.

The [Reportable Conduct Scheme](#) (the Scheme) requires allegations of suspected criminal conduct to be reported to Victoria Police as the first priority; however the organisation must also report such allegations to the Commission. The Scheme does not alter an individual's legal obligation regarding mandatory reporting to the Department of Families, Fairness, and Housing (DFFH) Child Protection. Importantly, the Scheme does not interfere with reporting obligations to Victoria Police or with Victoria Police investigations.

To provide clarity, this policy addresses *two* requirements

1. **Mandatory Reporting:** In Victoria, under the *Child and Youth Families Act 2005*, mandatory reporters refer to certain groups of people that are legally required to report a reasonable belief of child physical or sexual abuse to child protection authorities. Avenue Neighbourhood House at Eley Inc (ANH@E) provides Early Learning services for children and education for students under the age of 18-years. The following occupations are classed as mandatory reporters:
 - a. Registered teachers and early childhood teachers.
 - b. Early childhood workers.
 - c. Youth workers.
2. **Reportable Conduct Scheme:** applies to **all** staff, contractors, volunteers, and Committee of Management members (18 years or older) who form a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child (a person under 16-years) have an obligation to report that information to Victoria Police as soon possible. It is a criminal offence punishable by up to three years imprisonment under section 327 of the *Crimes Act 1958* (Vic) if an adult fails to disclose this information to police.

Policy: ANH@E takes all allegations seriously and has procedures in place to thoroughly investigate and promptly report suspected child abuse in line with government legislation and legal requirements. ANH@E will ensure everyone involved in the organisation understands the process for responding to allegations of abuse.

Everyone has a responsibility to report an allegation of abuse if there is a **reasonable belief** (refer to Definition) that an incident took place to ensure disclosure and protection for the child (refer to definitions **failure to disclose** and **failure to protect**).

The House Manager at ANH@E is the designated Head of Organisation for compliance with the [Reportable Conduct Scheme](#). The House Manager will ensure the Commission is notified and given updates on the ANH@E's response to an allegation. It is a criminal offence for a Head of an organisation to fail to comply with the three-day and 30-day notification obligations without reasonable justification.

ANH@E will ensure the processes for responding and reporting suspected child abuse are appropriate, clear, and robust, and that staff, volunteers, contractors and Committee of Management members are aware of their obligations.

Definitions: *Abuser:* a person who mistreats and/or harms a child or young person.

Abuse: (in the context of this policy) refers to physical and/or emotional mistreatment, and/or lack of care of the child. Examples include sexual abuse, the witnessing of family violence, and any non-accidental injury to a child.

Child: under the *Children, Youth and Families Act 2005* (Vic), a child or young person is a person under 18-years of age.

Child abuse: an act or omission by an adult that endangers or impairs a child's physical and/or emotional health and development. Child abuse can be a single incident but often takes place over time. Abuse, neglect, and maltreatment (refer to Definitions) are generic terms used to describe situations in which a child may need protection.

Child Safe Standard: covers child sexual abuse, physical abuse, serious emotional and psychological abuse, and serious neglect.

Child Safety Officer: the Child Safety Officer at ANH@E for the purposes of this policy is the Director of Early Learning.

Duty of care: for the purposes of this policy a common law concept under the negligence provisions in the *Wrongs Act 1958* (Vic) refers to an organisation taking **reasonable precautions** to prevent the abuse of a child by a person associated with the organisation while the child is under its care, supervision, or authority. The duty of care expected in relation to children and young people is generally higher than that owed to other people. For duty of care in relation to health and safe environment refer to ANH@E Occupational Health and Safety Policy.

Exemptions: include:

- Where the victim requests confidentiality – the obligation to report does not apply where the information comes from a person aged 16-years or over and this person requests that the offence not be reported.
- The person was a child when they formed a reasonable belief – if a person was under the age of 18-years when they formed a reasonable belief, they will not be obliged to make a disclosure when they turn 18-years.
- The information would be privileged – if the information is disclosed in situations where it would be privileged (client legal privilege, journalistic privilege, or a religious confession).
- The information is a confidential communication – a registered medical practitioner or counsellor is not required to disclose information to police if the information is obtained from a child while providing treatment and assistance to that child in relation to sexual abuse.
- The information is in the public domain – the obligation to report does not apply to a person if they receive information through the public domain or form their 'reasonable belief' solely from information in the public domain (for example, from news articles).

Exposure to domestic/family violence: when children and young people witness or experience the chronic, repeated domination, coercion, intimidation, and victimisation of one person by another through physical, sexual, and/or emotional means within intimate relationships (adapted from the Australian Medical Association definition).

Failure to disclose: reporting child sexual abuse is a community-wide responsibility. All adults in Victoria who have a reasonable belief that an adult has committed a sexual offence against a child under 16-years have an obligation to report that information to the police.¹ (unless there is a **reasonable excuse** or an **exemption** applies).

Failure to protect: people of authority in our organisation will commit an offence if they know of a substantial risk of child sexual abuse and have the power or responsibility to reduce or remove the risk, but negligently fail to do so.²

Grooming: targets conduct and/or communication, including online communication, with a child under the age of sixteen (16) years with the intent of committing child sexual abuse. It also includes conduct and/or communication with a person who has care of, supervision of, or authority over the child, and the intention of the communication is to facilitate the child's involvement in sexual conduct at a later time either with the groomer or another adult.

Head of an organisation: under the Reportable Conduct Scheme, depending on the structure of the organisation, the 'Head' of an organisation may be the:

- Chief Executive Officer.

¹ A person will not commit this offence if they have a reasonable excuse for not disclosing the information, including a fear for their safety or where the information has already been disclosed. Further information about the failure to disclose offence is available on the [Department of Justice and Regulation website](#)

² Further information about the failure to protect offence is available on the [Department of Justice and Regulation website](#)

- Secretary (if the organisation is a Victorian Government department).
- The principal officer of the organisation (e.g. House Manager).

Mandatory Reporting: the legal requirement to report a reasonable belief to the relevant authorities of the suspected physical, mental or sexual abuse of a child under the age of 18-years. Any personnel who are **mandatory reporters** must comply with their duties.³

Mental, emotional, and psychological abuse: involves continuing behaviour by adults towards children, which erodes social competence or self-esteem over time. It occurs when a person engages in inappropriate behaviours, such as rejecting, ignoring, threatening or verbally abusing a child, or allowing others to do so (Office of the Child Safety Commissioner (OCSC) Victoria).

Neglect: the failure to provide a child with the basic necessities of life, such as food, clothing, shelter, medical attention or supervision, to the extent that the child's health and development is, or is likely to be, significantly harmed (Victorian Department of Health and Human Services).

Perceived interests: includes reputation, legal liability, or financial status.

Physical abuse: occurs when a child suffers or is likely to suffer significant harm from an injury inflicted by a parent/guardian, caregiver or other adult. The injury may be inflicted intentionally, or be the consequence of physical punishment or the physically aggressive treatment of a child. Physical injury and significant harm to a child can also result from neglect by a parent, guardian, caregiver, or other adult. The injury may take the form of bruises, cuts, burns or fractures, poisoning, internal injuries, shaking injuries or strangulation (these examples are not exhaustive).

Sexual abuse: involves a person using power or authority over a child, or inducements such as money or special attention, to involve the child in sexual activity. It includes a wide range of sexual behaviour from inappropriate touching/fondling of a child or exposing a child to pornography, to having sex with a child.

The Commission: is the Commission for Children and Young People.

Reasonable belief or a belief on reasonable grounds: does not require proof but is more than mere rumour or speculation. A *reasonable belief* is formed if a reasonable person in the same position would have formed the belief on the same grounds. For example, a *reasonable belief* might be formed if:

- A child states that they have been physically or sexually abused.
- A child states that they know someone who has been physically or sexually abused (sometimes the child may be talking about themselves).
- Someone who knows a child states that the child has been physically or sexually abused.

³ Mandatory reporters (doctors, nurses, midwives, teachers (including early childhood teachers), principals and police) must report to child protection if they believe on reasonable grounds that a child is in need of protection from physical injury or sexual abuse.

See the Department of Families, Fairness and Housing (DFFH) website for information about [how to make a report to child protection](#).

⁴ Further information about the Reportable Conduct Scheme is available on the Commission for Children and Young People website <https://ccyp.vic.gov.au/reportable-conduct-scheme/>

- Professional observations of the child's behaviour or development leads a professional to form a belief that the child has been physically or sexually abused or is likely to be abused.
- Signs of abuse lead to a belief that the child has been physically or sexually abused.

A person will not be guilty of the offence if they have a reasonable excuse for not disclosing suspected abuse (refer to **Reasonable excuse** definition).

Reportable Conduct Scheme: designated head of the organisation ensures the Commission for Children and Young People is notified and given updates and conclusions on the organisation's response to an allegation. ⁴

Reasonable excuse: where the person fears, on reasonable grounds, for the safety of any person (other than the alleged offender) and the failure to disclose the information is a reasonable response in the circumstances, or where the person believes that the information has already been disclosed to Victoria Police and they have nothing further to add. A person doesn't have a reasonable excuse for failing to disclose sexual abuse if they are only concerned for the perceived interests of the perpetrator or any organisation (refer to **Perceived interests** definition).

Reasonable precautions: will depend on the nature of the organisation and the perpetrator's role in the organisation. At a minimum, organisations that exercise care, supervision, or authority over children should take the following precautions:

- Screening and reference checking.
- Supervision and training.
- Implement systems to provide early warning of possible offences.
- Random and unannounced inspections to deter misconduct.
- Encourage children and adults to notify authorities or parents about any signs of aberrant or unusual behaviour.

Code of Practice

- Staff, volunteers, contractors, and Committee of Management members will receive regular training on how to identify and report signs of risk and abuse.
- ANH@E will publicise and make accessible information on how to report concerns for children and families.
- ANH@E will make available copies of organisational policies and procedures for staff, volunteers, children, and families so they can provide feedback.
- Ensure children are safe, and that procedures for responding to alleged abuse are fair and focus on child safety.
- Provide support and comfort to a child reporting abuse or safety concerns, and never blame or interrogate a child or pursue the matter with the child.
- ANH@E considers that it is not the responsibility of staff to assess a suspected child abuse situation. All suspected cases must be reported to the appropriate authorities.
- ANH@E will ensure a supportive environment for children, personnel, or families who report allegations of abuse or child safety concerns.

Mandatory Reporting Procedure

Under the *Children, Youth and Families Act 2005* (Vic), mandatory reporters:

1. Must make a report to DFFH Child Protection or police as soon as practicable after forming a reasonable belief, on reasonable grounds, that a child or young person is in need of protection from harm as a result of physical injury or sexual abuse and their parent and/or guardian has not protected or is unlikely to protect the child from harm of that type. The identity of a reporter to Child Protection or police remains confidential.

ANH@E is located in the East Division Child Protection Unit located at DFFH Box Hill on 1300 360 391. Information on reporting child abuse is available on the [DFFH website](#)
To report concerns about the immediate safety of a child outside of normal business hours, contact the After Hours Child Protection Emergency Service on 13 12 78.

2. In addition to contacting DFFH Child Protection or the police, the staff member, tutor, contractor, or volunteer must notify the Director of Early Learning/Child Safety Officer and House Manager.
3. The House Manager or Child Safety Officer with the mandatory reporter will document the alleged abuse and the reasonable belief/grounds.
4. The House Manager must report complaints of suspected abusive behaviour or misconduct to the police if not already reported and report to the Committee of Management.
5. The House Manager will suspend the alleged perpetrator or provide them with alternate duties pending an investigation.
6. In the situation where management may be suspected of involvement in the alleged abuse, or if the mandatory reporter has the suspicion they do not believe the matter is being appropriately addressed or dealt with, the matter should be reported to the next highest level of supervision – Chair of the Committee of Management.

Mandatory Reporting Investigation

1. If Child Protection or the police decide to conduct an investigation all staff, contractors, volunteers, and Committee of Management must co-operate fully with the investigation.
2. Whether or not the authorities decide to conduct an investigation, the House Manager will consult with the authorities to determine whether an internal investigation is appropriate. If it is decided that such an investigation will not conflict with any proceeding of the authorities, the House Manager may decide to conduct such an investigation. All staff, contractors and volunteers must co-operate fully with the investigation. Any such investigation will be conducted according to the rules of natural justice.
3. The House Manager will make every effort to keep any such investigation confidential; however, from time to time other members of staff may need to be consulted in conjunction with the investigation.
4. After an initial review and a determination that the suspected abuse warrants additional investigation, the House Manager shall coordinate the investigation with the appropriate investigators and/or law enforcement officials. Internal or external legal representatives will be involved in the process, as deemed appropriate.
5. If it is alleged that a member of staff, contractor, or a volunteer may have committed an offence or has breached the organisation's policies or its Code of Conduct, the person

concerned may be stood down (with pay where applicable) while an investigation is conducted.

6. If the investigation concludes that on the balance of probabilities an offence (or a breach of the organisation's policies or Code of Conduct) has occurred then disciplinary action may follow, up to and including dismissal or cessation of involvement with the organisation. The findings of the investigation will also be reported to the appropriate external body as required.

Reportable Conduct Procedure

The Reportable Conduct Scheme requires ANH@E to report all allegations of suspected criminal conduct to Victoria Police as the first priority. The scheme maintains the primacy of an investigation by Victoria Police of any allegations of criminal misconduct.

1. Any person who forms a reasonable belief that a sexual offence has been committed by an adult against a child must notify the Head of the Organisation (House Manager).
2. In the instance the Head of the Organisation is involved in the reportable allegation, the Chair of the Committee of Management will become the Head of the Organisation for the purposes of the Reportable Conduct Scheme.
3. The Head of the Organisation must notify the Commission of the allegations within **three (3) business days** after becoming aware of the allegation, including who is undertaking the investigation.
4. The Head of the Organisation will:
 - a) Investigate the allegation subject to police clearance on criminal matters. An investigation into the allegation cannot be commenced until Victoria Police have given ANH@E clearance to investigate.
 - b) Provide ongoing support to the reporter, staff, the alleged perpetrator and family in helping them to understand the processes that will follow, and/or make referrals for support.
 - c) Treat all information confidentially.
 - d) Provide the Commission with detailed information about the allegation within **thirty (30) days** after becoming aware of the allegation, including any action that has been taken.
 - e) After the investigation has concluded, provide the Commission with certain information including a copy of the findings of the investigation, any disciplinary action that was taken, or the reasons why no action was taken.
 - f) For all reported cases make detailed notes which will be kept in a locked file.
 - g) Review organisational child safe policies, procedures, and organisational responses following an incident to help drive continuous improvement.

Reporting forms and further information about the Reportable Conduct Scheme are available on the [Commission for Children and Young People website](#)

This policy was reviewed in August 2021 and will be reviewed again in August 2023.