

Reporting Sexual Abuse Policy, Guidelines and Procedures – Grammar School

Crimes Act 1958 (Amendment 2014)



1. Scope

This policy applies to all enrolled students and staff of Holmes Grammar School.

2. Purpose

2.1 Holmes Grammar School is committed to fulfilling its duty of care to all students and specifically students under the age of 16 in relation to the Crimes Act 1958 (Vic), which was amended in 2014 to include offences of: (i) failing to disclose a sexual offence; (ii) grooming for sexual conduct; and (iii) failing to protect a child from sexual offence.

2.2 Through the application of this policy, we at Holmes Grammar School aim to:

- a. Ensure all reasonable steps are taken so that students are safe from sexual abuse and that they feel safe at all times.
- b. Enable the governing body members, all persons in positions of authority, care or supervision, all employees of the school and where applicable, students of 18 years or over to understand their role and responsibility in protecting the safety and wellbeing of children and young people under the age of 16 in accordance with the Crimes Act 1958 (Vic). That is, to ensure individuals associated with the school who have the power or responsibility to reduce or remove a substantial risk, take steps to reduce or remove any substantial risk that a student under 16 years of age will become the victim of sexual assault, including the recognition of 'grooming.'
- c. Ensure all members of the school community aged 18 and over understand their reporting obligations in accordance with the Crimes Amendment (Protection of Children) Act 2014 (Vic). That is, to ensure all members of the school community aged 18 and over (who are not Mandatory Notifiers) who form a reasonable belief that a sexual offence has been committed by an adult against a child under 16, report that information to police.

3. Guidelines and Procedures

Responsibilities

3.1 The Principal will:

- a. Ensure that all staff members, volunteers, students aged 18 and over, school board members and the school parent community are aware of the Crimes Act 1958 (Vic) Policy and have access to a copy of the policy.
- b. Ensure that all adults within the school community are aware of their obligation to report suspected sexual abuse of a child under 16 years to the police.
- c. Provide support for staff in undertaking their responsibility in this area.

- 3.2 All staff members will:
- a. Be aware of the school's Crimes Act 1958 (Vic) Policy and the school's Mandatory Notification Policy.
 - b. Report any reasonable belief of child sexual abuse to the police or fulfil their obligation as Mandatory Notifiers
 - c. Provide an educational environment that is supportive of all children's emotional and physical safety.
- 3.3 Parents/Caregivers/Volunteers/Students 18 and over will:
- a. Be aware of the school's Crimes Act 1958 (Vic) Policy and the Mandatory Notification Policy.
 - b. Understand their obligations to report reasonable belief of child sexual abuse to the police.

Specific Offences and associated processes

Failure to Disclose

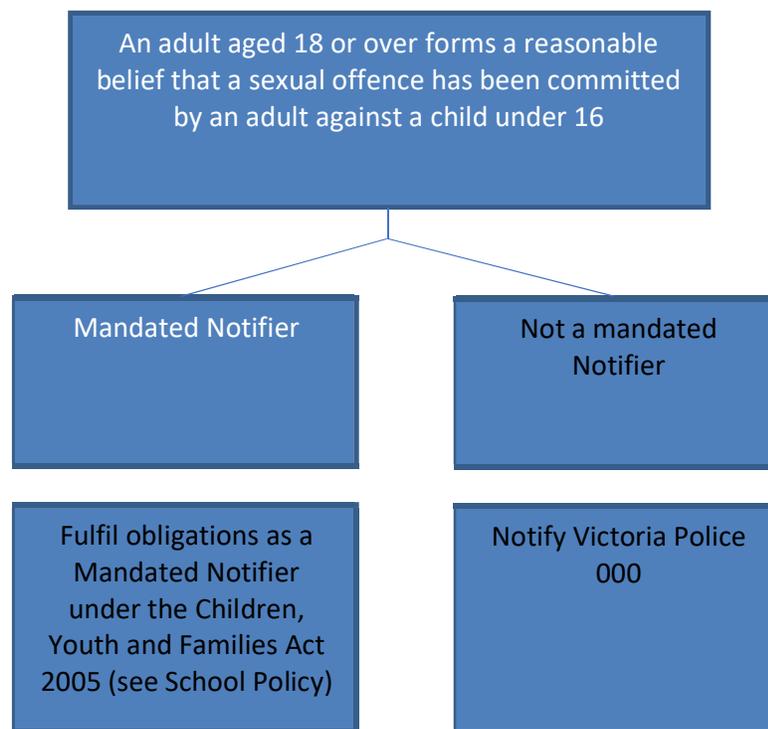
- 3.4 Reporting child sexual abuse is a community-wide responsibility. The failure to disclose offence imposes a clear legal duty upon all adults aged 18 and over to report information about child sexual abuse to police.
- 3.5 Under section 327 of the crimes Act, any person (including any staff member) of or over the age of 18 years who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child under 16 years of age must disclose that information to police, as soon as it is practicable to do so. Failure to disclose the information to police is a criminal offence, except in limited circumstances such as where the information has already been reported to DHS Child Protection.
- 3.6 The offence applies to all adults in Victoria, not just professionals who work with children.
- 3.7 Forming a 'Reasonable Belief' - A 'reasonable belief' or a 'belief on reasonable grounds' is not the same as having 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. A child states that they have been sexually abused;
 - b. A child states that they know someone who has been sexually abused (sometimes the child may be talking about themselves);
 - c. Someone who knows a child states that the child has been sexually abused;
 - d. Professional observations of the child's behaviour or development leads a professional to form a belief that the child has been sexually abused or is likely to be abused; or
 - e. Signs of abuse lead to a belief that the child has been sexually abused.
- 3.8 Any adult aged 18 or over who forms a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child under 16 must report that information to Victoria Police by dialing 000 (or otherwise to a Member of the police force of Victoria).
- 3.9 An adult will not be guilty of an offence if they do not report in the following circumstances:
- a. The victim is 16 years of age or older and does not have an intellectual disability that limits his/her capacity to make an informed decision; and he/she does not want the information reported to the police;

- b. The victim has disclosed the information in confidence in the course of a therapeutic relationship with you as a registered medical practitioner or counsellor; or
- c. The victim turned 16 years of age before 27 October 2014.

3.10 Reasonable excuses for failing to comply with the requirement include:

- a. A reasonable belief that the information has already been reported to police or Department of Human Services Child Protection disclosing all of the information; and
- b. A reasonable fear that the disclosure will place someone (other than the alleged perpetrator) at risk of harm.

3.11 A person in the school may have a mandatory reporting obligation under the Children, Youth and Families Act 2005. In summary, this obligation requires teachers to report concerns about child welfare to child protection authorities within the Department of Human Services (DHS). DHS passes all allegations of child sexual abuse to police so it will be a reasonable excuse for not reporting to police if a person has made a report to DHS or reasonably believes a report has been made to DHS. The process is shown in the chart below and the details can be found in the Mandatory Notification Policy.



Grooming

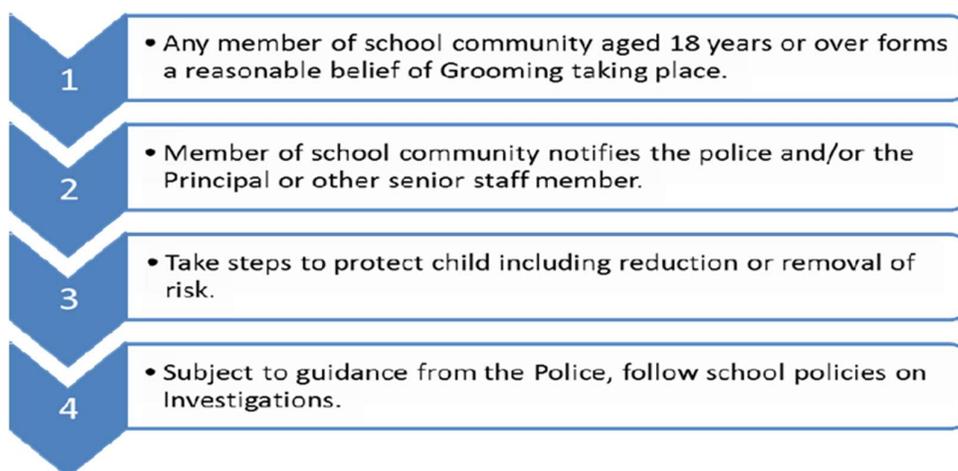
3.12 Section 49B of the Crimes Act relates to the offence of “Grooming for sexual conduct with a child under the age of 16 years.” The offence targets predatory conduct designed to facilitate later sexual activity. The offence can be committed by any person aged 18 years or over.

3.13 Definition of grooming:

- a. The offence of grooming concerns predatory conduct undertaken to prepare a child for sexual activity at a later time.
- b. The offence applies where an adult communicates, by words or conduct, with a child under the age of 16 years or with a person who has care, supervision or authority for the child with the intention of facilitating the child's engagement in or involvement in sexual conduct, whether with the groomer or another adult.
- c. Grooming does not necessarily involve any sexual activity or even discussion of sexual activity – for example, it may only involve establishing a relationship with the child, parent or carer for the purpose of facilitating sexual activity at a later time.
- d. The sexual conduct must constitute an indictable sexual offence. This includes offences such as sexual penetration of a child, indecent assault and indecent act in the presence of a child. It does not include summary offences, such as 'up skirting' and indecent behaviour in public.

3.14 Should any member of the school community aged 18 and over become aware of grooming behaviour by a person aged 18 years or over, they should notify the police and/or the Principal immediately.

3.15 It is the responsibility of the Principal and/or others associated with the school with authority or responsibility, to act upon becoming aware of grooming behaviour to protect (so as to reduce or remove a substantial risk) in accordance with the 'failure to protect' offence (see below).



Failure to Protect Offence

3.16 Section 49C of the Crimes Act will make it a criminal offence in Victoria for a person in authority to fail to protect a child under the age of 16 from criminal sexual abuse.

3.17 This applies where there is substantial risk that a child under the care, supervision or authority of an organisation (including schools) will become a victim of a sexual offence by an adult associated with the school. The person in a position of authority may be guilty of an offence if they know of the risk of abuse and have the power or responsibility to reduce or remove the risk, but negligently fail to do so.

3.18 If a person associated with the school who by reason of their position has the power

or responsibility to reduce or remove a substantial risk that a child will become a victim of a sexual offence committed by an adult associated with the school, they must not negligently fail to reduce or remove the risk. That is, as soon as a person in authority becomes aware of a risk of child sexual abuse, they will be under a duty to take steps to remove or reduce that risk.

- 3.19 A person who has the power or responsibility to reduce or remove a risk will include the Principal, governing body members and senior staff, as well as teachers by virtue of their responsibilities. For the avoidance of doubt, any member of staff or person associated with the school who knows of a substantial risk that a child will become a victim of a sexual offence should notify the Principal as soon as is reasonably practicable.
- 3.20 When aware of a substantial risk of criminal sexual abuse to a child in the school from an adult aged 18 or over associated with the school, the Principal will act to reduce or remove the risk. The person will be removed from any child-related role pending an investigation.
- 3.21 Principal becomes aware of risk of sexual abuse to a child in school from an adult aged 18 years or over associated with the school community.
- 3.22 Principal takes immediate action to reduce or remove the risk to the child. Such an action might include: if the adult concerned is a staff member, immediately standing that person down or otherwise removing their access to students while an investigation is underway.
- 3.23 Notify police and/ or other authorities (See school policy on investigations, seek guidance from police).

Version Control and Accountable Officers

It is the joint responsibility of the Implementation Officer and Responsible Officer to ensure compliance with this policy.

Responsible Officer	School Council/School Principal
Implementation Officers	All school staff
Review Date	12/08/2021
Approved by	
School Council	
Associated Documents	
Holmes Grammar School Staff Manual	
Key Documents Development and Review Policy and Procedure	
Child Safe Communication Strategies	
Child Safe U18 Risk Management Strategy	
Communication Policy & Procedure	
Safe Environment Policy & Procedure	
Student Study Planner	
U18 Student Handbook	

Version	Brief Description of the Changes	Date Approved	Effective Date
1	New Policy	17/04/2015	17/04/2015
2	Re-formatted	12/08/2021	12/08/2021