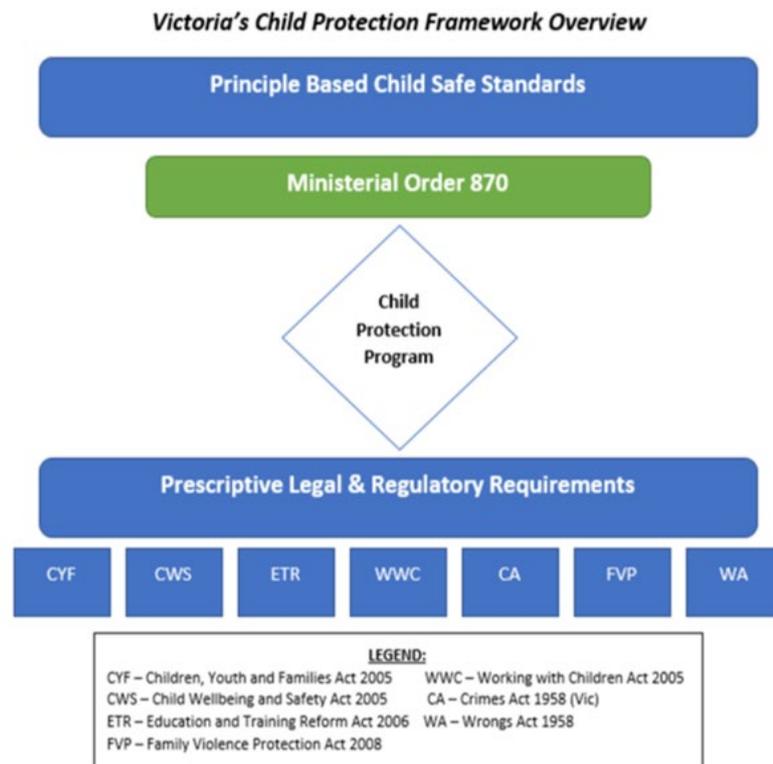




## Part 1- An Overview

1. The legal and regulatory framework for child protection in Victoria is made up of a complex web of laws, regulations and guidance notes.
2. This diagram and the commentary below provide an overview of the framework



## Part 2- Victorian Child Safe Standards

1. At the top of the diagram are the Victorian Child Safe Standards. These Standards are designed to improve the way all organisations that provide services to children, including schools, prevent and respond to child abuse. These Standards are 'principle-based' which means that, whilst they have the force of law, how the Standards are applied in practice is open to interpretation and will depend largely on the size, nature and complexity of the organisation that is seeking to comply with the Standards.
2. To provide a higher level of guidance for schools the Minister of Education has published Ministerial Order No. 870 under the Education and Training Reform Act 2006 (Vic) that contains requirements that all registered schools must meet to comply with each of the Child Safe Standards. A copy of the Ministerial Order is available.
3. The next section of this Program sets out each of the Victorian Child Safe Standards and how we comply with each Standard at Ballarat Grammar as required by the Minister of Education.



### **Part 3- Prescriptive Legal and Regulatory Requirements**

1. At the bottom of the diagram there are seven separate pieces of legislation that work together to make up the legal and regulatory framework for child protection in Victoria.
2. They are in summary:

#### **2.1 *The Children, Youth and Families Act 2005***

2.1.1 The Children, Youth and Families Act has many functions including:

- establishing the “child’s best interests: principle”;
- regulation of community services and care providers;
- the management of child protection responses;
- children in need of therapeutic treatment if exhibiting sexually inappropriate behaviour; and
- promoting stability in care arrangement.

2.1.2 For the purpose of our Child Protection Program the Children, Youth and Families Act is important because it establishes obligations with respect to Mandatory Reporting.

#### **2.2 *Child Wellbeing and Safety Act 2005***

2.2.1 The Child Wellbeing and Safety Act is a companion piece of legislation to the Children, Youth and Families Act.

2.2.2 Its primary function is to provide for the establishment of various government bodies that oversee the Victorian child and family services system.

2.2.3 For the purpose of our Child Protection Program, the Child Wellbeing and Safety Act is important for three reasons:

- it provides the Statutory Definition of Child Abuse;
- it is the Act through which the Victorian Child Safe Standards are created; and
- it is the Act through which the Reportable Conduct Scheme in Victoria is established.

#### **2.3 *Education and Training Reform Act 2006***

2.3.1 From a child safety perspective, the key functions of the Education and Training Reform Act are to:

- require schools to notify the Victorian Institute of Teaching (VIT) when a school has taken action against a teacher; and
- make compliance with the Victorian Child Safe Standards a requirement for registration of all Victorian schools.

#### **2.4 *Working with Children Act 2005***

2.4.1 The Working with Children Act establishes a framework to screen the criminal records and the professional conduct of people who intend to work with or care for children.

2.4.2 People who are assessed as posing an unjustifiable risk to the safety of children will fail the Working with Children Check and the Act prohibits these people from working with children.

2.4.3 The Act imposes penalties for schools and individuals that do not comply with the Act.

#### **2.5 *Crimes Act 1958***





- 2.5.1 The Crimes Act in Victoria sets out a number of child protection related offences and key definitions including those relating to indecent acts and persistent sexual abuse.
- 2.5.2 Of key relevance to the Victorian child protection framework and the School environment are the offences of:
- Grooming - which targets predatory conduct designed to facilitate later sexual activity with a child.
  - Encouraging a Child to Engage in Sexual Activity – which is a broader preparatory sexual offence than grooming, and targets behaviour that encourages sexual activity of children.
  - Failure to Protect a Child - which requires people in authority within a school to take action to protect children where they know that a person associated with the school poses a substantial risk of sexually abusing a child.
  - Failure to Disclose – which applies to all adults, not just professionals who work with children, and requires them to report to the Police where they hold a reasonable belief that a sexual offence has been committed by an adult against a child in Victoria.
- 2.6 *Family Violence Protection Act 2008*
- 2.6.1 Finally, the Family Violence Protection Act is designed to maximise safety for children and adults who have experienced family violence and forms a key part of the overall legal and regulatory framework for child protection in Victoria.
- 2.6.2 Critically the Act provides an extensive definition of “family violence” that includes behaviour that causes a child to hear, witness, or be exposed to the effects of such behaviour.
- 2.7 *Wrongs Act 1958*
- 2.7.1 The Wrongs Act is the principal legislation governing claims for damages for economic and non-economic loss arising from personal injury and death in Victoria, as a result of negligence or fault. It is through this Act that child abuse victims may claim compensation for loss arising from child abuse.
- 2.7.2 Section 91 of the Wrongs Act imposes a duty of care on schools to take reasonable precautions to prevent the physical or sexual abuse of a child under its care, supervision or authority, by an individual associated with the school. If a school is involved in a proceeding under the Wrongs Act, the school is presumed to have breached its duty of care unless it can prove, on the balance of probabilities, that it took reasonable precautions to prevent the abuse.
- 2.7.3 Whether or not a school took reasonable precautions will be assessed by a court in accordance with considerations set out in the Wrongs Act and case law. The effective implementation of the School’s risk management strategies in Child Protection Risk Management is an example of taking reasonable precautions to prevent the physical or sexual abuse of a child.
- 2.7.4 It is important to note that the operation of section 91 is subject to section 5.4.10 of the Education and Training Reform Act which states that Ballarat Grammar will not have a duty relating to the care or control of a student while



that student is employed under an approved work experience arrangement, structured workplace arrangement or an apprentice contract.

#### **Part 4- Our Child Protection Program**

1. In order to comply with the Victorian Child Safe Standards and Ministerial Order No. 870, as well as each of the seven separate pieces of legislation noted above, Ballarat Grammar has established this Child Protection Program which sets out our work systems, practices, policies and procedures designed to not only ensure compliance, but also to develop a child safe culture.

#### **Part 5- Review**

1. Ballarat Grammar is committed to the continuous review and improvement of all its operations, including this policy.
2. It is the responsibility of the Senior Child Protection Officer to regularly monitor and review the effectiveness of the Child Protection Law and Regulation in Victoria overview to ensure it is working in practice and revise the policy when required.

#### **Part 6- Breach of Policy**

1. All staff employed by Ballarat Grammar are expected to enact all policies in support of student and community learning, health, safety and wellbeing.