



DEFINITIONS:

Part 1- General Terms

1. **Child-** is defined by the Crimes Act 1958 (Vic) as a person who is under the age of 18 years.
2. **Student-** is an individual who is enrolled at or attends Ballarat Grammar ("the School") including but not limited to a boarding student, and exchange student and a day student.
3. **Adult-** is defined as a person aged 18 years and over. This means that a student who is aged 18 years is considered an adult.
4. **Staff-** includes all teaching, general staff (including Boarding House supervisors), members of the Board of Directors, Volunteers (including parents, guardians and caregivers), Third Party Contractors, and External Education Providers who, for the purposes of these procedures and policies are considered employees of the School, as will be referred to collectively as "staff" or "staff members".
 - 4.1. Further definitions of 'Third Party Contractor' can be found below in parts 6 and 8.
5. **Volunteer-** is a person who performs work without remuneration or reward from the School or School boarding premises in the School environment or School boarding premises environment.
 - 5.1. Further definitions of 'Volunteer' can be found below in parts 5 and 7.
6. **Independent Supportive Adult-** is an individual who is aged over 18 years who is not connected with the School, such as a social worker or nurse, who provides support to a student.
7. **Caregiver-** is an individual who is gives unpaid care or support to another individual.
8. **Diversity-** includes but is not limited to the following:
 - 8.1. Gender differences;
 - 8.2. Lesbian, gay, bisexual, transgender, asexual and intersex children;
 - 8.3. Disabilities;
 - 8.4. Diverse religions and cultural communities;
 - 8.5. Very young children; and
 - 8.6. Children who are unable to live at home.
9. **Child Protection-** is the Department of Families, Fairness and Housing Child Protection.
10. **The Commission-** is the Commission for Children and Young People. It can also be referred to as the CCYP.
11. **VIT-** is the Victorian Institute of Teaching.
12. **VRQA-** is the Victorian Regulations and Qualifications Authority.
13. **DET-** is the Department of Education and Training Victoria.

Part 2- Child Abuse in Victoria

1. Child Abuse is defined in section 3 of the Child Wellbeing and Safety Act 2005 (Vic) as including:
 - 1.1 Any act committed against a child involving a sexual offence or a grooming offence under section 49M(1) of the Crimes Act 1958 (Vic);
 - 1.2 The infliction of physical violence or serious emotional or psychological harm; and
 - 1.3 The serious neglect of a child.
2. A child is defined by the Act as a person who is under the age of 18 years.
3. For more information about sexual offences that constitute child abuse, refer to Part 9- *Sexual Offences*.

Part 3- Family Violence in Victoria

1. Whilst the term "family violence" does not form part of the legislative definition of "child abuse", the impact of family violence on a child is commonly referred to as a form of child abuse. In Victoria section 5 of the Family Violence Protection Act 2008 (Vic) defines "family violence" as behaviour by a person towards a family member that is:
 - 1.1 Physically or sexually abusive;





- 1.2 Emotionally or psychologically abusive;
 - 1.3 Economically abusive;
 - 1.4 Threatening;
 - 1.5 Coercive; or
 - 1.6 In any other way controlling or dominating of the family member and causes them to feel fear for their own, or other family members' safety or wellbeing.
2. Behaviour that causes a child to hear, witness, or be exposed to the effects of such behaviour also falls within the definition of "family violence".

Part 4- Care, Supervision or Authority

1. It is important to understand the definition of the legal phrase "care, supervision or authority" and its applicability to staff. The phrase is central to several offences under the Crimes Act 1958 (Vic).
2. Under section 37 of the Crimes Act the circumstances in which a person will have a child (under 18) under their care, supervision or authority include if the person is:
 - 2.1 The child's parent or step-parent;
 - 2.2 The child's teacher;
 - 2.3 The child's employer;
 - 2.4 The child's youth worker;
 - 2.5 The child's sports coach;
 - 2.6 The child's counsellor;
 - 2.7 The child's health professional;
 - 2.8 A person with parental responsibility for the child;
 - 2.9 A religious or spiritual guide, or a leader or official (including a lay member) of church or religious body, however any such guide, leader, official, church or body is described who provides care, advice or instruction to the child or has authority over the child; or
 - 2.10 A police officer acting in the course of their duty in respect of the child.
3. At the School persons in positions of care, supervision or authority over a child will include teaching staff, sports coaches, youth workers, counsellors, registered nurses and religious leaders or officials.
4. All members of the School community must be aware that if they engage in certain conduct in breach of these policies and procedures, their conduct may constitute a sexual offence under the Crimes Act. For those persons who have a child under their care, supervision or authority, additional offences may apply. Refer to our *Student Safety Code of Conduct* and *Professional Boundaries* policy.

Part 5- Direct Contact Volunteers

1. Direct Contact Volunteers are volunteers who are involved in providing support, guidance and supervision directly to students and could potentially have direct contact with students during the normal course of providing the volunteer service.
2. The *Worker Screening Act 2020 (Vic)* defines 'direct contact' as any contact between a person and a child (aged under 18) that involves:
 - 2.1 Physical contact; or
 - 2.2 Face to face contact; or
 - 2.3 Contact by post or other written communication; or
 - 2.4 Contact by telephone or other oral communication; or
 - 2.5 Contact by email or other electronic communication.
3. Direct Contact Volunteers may have:
 - 3.1 Limited supervision by School staff in their role;
 - 3.2 Significant amounts of 1:1 time with students;



- 3.3 Supervisory responsibility for one or more students, such as in a sports' coaching role or learning support role.
4. Examples of Direct Contact Volunteer activities may include volunteers involved in School camps and excursions, coaching sporting teams, assisting in learning activities or administrative roles.

Part 6- Direct Contact Contractors

1. Direct Contact Contractors are third party contractors who have direct contact with students during the normal course of their work or contractors who may be in a position to establish a relationship of trust. This also includes any contractors whom a school is legally required to screen.
2. The definition of 'direct contact' included under Direct Contact Volunteers applies to Direct Contact Contractors.
3. Examples of Direct Contact Contractor activities may include tutors, sports coaches and casual teachers.

Part 7- Indirect Contact Volunteers

1. Indirect Contact Volunteers are those volunteers who are involved in providing support and services whilst not directly assisting a specific group of students.
2. Examples of Indirect Contact Volunteer activities may include assisting with administrative functions.
3. Where the term "Volunteer" is used, it captures both "Direct Contact Volunteers" and "Indirect Contact Volunteers".

Part 8- Indirect Contact Contractors

1. Indirect Contact Contractors are third party contractors who are not Direct Contact Contractors.
2. Where the term "Third Party Contractor" is used, it captures both "Direct Contact Contractor" and "Indirect Contact Contractors".

Part 9- Sexual Offences

Sexual Offence- the Crimes Act 1958 (Vic) and clause 1 of Schedule 1 of the Sentencing Act 1991 (Vic) set out that a "sexual offence" includes rape, indecent assault, incest, sexual penetration, grooming a child for sexual conduct, and encouraging a child to engage in, or be involved in, sexual activity. A sexual offence includes an attempted sexual offence and assault with the intent to commit a sexual offence, as well as the production or possession of child pornography.

1. A sexual offence occurs when a person involves a child in sexual activity, or deliberately puts the child in the presence of sexual behaviours that are exploitative or inappropriate to the child's age and development. Children may be bribed or threatened physically or psychologically to make them participate in the activity. Sexual offences are governed by the Crimes Act 1958 (Vic).
2. Sexual abuse can involve a wide range of sexual activity and may include fondling, masturbation, oral sex, penetration, voyeurism and exhibitionism. It can also include exploitation through pornography or prostitution.
3. The policies and procedures address in more detail certain sexual offences which involve behaviour that is intended to prepare or facilitate a child's involvement in sexual activity or conduct. These are grooming behaviour and the encouragement of a child to engage in, or be involved in, sexual activity. This is because the breadth of these offences and the nature of professional boundaries between School staff and students means that staff must be aware that certain behaviours will not only breach Staff and Student Professional Boundaries but may also amount to criminal offence.



4. Possible Physical Indicators that a Sexual Offence has occurred include:
 - 4.1 Injury to the genital or rectal areas, such as bruising or bleeding;
 - 4.2 Vaginal or anal bleeding or discharge;
 - 4.3 Discomfort in urinating or defecating;
 - 4.4 Presence of foreign bodies in the vagina and/or the rectum;
 - 4.5 Inflammation or infection of the genital area;
 - 4.6 Sexually transmitted diseases;
 - 4.7 Pregnancy, especially in very young adolescents;
 - 4.8 Bruising and other injury to breasts, buttocks or thighs;
 - 4.9 Anxiety related illnesses such as anorexia or bulimia; and
 - 4.10 Frequent urinary tract infections.
5. Possible Behavioural Indicators that a Sexual Offence has occurred include:
 - 5.1 The student discloses sexual abuse;
 - 5.2 Persistent and age-inappropriate sexual activity, including excessive masturbation, masturbation with objects, rubbing genitals against adults, playing games that act out a sexually abusive event;
 - 5.3 Drawings or descriptions in stories that are sexually explicit and not age appropriate;
 - 5.4 A fear of home, a specific place, a particular adult, or excessive fear of men or of women;
 - 5.5 Poor or deteriorating relationships with adults and peers;
 - 5.6 Poor self-care/personal hygiene;
 - 5.7 Regularly arriving early at school and leaving late;
 - 5.8 Complaining of headaches, stomach pains or nausea without physiological basis;
 - 5.9 Frequent rocking, sucking or biting;
 - 5.10 Sleeping difficulties;
 - 5.11 Reluctance to participate in physical or recreational activities;
 - 5.12 Regressive behaviour, such as bedwetting or speech loss;
 - 5.13 The sudden accumulation of money or gifts;
 - 5.14 Unplanned absences or running away from home;
 - 5.15 Delinquent or aggressive behaviour;
 - 5.16 Depression;
 - 5.17 Self-injurious behaviour, including drug/alcohol abuse, prostitution, self-mutilation, or attempted suicide;
 - 5.18 The sudden decline in academic performance, poor memory and concentration;
 - 5.19 Wearing of provocative clothing, or layers of clothes to hide injuries; and
 - 5.20 Promiscuity.
6. Student Sexual Offending and Student-to-Student-Sexual Offending
 - 6.1 Unwanted sexual behaviour towards a student by a child 10 years or over can constitute a sexual offence and is referred to as student sexual offending. All incidents, suspicions and disclosures of student sexual offending must be responded to in accordance with the School's *Procedures for Responding to and Reporting Allegations of Child Abuse*.
 - 6.2 Where the students involved in such activities are aged over 12 years, and are not more than two (2) years apart in age, the Crimes Act 1958 (Vic) states that there may be an exception (Section 49U) or a defence (Section 49V) to the offence. However, it is best practice to follow the procedures set out in the School's *Procedures for Responding to and Reporting Allegations of Child Abuse* in all circumstances regardless of any possible exceptions.
7. Encouragement to Engage in Sexual Activity
 - 7.1 It is a criminal offence for an adult to encourage a child to engage in, or to be involved in, sexual activity where the adult seeks or gets sexual arousal or sexual gratification from the encouragement or the sexual activity. There are two "encouragement" offences in the Crimes Act 1958 (Vic):
 - 7.1.1 Section 49K: encouraging a child under the age of 16 to engage in, or be involved in, sexual activity; and



- 7.1.2 Section 49L: encouraging a child aged 16 or 17 under care, supervision or authority to engage in, or be involved in, sexual activity.
- 7.2 A section 49K offence carries a maximum 10-year term of imprisonment. A section 49L offence carries a maximum five-year term of imprisonment.
- 7.3 The Crimes Act 1958 (Vic) defines "encourage" to include suggest, request, urge and demand. Examples of encouragement include offering money or gifts or threatening harm. It can be done in person or by electronic communication. An example of conduct prohibited by these offences is an adult asking a child to watch inappropriate material. Conduct which occurred outside Victoria or while the child was outside Victoria can still constitute an offence.
- 7.4 The encouragement offences cover conduct that is similar to grooming but are broader. Both the encouragement and grooming offences are 'preparatory' offences, but encouragement behaviour occurs at a later stage to grooming, or closer to the substantive sexual offence. The encouragement offence applies to sexual activity that would otherwise not be a criminal offence. For example, if a student was encouraged to watch inappropriate material in contravention of sections 49K or 49L, the act of watching is not a sexual offence, but the encouragement would amount to an offence.
- 7.5 Note: *Both offences of grooming and encouragement to engage in sexual activity are sexual offences reportable under every adult's Obligation to Report a Sexual Offence.*
- 7.6 Possible indicators of adult encouragement behaviour would include those that may indicate grooming however the pattern of behaviours would not be required. The encouragement would normally be more sexualised.

Part 10- Grooming

1. Grooming is defined by the Royal Commission into Institutional Responses to Child Sexual Abuse as behaviours that manipulate and control a child, their family and other support networks, or institutions with the intent of gaining access to the child, obtaining the child's compliance, maintaining the child's silence and avoiding discovery of the sexual abuse.
2. Grooming by an adult for sexual conduct with a child under the age of 16, or with a person under the care, supervision or authority of the adult, is a crime under section 49M of the Crimes Act 1958 (Vic).
3. Grooming does not necessarily involve any sexual activity or even discussion of sexual activity. For example, it may only involve establishing a relationship with a child or a person who has care, supervision or authority for a child for the purpose of facilitating sexual activity at a later time. Conduct which occurred outside Victoria or while the child was outside Victoria can still constitute an offence.
4. Certain behaviours or acts will not in isolation constitute grooming behaviour. However, where there is a repeating pattern of indicative behaviour, or several incidents of indicative behaviour, it may constitute grooming behaviour.
5. Online Grooming
 - 5.1 The sexual offence of grooming under section 49M includes online grooming which occurs when an adult (18 years or over) uses electronic means to communicate with a child under the age of 16 in a predatory fashion to try and lower the child's inhibitions, or heighten their curiosity regarding sexual behaviour or activity, with the aim of eventually meeting them in person for the purposes of sexual activity. This can include communications through social media, online chat rooms, sexting or emails.
6. Possible Indicators of Grooming Behaviour in Adults include:
 - 6.1 Persuading a child or group of children that they have a special relationship;
 - 6.2 Asking a child to keep the relationship to themselves;
 - 6.3 Inappropriately allowing a child to overstep the rules;
 - 6.4 Testing boundaries, for example by undressing in front of a child;
 - 6.5 Manoeuvring to get or insisting on uninterrupted time alone with a student;





- 6.6 Buying a student gifts;
 - 6.7 Insisting on physical affection such as hugging, wrestling or tickling even when the student clearly does not want it;
 - 6.8 Being overly interested in the sexual development of a student;
 - 6.9 Taking a lot of photos of a student;
 - 6.10 Engaging in inappropriate or excessive physical contact with a student;
 - 6.11 Sharing alcohol or drugs with a student;
 - 6.12 Making inappropriate comments about a student's appearance or excessive flattery;
 - 6.13 Using inappropriate pet names;
 - 6.14 Making jokes or innuendo of a sexual nature;
 - 6.15 Making obscene gestures or using obscene language;
 - 6.16 Sending correspondence of a personal nature via any medium;
 - 6.17 Inviting, allowing, or encouraging students to attend a staff member's home without parental/carer permission;
 - 6.18 Entering change rooms or toilets occupied by students when supervision is not required or appropriate;
 - 6.19 Communicating with a child's parent/step-parent, legal guardian, teacher, religious official or spiritual leader with the intention of facilitating the child's involvement in sexual conduct;
 - 6.20 Inappropriately extending a relationship outside of work; and
 - 6.21 Photographing, audio recording, or filming students via any medium without authorisation or having parental consent to do so.
7. Indicators that a Child may be subject to Grooming include:
- 7.1 Developing an unusually close relationship with an adult;
 - 7.2 Displaying significant mood changes, including hyperactive, sensitive, hostile, aggressive, impatient, resentful, anxious, withdrawn or depressed behaviour;
 - 7.3 Using 'street' or different language they learned from a new or older 'friend';
 - 7.4 Having new jewellery, clothing, expensive items or large amounts of money that were gifts from a new or older 'friend';
 - 7.5 Using a new mobile phone excessively to make calls, videos or send text messages to a new or older 'friend';
 - 7.6 Being excessively secretive about their use of social media or online communications;
 - 7.7 Frequently staying out late or overnight with a new or older 'friend';
 - 7.8 Being dishonest about where they have been or who they were with
 - 7.9 Drug and alcohol use; and
 - 7.10 Being picked up in a car by a new or older 'friend' from home or school or 'down the street'.
8. Indicators that a Child may be subject to Online Grooming include:
- 8.1 Discovery of pornography on their computer or device;
 - 8.2 Receiving or making calls to unrecognised numbers;
 - 8.3 Increasing or excessive amount of time spent online;
 - 8.4 Increased secrecy in what they are doing online and efforts to try and hide what they are doing online; and
 - 8.5 Evidence of people on their 'friends' list that are unknown and they have never met them offline.
9. What is Not Grooming?
- 9.1 Not all physical contact between a student and a staff member or any person engaged by the School to provide services to children, including a Volunteer, will be inappropriate and/or an indicator of possible grooming behaviour.
 - 9.2 The following contact with students is not grooming behaviour:
 - 9.2.1 Administration of first aid;
 - 9.2.2 Supporting students who have hurt themselves;
 - 9.2.3 Non-intrusive gestures to comfort a student who is experiencing grief, loss or distress, such as a hand on the upper arm or upper back; and



- 9.2.4 Non-intrusive touching i.e. shaking a student's hand or a pat on the back to congratulate a student.

Part 11- Physical Violence

Physical Violence- includes an act that causes physical injury or pain such as hitting/kicking/punching, pushing/shoving/grabbing/throwing/shaking, using an object to hit or strike, and using inappropriate restraint or excessive force. It does not include 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, or medical treatment given in good faith by an appropriately qualified person such as a First Aid Officer administering first aid.

1. Physical violence occurs when a child (under 18) suffers or is likely to suffer significant harm from a non-accidental injury or injuries inflicted by another person. Physical violence can be inflicted in many ways including beating, shaking, burning or using weapons (such as belts and paddles).
2. Physical abuse does not mean reasonable discipline, though it may result from excessive or inappropriate discipline.
3. Possible Physical Indicators of Physical Violence include:
 - 3.1 Unexplained bruises;
 - 3.2 Bruises or welts on facial areas and other areas of the body, including back, bottom, legs, arms or inner thighs;
 - 3.3 Any bruises or welts in unusual configurations, or those that look like the object used to make the injury, for example, fingerprints, handprints, buckles, iron or teeth;
 - 3.4 Burns that show the shape of the object used to make them, such as an iron, grill, cigarette, or burns from boiling water, oil or flames;
 - 3.5 Fractures of the skull, jaw, nose or limbs, especially those not consistent with the explanation offered or with the type of injury probable/possible at the child's age and development;
 - 3.6 Cuts and grazes to the mouth, lips, gums, eye area, ears or external genitalia;
 - 3.7 Human bite marks;
 - 3.8 Bald patches where hair has been pulled out; and
 - 3.9 Multiple injuries, old and new.
4. Possible Behavioural Indicators of Physical Violence include:
 - 4.1 Inconsistent or unlikely explanation for an injury;
 - 4.2 Inability to remember the cause of an injury;
 - 4.3 Fear of specific people;
 - 4.4 Wearing clothes unsuitable for weather conditions (such as long-sleeved tops) to hide injuries;
 - 4.5 Wariness or fear of a parent/carer and reluctance to go home;
 - 4.6 No reaction or little emotion displayed when hurt;
 - 4.7 Little or no fear when threatened;
 - 4.8 Habitual absences from school without explanations (the parent/carer may be keeping the child away until signs of injury have disappeared);
 - 4.9 Overly compliant, shy, withdrawn, passive and uncommunicative;
 - 4.10 Fearfulness when other children cry or shout;
 - 4.11 Unusually nervous or hyperactive, aggressive, disruptive and destructive to self and/or others;
 - 4.12 Excessively friendly with strangers;
 - 4.13 Regressive behaviour, such as bed wetting or soiling;
 - 4.14 Poor sleeping patterns, fear of dark, nightmares;
 - 4.15 Sadness and frequent crying;
 - 4.16 Drug or alcohol misuse;
 - 4.17 Poor memory and concentration;



- 4.18 Suicide attempts; and
- 4.19 Academic problems.

Part 12- Serious Emotional or Psychological Harm

Emotional or Psychological Abuse- may occur when a child is repeatedly rejected, isolated or frightened by threats or the witnessing of family violence. It also includes hostility, derogatory name-calling and put-downs, or persistent coldness from a person, to the extent where the behaviour of the child is disturbed or their emotional development is at serious risk of being impaired. Serious emotional or psychological harm could also result from conduct that exploits a child without necessarily being criminal, such as encouraging a child to engage in inappropriate or risky behaviours.

1. Serious emotional or psychological abuse may occur when a child (under 18) is repeatedly rejected, isolated or frightened by threats or the witnessing of family violence. It also includes hostility, derogatory name-calling and put-downs, or persistent coldness from a person, to the extent where the behaviour of the child is disturbed or their emotional development is at serious risk of being impaired. Serious emotional or psychological harm could also result from conduct that exploits a child without necessarily being criminal, such as encouraging a child to engage in inappropriate or risky behaviours.
2. Psychological or emotional abuse may occur with or without other forms of abuse.
3. Possible Physical Indicators of Serious Emotional or Psychological Harm include:
 - 3.1 Speech disorders;
 - 3.2 Delays in emotional, mental or even physical development; and
 - 3.3 Physical signs of self-harming.
4. Possible Behavioural Indicators of Serious Emotional or Psychological Harm include:
 - 4.1 Exhibiting low self-esteem;
 - 4.2 Exhibiting high anxiety;
 - 4.3 Overly compliant, passive or undemanding behaviour;
 - 4.4 Extremely demanding, aggressive, or attention-seeking behaviour;
 - 4.5 Anti-social, destructive behaviour;
 - 4.6 Low tolerance or frustration;
 - 4.7 Unexplained mood swings;
 - 4.8 Self-harming;
 - 4.9 Behaviours that are not age appropriate, for example, overly adult (parenting of other children), or overly infantile (thumb sucking, rocking, wetting or soiling);
 - 4.10 Fear of failure, overly high standards and excessive neatness;
 - 4.11 Depression, or suicidal thoughts;
 - 4.12 Running away;
 - 4.13 Violent drawings or writing; and
 - 4.14 Contact with other students forbidden.

Part 13- Serious Neglect

Neglect- is the continued failure to provide a child with the basic necessities of life, such as food, clothing, shelter, hygiene, medical attention or supervision, to the extent that the child's health, safety and/or development is, or is likely to be, jeopardised. Examples of different types of neglect include:

- Supervisory neglect, which is the absence or inattention of a person which places the child at risk of physical harm or injury, sexual abuse or allows other criminal behaviours towards the child;
- Physical neglect, which is the failure to provide basic physical necessities for a child such as adequate food, clothing and housing; and



- 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.
1. Serious neglect is the continued failure to provide a child (under 18) with the basic necessities of life, such as food, clothing, shelter, hygiene, medical attention or adequate supervision, to the extent that the child's health, safety and/or development is, or is likely to be, jeopardised. Serious neglect can also occur if an adult fails to adequately ensure the safety of a child where the child is exposed to extremely dangerous or life-threatening situations.
 2. Possible Physical Indicators of Serious Neglect include:
 - 2.1 Consistently dirty and unwashed;
 - 2.2 Consistently inappropriately dressed for weather conditions;
 - 2.3 Consistently without adequate supervision and at risk of injury or harm;
 - 2.4 Consistently hungry, tired and listless, falling asleep in class, or malnourished;
 - 2.5 Unattended health problems and lack of routine medical care;
 - 2.6 Inadequate shelter and unsafe or unsanitary conditions;
 - 2.7 Abandonment by parents; and
 - 2.8 Poor hygiene.
 3. Possible Behavioural Indicators of Serious Neglect include:
 - 3.1 Begging or stealing food;
 - 3.2 Gorging when food is available;
 - 3.3 Inability to eat when extremely hungry;
 - 3.4 Alienated from peers, withdrawn, listless, pale, and thin;
 - 3.5 Aggressive behaviour;
 - 3.6 Delinquent acts, for example, vandalism, drug or alcohol abuse;
 - 3.7 Little positive interaction with parent/carer;
 - 3.8 Appearing miserable or irritable;
 - 3.9 Poor socialising habits;
 - 3.10 Poor evidence of bonding, or little stranger anxiety;
 - 3.11 Indiscriminate with affection;
 - 3.12 Poor, irregular or non-attendance at school or kindergarten/childcare;
 - 3.13 Staying at school for longer hours;
 - 3.14 Self-destructive;
 - 3.15 Dropping out of school;
 - 3.16 Taking on an adult role of caring for a parent;
 - 3.17 Misusing alcohol or drugs; and
 - 3.18 Academic issues.

Part 14- Family Violence

1. In Victoria "family violence" is a defined term under the Family Violence Protection Act 2008 (Vic.). It is a criminal offence.
2. Family violence is behaviour towards a family member that may include:
 - 2.1 Physical violence or threats of violence;
 - 2.2 Verbal abuse, including threats;
 - 2.3 Emotional or psychological abuse;
 - 2.4 Sexual abuse; and
 - 2.5 Financial and social abuse.
3. It is important to remember that "family violence" extends to behaviour that causes a child (under 18) to hear, witness, or be exposed to the effects of "family violence". A child's exposure to family violence constitutes child abuse.





4. As family violence can result in one or more forms of child abuse (being sexual offences, physical violence, serious emotional or psychological harm or serious neglect) the physical and behavioural indicators of these types of abuse may also be indicative of a family violence situation.
5. Behavioural indicators for Older Children and Young People:
 - 5.1 Moving away or running away from the family home;
 - 5.2 Entering a relationship early to escape the family home;
 - 5.3 Experiencing violence in their own dating relationships;
 - 5.4 Involvement in criminal activity; and
 - 5.5 Alcohol and substance abuse.





ADDITIONAL RESOURCES

Part 1- The Victorian Child Safe Standards

1. Commission for Children and Young People, **The Child Safe Standards**, 2022
2. Minister for Education, Implementing the Child Safe Standards – Managing the Risk of Child Abuse in Schools and School Boarding Premises, **Ministerial Order No. 1359**, 2022

Part 2- Mandatory Reporting

1. Department of Education and Training, **Your Reporting and Legal Obligations**, 2022
2. Department of Families, Fairness and Housing, **Reporting Child Abuse**, 2018

Part 3- Responding to Student Safety Incidents

1. Department of Education and Training and Department of Families, Fairness and Housing Child Protection, **Protect: Identifying and Responding to All Forms of Abuse in Victorian Schools**, 2018
2. Department of Education and Training and Department of Families, Fairness and Housing Child Protection, **Four Critical Actions for Schools: Responding to Incidents, Disclosures or Suspicions of Child Abuse**, 2018
3. Department of Education and Training and Department of Families, Fairness and Housing Child Protection, **Responding to Suspected Child Abuse: A Template for all Victorian Schools**, 2018
4. Department of Education and Training and Department of Families, Fairness and Housing Child Protection, **Responding to Student Sexual Offending**
5. Department of Education and Training and Department of Families, Fairness and Housing Child Protection, **Responding to Suspected Student Sexual Offending: Template for all Victorian Schools**

Part 4- Working with Children Checks

1. Department of Justice and Community Safety, **Working with Children Checks website**

Part 5- Reportable Conduct Scheme

1. Commission for Children and Young People, **Reportable Conduct Scheme**, 2018

Part 6- General Obligations to Report

1. Department of Justice and Community Safety, **Failure to Disclose Offence Fact Sheet**, 2018

Part 7- Duty to Protect Students from Abuse

1. Department of Justice and Community Safety, **Failure to Protect: A New Criminal Offence to Protect Children from Sexual Abuse**, 2018

Part 8- Child-Related Human Resources Practices

1. Commission for Children and Young People, **Practical guide to choosing, supervising and developing suitable staff and volunteers**, 2022
2. Department of Education and Training, **HR Practices for Child Safe Environment**, 2018



LAW AND REGULATION IN VICTORIA

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

Victoria's Child Protection Framework Overview

Principle Based Child Safe Standards

Ministerial Order 1359

Student Safety Program

Prescriptive Legal and Regulatory Requirements

CYF

CWS

ETR

WS

CA

FVP

WA

Legend:

CYF – Children, Youth and Families Act 2005

CWS – Child Wellbeing and Safety Act 2005

ETR – Education and Training Reform Act 2006

WS – Worker Screening Act 2020

CA – Crimes Act 1958 (Vic)

FVP – Family Violence Protection Act 2008

WA – Wrongs Act 1958

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. 1359 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 here - [Ministerial Order No. 1359 \(vrqa.vic.gov.au\)](http://www.vrqa.vic.gov.au).
3. The next section of this document 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 Student Safety policies and procedures 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 Student Safety policies and procedures, 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 student 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 Screening Act 2020*
- 2.4.1 The Working Screening 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 Student Safety 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 Student Safety Policies and Procedures

1. In order to comply with the Victorian Child Safe Standards and Ministerial Order No. 1359, as well as each of the seven separate pieces of legislation noted above, Ballarat Grammar has established Student Safety policies and procedures which set out our work systems, practices, policies and procedures designed to not only ensure compliance, but also to develop a student safe culture.
2. This document should be read in conjunction with all of the School's student safety strategies, policies and procedures and not independently.

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 Student Safeguarding Officer to regularly monitor and annually review the effectiveness of the Student Safety policies to ensure they are working in practice and revise the policy when required.
3. It is the responsibility of the Senior Student Safeguarding Officer along with the Director of Risk, Compliance and Legal Services to engage with students, parents and the broader community in relation to the review of the School’s Student Safety policies.

Part 6- Breach of Policy

1. All staff, volunteers and those engaged by Ballarat Grammar are expected to enact this policy in support of student and community learning, health, safety and wellbeing.
2. Any breach of a Student Safety policy will be taken seriously and immediately actioned and followed up by the School, this includes any necessary advice and/or notification to external bodies.

