

# Procedures for Managing Child Safety Incidents or Concerns at or Involving the College or its Staff, Volunteers or Contractors



## Introduction

For the purposes of this policy, we use the terms “staff” and “staff member” to include all teaching and non-teaching staff, College Advisory Council members, volunteers, contractors and external providers.

Complaints involving:

- breaches of the Child Safe Codes of Conduct
- child abuse, grooming or other harm of a current or former student by
  - current or former staff members
  - current or former students and
  - other people on College premises or at College events
- “reportable conduct” as defined in the Child Wellbeing and Safety Act 2005 (Vic)
- other Child Safeguarding-related staff misconduct

are managed in a different way to other complaints received by the College. These kinds of complaints are instead managed using the same procedures that we use for managing incidents of or internal reports about this kind of behaviour.

This is because these kinds of incidents, complaints, allegations or concerns are all of a similar sensitive nature and raise potential privacy and confidentiality issues.

## Child Safety Incidents or Concerns

We call **any** behaviour, that may be:

- a breach of our Child Safe Codes of Conduct or
- child abuse, grooming or other harm
- reportable conduct
- other child safeguarding - related staff misconduct

a “child safety incident or concern”.

It does not matter whether the conduct or behaviour is by a staff member, another student, a parent/carer or any other person on College premises or at College events.

### Breaches of the Child Safe Codes of Conduct

The College requires all staff members, parents/carers, visitors and other adults in the College community to comply with our **Marist Child Safe Adult Code of Conduct**.

Staff members must also comply with our **Staff and Student Professional Boundaries** policy.

Students must comply with our **Student Child Safeguarding Code of Conduct**.

Any breach of these Child Safe Codes of Conduct is considered a child safety incident.

### Child Abuse, Grooming or Other Harm of a Student

Our child safeguarding policies set out the different definitions and key indicators of child abuse, grooming and other harm of students. The following is covered by these definitions and indicators:

- sexual abuse and sexual offences

- grooming, behaviour, grooming offences and encouragement (to engage in sexual activity) offences
- physical abuse and physical violence
- emotional or psychological harm
- neglect.

In addition to family members, other adults associated with a student can subject the student to these behaviours, including staff members, other students and other people associated with the College.

### Reportable Conduct

The College has a legal obligation to investigate and report to the Commission for Children and Young People (CCYP) of all incidents or allegations of “reportable conduct,” or of staff misconduct that may be “reportable conduct”, as defined in the Child Wellbeing and Safety Act 2005 (Vic) (CWS Act).

Section 3 of the CWS Act defines “reportable conduct” as:

- a **sexual offence** or **sexual misconduct** committed against, with or in the presence of, a child, whether or not a criminal proceeding in relation to the offence has been commenced or concluded
- **physical violence** committed against, with or in the presence of, a child
- any **behaviour that causes significant emotional or psychological harm** to a child or
- **significant neglect** of a child.

Not all physical contact, verbal communication and other behaviour of staff members is reportable conduct. Reasonable or accidental conduct is **not** reportable conduct.

Some examples of conduct that is **not** reportable conduct include a staff member touching a child on the arm to get their attention, guide them or comfort them, a teacher raising their voice to attract attention or restore order in a classroom, or conduct that is established to be accidental.

### Other Child Safeguarding - Related Staff Misconduct

“Misconduct” is defined by the CCYP as conduct that is a departure from the accepted standards of the role and is intentional or seriously negligent.

At the College, child safety-related staff misconduct includes:

- breaches of key child safeguarding policies/procedures
- purposeful neglect of duties/responsibilities
- alcohol and/or other substance abuse
- physically, verbally or emotionally abusive behaviour with or in the presence of students
- other behaviour or conduct that risks the safety or wellbeing of students or others at the College.

Child safety-related staff misconduct is considered a child safety incident.

### **Child Safeguarding - Related Complaints**

It is critical that the broader College community tells us about all child safety incidents or concerns that occur at or otherwise involve the College. This enables the College to ensure the safety and wellbeing of students and to comply with its legislative reporting obligations.

We call any reports made to the College about child safety incidents or concerns at or involving the College or its staff members a “child safeguarding-related complaint.”

## **Making a Child Safeguarding - Related Complaint to the College**

If you would like to make a complaint about:

- a breach of the Child Safe Codes of Conduct
- child abuse, grooming or other harm of a current or former student by
  - current or former staff members
  - current or former students
  - other people on College premises or at College events
- “reportable conduct” as defined in the CWS Act
- other Child Safeguarding-related staff misconduct

you can do so by:

1. Sending an email to one of our Senior Child Safeguarding Officers, Claire Fabris ([fabrcla1@lavalla.vic.edu.au](mailto:fabrcla1@lavalla.vic.edu.au)) or Brett Van Berkel ([vanbbre1@lavalla.vic.edu.au](mailto:vanbbre1@lavalla.vic.edu.au))
2. Writing a letter to the College addressed to the Senior Child Safeguarding Officer or the Principal.
3. Telephoning the College and asking to speak to the Senior Child Safeguarding Officer or the Principal.

If the Senior Child Safeguarding Officer or the Principal is the subject of your complaint or allegation of misconduct or reportable conduct, please contact the MSA Regional Director by phoning 03 9389 3100 or emailing [darren.mcgregor@marists.org.au](mailto:darren.mcgregor@marists.org.au).

## **Investigating and Managing Child Safeguarding-related Incidents and Complaints**

### Immediate Actions

Depending on the nature of the incident, complaint, allegation or concern, after receiving the internal report or the Child Safeguarding-related complaint, the College will:

- determine whether the conduct in question amounts to Child Safeguarding-related staff misconduct, as defined in this policy, and/or reportable conduct that must be further investigated and reported to the CCYP
- if required by law or by our child safeguarding policies and procedures – report the matter to Child Protection, the Police and/or other relevant external agencies.

The College will conduct an initial risk assessment in consultation – if an external report has been made – with the Police or Child Protection, to identify and mitigate any ongoing risks to student safety and wellbeing.

The College will also ensure that support is provided to any students, staff members and family members impacted by the incident, concern or complaint.

### The Internal Investigation

The College will then conduct an internal investigation of the incident or complaint, led by the Principal or an external investigator.

However, if Child Protection or the Police are investigating the alleged conduct, that investigation takes precedence and the College’s investigation will **only** proceed with their permission.

When conducting the internal investigation, the College follows the National Office of Child Safety’s **Complaint Handling Guide: Upholding the Rights of Children and Young People**. The **flowchart** in the appendix sets out how these procedures work.

All internal investigations uphold the principles of procedural fairness and confidentiality – information is only shared with those who need to know.

### Investigating and Managing Behaviour by a Student Against Another Student

Responding to this kind of Child Safeguarding-related incident or complaint involves considering the College's duty of care both to any student who is a victim and to the student who is the alleged perpetrator, as well as to other students.

The Principal will follow our student discipline policies for these investigations.

### Investigating and Managing Behaviour by Non-Staff Members on College Premises or at College Events

Where the child safety incident, or the Child Safeguarding-related complaint, involves behaviour by a person who is neither a current or former College student nor a current or former staff member (for example they are a parent /carer or a visitor whose behaviour occurs on college premises or at a College event), the College's investigation is generally limited.

It may involve only the risk assessment and a subsequent review of our systems, policies and procedures to ensure future safety and wellbeing of our students.

### Investigating and Managing Reportable Conduct and Breaches of the Child Safe Codes of Conduct that Amount to Reportable Conduct

When a child safety incident or concern involves, or a Child Safeguarding-related complaint alleges, conduct that amounts to reportable conduct, the College is required by law to notify the CCYP and to conduct an internal investigation.

When conducting these internal investigations, the College follows the CCYP's **Guidance for Organisations: Investigating a Reportable Conduct Allegation** which sets out the minimum standards that must be followed when planning and conducting reportable conduct investigations under the CWS Act.

The steps that will be followed for reportable conduct investigations include:

- Planning the investigation (including planning the involvement of the child)
- Information gathering
- Staff member response
- Ensuring support during the investigation
- Making findings and determining outcomes/actions
- Taking action.

In addition, further risk assessments are conducted during the internal investigation and at the end of that investigation.

### Investigating and Managing Child Safety-Related Staff Misconduct and Breaches of the Child Safe Codes of Conduct that do Not Amount to Reportable Conduct

Child Safeguarding-related staff misconduct that does **not** amount to reportable conduct, and minor breaches of the Child Safe Codes of Conduct by staff members that do not involve child abuse, grooming or other harm or a risk of child abuse, grooming or other harm, are managed through our Human Resources policies and procedures relating to discipline and termination.

If a Child Safeguarding-related complaint has been made about the conduct, and it is determined through the College's investigation that Child Safeguarding-related staff misconduct or a minor breach of the Child Safe Codes of Conduct has occurred, the College will notify the complainant of the finding and of the corrective actions that will be taken.

### Record Keeping About Investigations

Records are kept at each step of the investigation process including:

- records received or created during investigations (such as notes of interviews and documents received)
- records of findings
- records of actions proposed and taken.

These are kept in a safe and secure location.

### **Reviews of Investigation Procedures and Outcomes**

#### Internal Reviews of Complaint Outcomes

If a Child Safeguarding-related complaint has been made, the complainant and other people who are involved in the matter (such as a staff member, student who is the alleged victim and their parent/carer) and who are not satisfied with the management or outcome of the complaint may request an internal review of:

- the procedures undertaken
- findings made
- disciplinary actions proposed or taken and/or
- other outcomes (including a decision not to make a finding or to take disciplinary or other action).

Requests for internal reviews should be made to **the MSA Regional Director by phoning 03 9389 3100 or emailing [darren.mcgregor@marists.org.au](mailto:darren.mcgregor@marists.org.au)**.

#### External Reviews for Overseas Students

If an overseas student is not satisfied with the outcome of College's internal investigation, they may lodge an external appeal through the Overseas Students Ombudsman (OSO) which investigates complaints about problems that overseas students or intending overseas students may have with private education and training in Australia. The services of the OSO are free. The contact details for the OSO are as follows:

Email: [ombudsman@ombudsman.gov.au](mailto:ombudsman@ombudsman.gov.au)

Call: 1300 362 072 within Australia. Outside Australia call +61 2 6276 0111.

Enquiries: 9:00am to 5:00pm Monday to Friday, Australian Eastern Standard Time (Australian Eastern Daylight Time when daylight savings is in effect)

Postal: Commonwealth Ombudsman, GPO Box 442 Canberra ACT 2601.

Website: <https://www.ombudsman.gov.au/How-we-can-help/overseas-students>

The College agrees to be bound to the OSO's recommendations and will ensure that any recommendations made are implemented within 30 days of receipt of the report.

#### Oversight of Reportable Conduct Investigations by the CCYP

The CCYP monitors compliance with the Reportable Conduct Scheme in Victoria and oversees investigations of reportable conduct undertaken by the College. The CCYP can:

- support and guide the College to conduct a robust and fair investigation
- initiate, in limited circumstances, its own investigation of the matter.

Any person who believes that the College has inappropriately handled or inappropriately responded to an allegation of reportable conduct can notify the CCYP. The contact details for the CCYP are as follows:

Email: [contact@ccyp.vic.gov.au](mailto:contact@ccyp.vic.gov.au)

Call: 1300 78 29 78 (Answered 9.00am–5.00pm, local call from landline)

fax: (03) 8601 5877

### **Disclosing Information to the College Community**

The College will consult with any relevant external agencies (such as Child Protection or Police) to determine when, what and by whom information can be shared.

### Sharing Information with Parents/Carers and Students

The parent/carer of a student who is an alleged victim of a Child Safeguarding-related complaint, or any child safety incident or concern occurring at or involving the College, has a legitimate interest in being told that their child is an alleged victim and of the nature of the incident, complaint or allegation.

The parent/carer and student also have a legitimate interest in being informed of the process, progress and findings of any investigation, and of any action that might be taken after the investigation is completed.

However, special issues may arise that require an adjustment to normal information sharing practices. Legal impediments may impact the timeliness of disclosing information, the type or amount of information that is disclosed and to whom the information is disclosed, particularly in the case of reportable conduct allegations.

### Sharing Information with the Wider College Community

The College takes great care to assess the relevance and appropriateness of sharing information about a child safety incident or concern, or a Child Safeguarding-related complaint, before providing any information about it to the wider College community. This is because even the confirmation of an incident or allegation can lead to the identification of a victim.

Generally, information that may identify the victim of the incident, concern or complaint will not be shared with the wider College community without the consent of the victim and/or their parent/carer.

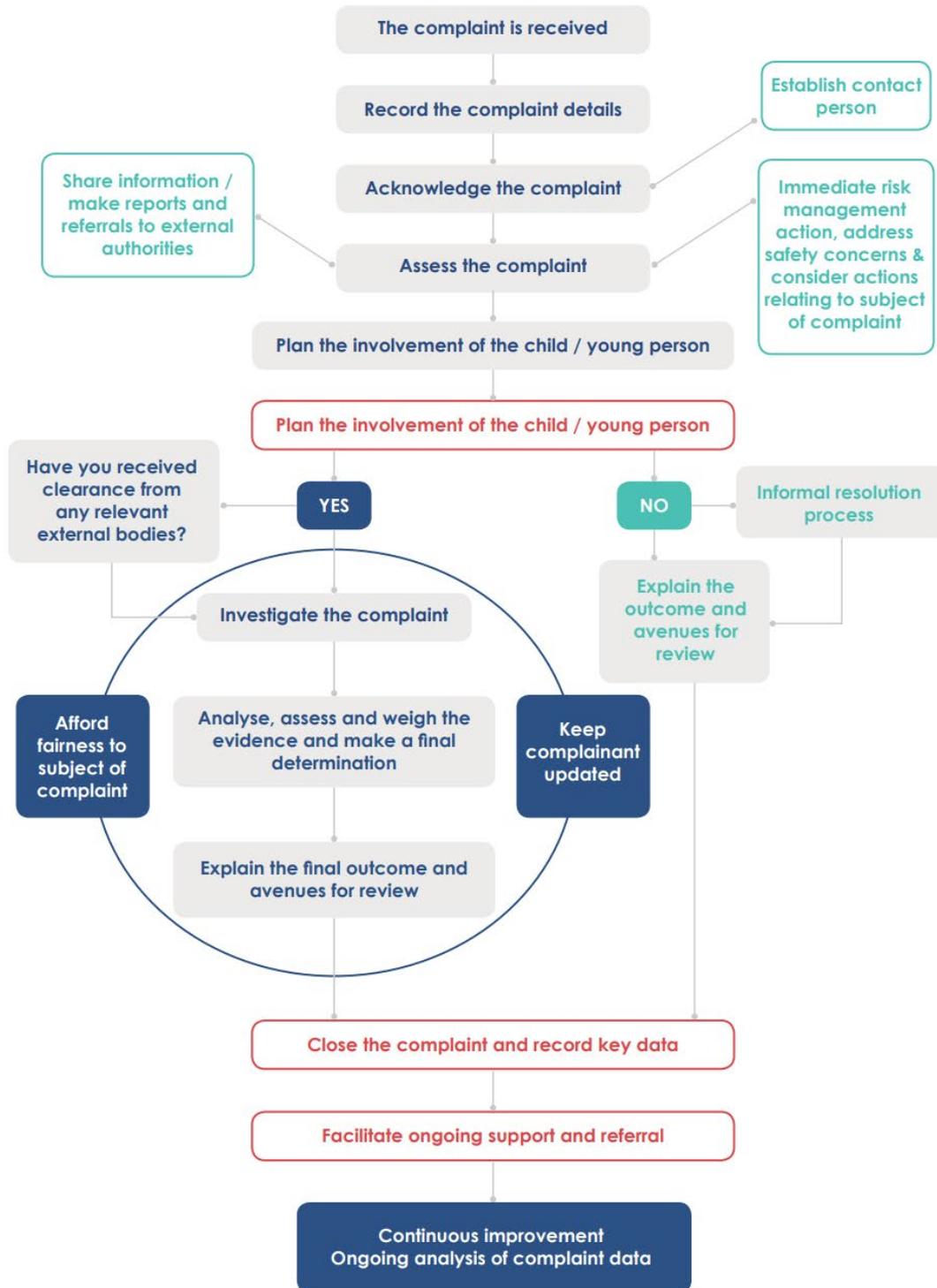
However, if the matter involves reportable conduct, it is an offence to disclose information that would enable the identification of a person who notified the CCYP of the matter or of a child in relation to whom a finding of reportable conduct was made. Therefore, that kind of information cannot be shared with the wider College community.

### **Where to Find More Information**

For more information about our policies and procedures relating to the College's management of child safety incidents or concern occurring at or involving the College or its staff members, Child Safeguarding-related complaints, or complaints handling generally, please contact our Senior Child Safeguarding Officer or Principal.

# Complaint Handling:

Upholding the rights of children and young people (an overview)



National Office for Child Safety, 2019, Complaint Handling Guide: Upholding the rights of children and young people [ONLINE], Available at: <https://childsafety.pmc.gov.au/sites/default/files/2020-09/nocs-complaint-handling-guide.pdf>