



# Child Safety and Wellbeing Reporting Obligations Policy

## Purpose

The Child Safety and Wellbeing Reporting Obligations Policy supports the Centre's Child Safety and Wellbeing Policy and Code of Conduct.

Engine Swim Australian (ESA), Mentone Aquatic, Korowa Aquatics, and Toby Haenen Swim Centres are committed to creating and maintaining a child safe and child-friendly organisation, where children and young people are safe and feel safe.

We have no tolerance for child abuse and take proactive steps to identify and manage any risks of harm to children in our swim centre environments.

This Policy informs our centre community of everyone's obligations to act safely and appropriately towards children and details our reporting processes and practices for the safety and wellbeing of students across all areas of our swim centres.

This policy:

- Applies to all Staff, Volunteers, Contractors, and Directors whether they work in direct contact with students.
- Applies in all physical environments used by children during or outside of standard hours of operation including other locations provided by for a swimmers use (for example, a meets and carnivals) and those provided through third-party providers.
- Should be read together with our other Child Safety and wellbeing policies and procedures.

Through the application of this policy, ESA aims to:

- Ensure all reasonable steps are taken so that all children enrolled at the centres are safe from abuse, including sexual abuse, and they always feel safe.
- Ensure that safety of the following groups is promoted and always protected:
  - Children of Aboriginal or Torres Strait Islander background or heritage
  - Students with disability
  - Students from culturally and linguistically diverse backgrounds
  - Students who are unable to live at home.
  - International students
  - Lesbian, gay, bisexual, trans and gender diverse, intersex, and queer (LGBTIQ+) students
- That student rights to be safe are maintained and each child is protected against abuse and neglect.

- Responsibilities of ESA staff in protecting the safety and wellbeing of children and young people are clearly defined.
- Staff have the knowledge and skills to identify the indicators of a child or young person who may need protection.
- Staff understand appropriate steps to make a report on a child or young person who may need protection.
- Staff and ESA can comply with reporting obligations.

## Failure to Disclose

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.

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 DHHS Child Protection.

The offence applies to **all adults** in Victoria, not just professionals who work with children.

## 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 child state that they have been abused.
- a child states that they know someone who has been abused (sometimes the child may be talking about themselves).
- someone who knows a child states that the child has been abused.
- professional observations of the child's behaviour or development leads a professional to form a belief that.
  - the child has been abused or is likely to be abused; and
  - signs of abuse lead to a belief that the child has been abused.

### Procedure

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 dialling 000 (or otherwise to a member of the police force of Victoria).

An adult will not be guilty of an offence if they do not report in the following circumstances:

- 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.
- The victim has disclosed the information in confidence during a therapeutic relationship with you as a registered medical practitioner or counsellor.

Reasonable excuses for failing to comply with the requirement include:

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

## **Failure to Protect Offence**

Section 49C of the Crimes Act states that it is 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. This applies where there is substantial risk that a child under the care, supervision, or authority of an organisation (including centres) will become a victim of a sexual offence by an adult associated with the centre. 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.

### **Definition**

If a person associated with ESA 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 centre, 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.

A person who has the power or responsibility to reduce or remove a risk include the Directors of ESA, the Safety and Compliance Manager and Swim Centre Coordinators. For the avoidance of doubt, any member of staff or person associated with the centre who knows of a substantial risk that a child will become a victim of a sexual offence should notify the Directors as soon as is reasonably practicable.

### **Procedure**

When aware of a substantial risk of criminal sexual abuse to a child from an adult aged 18 or over associated with ESA, the Directors will act to reduce or remove the risk. The person will be removed from any child-related role pending an investigation.

## **Record Keeping and Verification**

The Safety and Compliance Manager will conduct a Child Safety review and audit annually to ensure that all aspects of this policy are being adhered to across all centres. The audit report will be presented to the Directors on an annual basis.

All Child Safety concerns and complaints will be raised via an email Safety and Compliance Manager. The Safety and Compliance Manager will review all correspondence and escalate to the Directors. A record of all Child Safety and Wellbeing complaints will be kept securely and disposed of in line with Record retention requirements.

## **Related policies and documents**

This Child Safety and Wellbeing Reporting Guidelines document is to be read in conjunction with other related centre policies, procedures, and codes. These include our:

- Child Safety and Wellbeing Policy
- Child Safety and Wellbeing Code of Conduct
- Child Safety and Wellbeing Complaints Policy
- Child Safety and Wellbeing Risk Register

## Policy status and review

The Safety and Compliance Manager is responsible for reviewing and updating the Child Safety and Wellbeing Policy at least every two years.

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| <b>Created date</b>     | <b>July 2023</b>                               |
| <b>Created by</b>       | Megan Hall – Safety and Compliance Manager     |
| <b>Approved by</b>      | Toby Haenen and Andrew Lauterstein - Directors |
| <b>Approved on</b>      | 3 August 2023                                  |
| <b>Next review date</b> | July 2025                                      |