



Procedures for Managing Child Safety Incidents or Concerns at or Involving the College or its Staff

Introduction

For the purposes of this procedure, we use the terms “staff” and “staff member” to include all teaching and non-teaching staff, MLC Board members, volunteers, contractors and external providers.

Incidents or complaints involving:

- breaches of the Child Safe Codes of Conduct
- child abuse, grooming or other harm of a current or former student, or a student aged 18 or over by:
 - current or former staff members
 - current or former students and
 - other people on MLC premises or at MLC events
- “reportable conduct” as defined in the *Child Wellbeing and Safety Act 2005 (Vic)*
- other child safety-related staff misconduct,

are managed in a different way to other complaints received by MLC. These child safety related complaints are managed using the procedures that we use for managing child safety incidents due to their sensitive nature and potential confidentiality of the issues.

Child Safety Incidents or Concerns

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

- “child abuse” as defined in the CWS Act and Ministerial Order 1359
- a child being “in need of protection” as defined in the Children, Youth and Families Act 2005 (Vic) (CYF Act)
- “reportable conduct” as defined in the CWS Act
- a criminal offence against a child or young person, or against a student aged 18 or over, as set out in the Crimes Act 1958 (Vic)
- a practice to change or suppress a child’s, or a student aged 18 or over’s, sexual orientation or gender identity, which is prohibited under the Change or Suppression (Conversion) Practices Prohibition Act 2021 (Vic)
- a breach of the Child Safety Codes of Conduct.

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 MLC premises or at MLC events.

Breaches of the Child Safe Codes of Conduct

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

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

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

Students must comply with our **Student Code of Conduct** and the **Behaviour Management Policy – Relationships for Learning**.

Abuse, Grooming or Other Harm of a Student

Victorian laws include a number of different definitions and concepts that cover harm to children, young people and students aged 18 or over. These include definitions of “child abuse”, “in need of protection”, “reportable conduct” and various criminal offences. In effect, these definitions cover the following forms of abuse, grooming and other harm:

- 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 MLC.

Reportable Conduct

The College has a legal obligation to investigate and report to the Social Services Regulator all incidents or allegations of “reportable conduct,” or of staff misconduct that may be “reportable conduct”, as defined in the CWS Act.

“Reportable conduct” includes:

- a sexual offence committed against, with or in the presence of, a child (a person aged under 18)
- sexual misconduct committed against, with or in the presence of, a child
- physical violence committed against, with or in the presence of, a child
- any behaviour that causes significant emotional or psychological harm to a child
- significant neglect of a child.

It does not matter whether the child is a student at the College, whether the conduct occurred in the course of the staff member’s employment or engagement with the College or, for sexual offences, whether or not a criminal proceeding in relation to the offence has been commenced or concluded.

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 safety-Related Staff Misconduct

The Social Services Regulator says that “misconduct” is conduct that is a departure from the accepted standards of the role and is intentional or seriously negligent.

At MLC, child safety-related staff misconduct includes:

- breaches of key child safe 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 MLC.

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

Child safety-Related Complaints

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

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

Making a child safety-related Complaint to MLC

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 MLC premises or at MLC events
- “reportable conduct” as defined in the CWS Act
- other child safety-related staff misconduct

you can do so by contacting the Senior Child Protection Officer (Vice Principal) on 9274 6333.

If the Senior Child Protection Officer is the subject of your complaint or allegation of misconduct or reportable conduct, please contact the Senior Vice Principal.

MLC uses the PROTECT templates to document any allegations, complaints, disclosures, incidents or concerns that a child has been at risk of being abused.

Investigating and Managing child safety-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 safety-related complaint, MLC will:

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

MLC 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.

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

For MLC Kindle, consideration must also be given to whether the incident is notifiable to the Regulatory Authority under the Education and Care Services National Regulations.

The Internal Investigation

MLC 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 MLC’s investigation will **only** proceed with their permission.

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 safety-related incident or complaint involves considering MLC'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 MLC Premises or at MLC Events

Where the child safety incident, or the child safety-related complaint, involves behaviour by a person who is neither a current or former MLC student nor a current or former staff member (for example they are a parent /carer or a visitor whose behaviour occurs on MLC premises or at an MLC event), the MLC'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 safety-related complaint alleges, conduct that amounts to reportable conduct, MLC is required by law to notify the SSR and to conduct an internal investigation.

When conducting these internal investigations, MLC 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 safety-related staff misconduct that does **not** amount to reportable conduct, and minor breaches of the Child Safe Codes of Conduct by staff members, are managed through our People and Culture policies and procedures relating to discipline and termination.

If a child safety-related complaint has been made about the conduct, and it is determined through MLC's investigation that child safety-related staff misconduct or a minor breach of the Child Safe Codes of Conduct has occurred, MLC 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 safety-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 Principal.

External Reviews for Overseas Students

If an overseas student is not satisfied with the outcome of MLC'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
- Call:** 1300 362 072 within Australia
+61 2 5117 3600 outside Australia
- 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/complaints/international-student-complaints>

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

Oversight of Reportable Conduct Investigations by the SSR

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

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

Any person who believes that MLC has inappropriately handled or inappropriately responded to an allegation of reportable conduct can notify the SSR:

- Webform:** <https://rcs.ssr.vic.gov.au/>
- Email:** contact@ssr.vic.gov.au.
- Call:** 1300 310 778 (Answered 9.00am–5.00pm, local call from landline)

Disclosing Information to the MLC Community

MLC 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/carers of a student who is an alleged victim of a child safety-related complaint, or any child safety incident or concern occurring at or involving MLC, 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/carers 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 MLC community

MLC takes great care to assess the relevance and appropriateness of sharing information about a child safety incident or concern, or a child safety-related complaint, before providing any information about it to the wider MLC 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 MLC community without the consent of the victim and/or their parent/carers.

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 SSR 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 MLC community.

Where to Find More Information

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

Governance

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