

Child Protection Procedure

Contents

Introduction	2
Context.....	2
Purpose.....	2
Scope.....	2
Rationale	3
Principles/Statement	3
Child Protection Procedure	4
Responsibilities	4
Employment of New Personnel	5
Risk Management	5
Reporting.....	5
Investigating	6
Responding.....	6
Privacy	6
Reviewing.....	7
Communication	7
Reference and Supporting Information	8
Definitions	8
Supporting Documents.....	10
External Legislative Context.....	10
Internal Policy and Procedures.....	10
Related Web Resources.....	10
Responsibility	10
Document Version Control Table.....	10

Introduction

Context

TAFE Gippsland is committed to promoting and protecting the interests and safety of children. We have a zero tolerance for child abuse.

Everyone working at TAFE Gippsland is responsible for the care and protection of children and reporting information about child abuse.

Failure to protect children from abuse is a criminal offence. Offences as per the Victorian Government include:

- a grooming offence which targets communication, including online communication, with a child or their parents with the intent of committing child sexual abuse
- a failure to disclose offence that requires adults to report to police a reasonable belief that a sexual offence has been committed against a child (unless they have a reasonable excuse for not doing so)
- a failure to protect offence that applies to people within organisations who knew of a risk of child sexual abuse by someone in the organisation and had the authority to reduce or remove the risk, but negligently failed to do so.

TAFE Gippsland has a responsibility to implement and abide by the child safe standards and this procedure represents a component of the Institute's response.

Purpose

The purpose of this procedure is:

1. To facilitate the prevention of child abuse occurring within TAFE Gippsland
2. To work towards an organisational culture of child safety
3. To ensure that all parties are aware of their responsibilities for identifying possible occasions for child abuse and for establishing controls and procedures for preventing such abuse and / or detecting such abuse when it occurs
4. To provide guidance to staff/volunteers/contractors as to action that should be taken where they suspect any abuse within or outside the organisation
5. To provide a clear statement to staff/volunteers/contractors forbidding any such abuse
6. To provide assurance that any and all suspected abuse will be reported and fully investigated.

Scope

This procedure applies to all employees, volunteers, contractors and students of or over the age of 18 (i.e. adults) at TAFE Gippsland.

Rationale

Principles/Statement

TAFE Gippsland is committed to promoting and protecting at all times the best interests of children involved in its programs.

All children, regardless of their gender, race, religious beliefs, age, disability, sexual orientation, or family or social background, have equal rights to protection from abuse.

TAFE Gippsland has zero tolerance for child abuse. Everyone working at TAFE Gippsland is responsible for the care and protection of the children within our care and reporting information about suspected child abuse.

Child protection is a shared responsibility between the TAFE Gippsland, all employees, workers, contractors, associates, and members of the TAFE Gippsland community.

All adults, including employees of TAFE Gippsland, have a legal responsibility to report to police a reasonable belief that a sexual offence has been committed against a child. The failure to disclose offence can lead to up to 3 years imprisonment. Any employee of TAFE Gippsland who is found to have known of a risk of child sexual abuse by someone in the organisation and had the authority to reduce or remove the risk, but negligently failed to do so can be found guilty of the failure to protect offence, with a maximum penalty of five years imprisonment.

TAFE Gippsland supports and respects all children, staff, students and volunteers. TAFE Gippsland is committed to the cultural safety of Aboriginal children, and those from culturally and/or linguistically diverse backgrounds, and to providing a safe environment for children living with a disability.

If any person believes a child is in immediate risk of abuse, telephone 000.

Child Protection Procedure

Responsibilities

The **CEO** of TAFE Gippsland is responsible for ensuring that appropriate and effective internal control systems are in place. The CEO is also responsible for ensuring that appropriate policies and procedures and Code of Conduct are in place.

The **COO** of TAFE Gippsland is responsible for:

- Dealing with and investigating reports of child abuse;
- Ensuring that all staff, contractors, and volunteers are aware of relevant laws, organisational policies and procedures, and the organisation's Code of Conduct;
- Ensuring that all adults within the TAFE Gippsland community are aware of their obligation to report suspected sexual abuse of a child in accordance with these policies and procedures;
- Ensuring that all staff, contractors and volunteers are aware of their obligation to observe the Code of Conduct (particularly as it relates to child safety);
- Providing support for staff, contractors and volunteers in undertaking their child protection responsibilities.

All **managers** must ensure that they:

- Promote child safety at all times;
- Assess the risk of child abuse within their area of control and eradicate / minimise any risk to the extent possible;
- Educate employees about the prevention and detection of child abuse; and
- Facilitate the reporting of any inappropriate behaviour or suspected abusive activities.
- Management should be familiar with the types of abuse that might occur within their area of responsibility and be alert for any indications of such conduct.

All **staff/volunteers/contractors** share in the responsibility for the prevention and detection of child abuse, and must:

- Familiarise themselves with the relevant laws, the Code of Conduct, and TAFE Gippsland's policy and procedures in relation to child protection, and comply with all requirements;
- Report any reasonable belief that a child's safety is at risk to the relevant authorities (such as the police and / or the state-based child protection service) and fulfil their obligations as mandatory reporters;
- Report any suspicion that a child's safety may be at risk to their supervisor (or, if their supervisor is involved in the suspicion, to a responsible person in the organisation); and
- Provide an environment that is supportive of all children's emotional and physical safety.

Employment of New Personnel

TAFE Gippsland undertakes a comprehensive recruitment and screening process for all workers and volunteers which aims to:

- Promote and protect the safety of all children under the care of the organisation;
- Identify the safest and most suitable people who share TAFE Gippsland's values; and
- Prevent a person from working at TAFE Gippsland if they pose a risk to children.

TAFE Gippsland requires all workers/volunteers to pass through the organisation's recruitment and screening processes prior to commencing their engagement with TAFE Gippsland.

TAFE Gippsland requires all new & existing employees, consultants, contractors and volunteers, as stated in the scope of the Working with Children Check and Police Check Procedure, will require a WWC check and Police Check as a condition of their employment. Any employee who does not comply with this policy cannot be employed in positions as outlined above. WWC checks & Police Checks are valid for a period of five years from the date of issue.

TAFE Gippsland will undertake thorough reference checks as per the approved internal procedure.

Once engaged, workers/volunteers must review and acknowledge their understanding of this Policy.

Risk Management

TAFE Gippsland will ensure that child safety is a part of its overall risk management approach.

Reporting

Any staff member, volunteer or contractor who has grounds to suspect abusive activity must immediately notify the appropriate child protection service or the police. They should also advise their supervisor about their concern.

In situations where the supervisor is suspected of involvement in the activity, or if the person having the suspicion does not believe that the matter is being appropriately addressed or dealt with, the matter should be reported to the next highest level of supervision.

Supervisors must report complaints of suspected abusive behaviour or misconduct to the COO and also to any external regulatory body such as the police.

Investigating

If the appropriate child protection service or the police decide to conduct an investigation of this report, all employees, contractors or volunteers must co-operate fully with the investigation.

Whether or not the authorities decide to conduct an investigation, the COO will consult with the authorities to determine whether an internal investigation is appropriate. If it is decided that such an investigation will not conflict with any proceeding of the authorities, the COO may decide to conduct such an investigation. All employees, contractors and volunteers must co-operate fully with the investigation.

Any such investigation will be conducted according to the rules of natural justice.

The CEO will make every effort to keep any such investigation confidential; however, from time to time other members of staff may need to be consulted in conjunction with the investigation.

After an initial review and a determination that the suspected abuse warrants additional investigation, the CEO shall coordinate the investigation with the appropriate investigators and / or law enforcement officials. Internal or external legal representatives will be involved in the process, as deemed appropriate.

Responding

If it is alleged that a member of staff, contractor or a volunteer may have committed an offence or have breached the organisation's policies or its Code of Conduct the person concerned may be stood down (with pay, where applicable) while an investigation is conducted.

If the investigation concludes that on the balance of probabilities an offence (or a breach of the organisation's policies or Code of Conduct) has occurred then disciplinary action may follow, up to and including dismissal or cessation of involvement with the organisation. The findings of the investigation will also be reported to any external body as required.

Privacy

All personal information considered or recorded will respect the privacy of the individuals involved unless there is a risk to someone's safety. TAFE Gippsland will have safeguards and practices in place to ensure any personal information is protected.

Everyone is entitled to know how the personal information is recorded, what will be done with it, and who will be able to access it.

Reviewing

Every two years, and following every reportable incident, a review shall be conducted to assess whether the organisation's child protection policies or procedures require modification to better protect the children under the organisation's care.

Communication

This procedure is available on the staff intranet (Staffpoint) from the Policy and Procedures Management System. Advice with respect to staff requirements/responsibilities is included in staff orientation material. This material is part of the Teaching and Learning Induction and updates are communicated to all staff at regularly staff and team meetings.

Reference and Supporting Information

Definitions

Term	Definition
Child	A person under the age of 18 years.
Adult	A person of or over the age of 18 years.
Child protection	Any responsibility, measure or activity undertaken to safeguard children from harm.
Child abuse	All forms of physical abuse, emotional ill-treatment, sexual abuse and exploitation, neglect or negligent treatment, commercial (e.g. for financial gain) or other exploitation of a child and includes any actions that results in actual or potential harm to a child.
Child sexual assault	Any act which exposes a child to, or involves a child in, sexual processes beyond his or her understanding or contrary to accepted community standards. Sexually abusive behaviours can include the fondling of genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger or any other object, fondling of breasts, voyeurism, exhibitionism, and exposing the child to or involving the child in pornography. It includes child grooming, which refers to actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child to lower the child's inhibitions in preparation for sexual activity with the child.
Failure to disclose	<p>The 'failure to disclose' offence that amended the Crimes Act creates a legal duty upon all adults in the Australian community to report information to police, where:</p> <ul style="list-style-type: none"> • They form a reasonable belief that a sexual offence has been committed in Victoria • Against a child under 16 years of age • By another person over 18 years of age. <p>Police should be informed as soon as it is practicable to do so, unless, as outlined in the Crimes Act:</p> <ul style="list-style-type: none"> • The person has a reasonable excuse for not doing so; or • One of the exemptions applies. <p>Failure to disclose the information to police is a criminal offence and the maximum applicable penalty is 3 years imprisonment.</p>

Failure to protect A new criminal offence for failing to protect a child under the age of 16 from a risk of sexual abuse commenced on 1 July 2015.

The new offence provides that a person who:

1. by reason of the position he or she occupies within a relevant organisation, has the power or responsibility to reduce or remove a substantial risk that a relevant child will become the victim of a sexual offence committed by a person of or over the age of 18 years who is associated with the relevant organisation; and
2. knows that there is a substantial risk that the person will commit a sexual offence against a relevant child
 - must not negligently fail to reduce or remove that risk.

The maximum penalty is five years' imprisonment.

Grooming As defined in the Crimes Act 1958, and specifically the Crimes Amendment (Grooming) Act 2014, grooming is defined as:

- predatory conduct undertaken to prepare a child for sexual activity at a later time.
 - The offence applies where an adult communicates, by words or conduct, with a child under the age of 16 years or with a person who has care, supervision or authority for the child with the intention of facilitating the child's involvement in sexual conduct, either with the groomer or another adult.
 - Grooming does not necessarily involve any sexual activity or even discussion of sexual activity – for example, it may only involve establishing a relationship with the child, parent or carer for the purpose of facilitating sexual activity at a later time.
 - The sexual conduct must constitute an indictable sexual offence. This includes offences such as sexual penetration of a child, indecent assault and indecent act in the presence of a child. It does not include summary offences, such as upskirting and indecent behaviour in public.
 - The offence can be committed by any person aged 18 years or over. It does not apply to communication between people who are both under 18 years of age.
 - The maximum penalty is 10 years imprisonment.
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Reasonable grounds for belief A belief based on reasonable grounds that child abuse has occurred when all known considerations or facts relevant to the formation of a belief are taken into account and these are objectively assessed. Circumstances or considerations may include the source of the allegation and how it was communicated, the nature of and details of the allegation, and whether there are any other related matters known regarding the alleged perpetrator.

Reasonable excuse A person will not be guilty of the offence if he or she has a reasonable excuse for not disclosing the information. A reasonable excuse includes:

- fear for safety
 - where the information has already been disclosed
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Supporting Documents

External Legislative Context

- Crimes Act 1958 (Vic)
- Crimes Amendment (Grooming) Act 2014
- Children, Youth and Families Act 2005 (Vic)
- Working with Children ACT 2005

Internal Policy and Procedures

- Code of Conduct
- Working with Children and Police Check Procedure
- Employee Discipline Procedure

Related Web Resources

<https://www.childwise.org.au/page/42/state-legislation-reporting-vicResponsibility>

Responsibility

- HR Operations Manager

Document Version Control Table

Item	Summary of Update	Version Control	Revised Date
1	Original issue	V1.0	04/05/2016
2	Updated	V1.1	05/09/2016
3	Rebranded from Federation Training to TAFE Gippsland <ul style="list-style-type: none">• Updated Policy Unit contact details	V2.0	08/07/2019