



Procedures for responding to and reporting Child Safety incidents

1. Scope

These procedures apply to all AMEB Victoria staff. For the purposes of these procedures, staff refers to all permanent and casual employees, contractors, volunteers and board / committee members.

Staff members must report any child safety incidents or concerns to the Child Safety Champion (as defined in the Child Safety Policy) and must follow these procedures for responding to incidents or disclosures of child abuse or other harm, or suspected child abuse or other harm, including by making any required reports to external agencies.

These procedures make clear that reporting internally to or consulting with the Child Safety Champion does not change any obligation under legislation to report to an external authority.

2. Response to reports

AMEB Victoria will take appropriate, prompt action in response to all child safety incidents or concerns, including all allegations or disclosures of abuse or other harm, that are reported to AMEB Victoria, including by:

- reporting all matters that meet the required relevant thresholds to Child Protection, the Police, and/or the Commission for Children and Young People (CCYP), as required
- fully cooperating with any resulting investigation by an external agency
- protecting any candidate connected to the alleged incident or concern until it is resolved and offering ongoing support to those affected (to the extent possible)
- taking particular measures in response to child safety incidents or concerns about an Aboriginal or Torres Strait Islander candidate, a candidate from a culturally and/or linguistically diverse background or a candidate with a disability
- securing and retaining records of the child safety incident or concern and AMEB Victoria's response to it.

3. Obligations to respond and report to external agencies

Legal obligations on AMEB Victoria and its staff include the following:

3.1 Failure to protect

In Victoria, it is a crime if a person who occupies a position within or in relation to AMEB Victoria, knows that there is a substantial risk that any child (under the age of 16) who is under the care, supervision or authority of AMEB Victoria:

- will become a victim of a sexual offence committed by a person over the age of 18 associated with the organisation and
- has, by reason of their position, the power or responsibility to reduce or remove that risk and
- negligently fails to reduce or remove that risk.

AMEB Victoria also has a common law duty to protect all candidates from reasonably foreseeable risks of harm, including risks of all types of child abuse or other harm that may arise from staff as well as from others.

To help us meet these obligations, it is our policy that if a staff member knows that any other staff member poses a substantial risk of sexually abusing a student, or a reasonably foreseeable risk of child abuse or other harm to a student, they must take any actions to reduce or remove that risk that are within their power or responsibilities to take.

In addition, they must report the matter to the Child Safety Champion (or the Child Safety Officer or Chair of the Board of Directors if the adult who poses the risk is the Child Safety Champion). They must also follow their obligations to make appropriate external reports as listed below.

3.2 Mandatory reporting to Child Protection

Although everyone has a moral and social responsibility to report concerns about child abuse or other harm, some professionals are legally required to make a report to the Department of Families, Fairness and Housing (Child Protection) if, during the course of their professional work or carrying out duties of their office, position or employment, they form a belief on reasonable grounds that a child (under the age of 17) is in need of protection because:

- the child has suffered or is likely to suffer significant harm as a result of physical injury or sexual abuse and
- the child's parents have not protected or are unlikely to protect the child from the harm.

Mandatory Reports must be made either to Child Protection or to the Police.

3.3 Non-Mandatory reporting to Child Protection

Under the law, anyone can voluntarily report the following to Child Protection:

- concerns they hold for the for the wellbeing of a child they believe to be in need of protection or
- concerns about a child exhibiting sexually abusive behaviours

3.4 Mandatory reporting (of Sexual Offences Against Children) to Police

The *Victorian Crimes Act* (1958) requires that any person aged 18 or over who forms a reasonable belief that a sexual offence has been committed by an adult (aged over 18) against a child (aged under 16) must report that information to the Police. Failure to do this is a criminal offence known as 'Failure to Disclose.'

Any adult at AMEB Victoria who has concerns that another adult, including a staff member or any other adult, has committed a sexual offence against a person who, at the time of the offence, was aged under 16 must immediately report their concerns to Victoria Police, except in certain circumstances.

Sexual offences committed against a child aged under 16 by a person who is themselves aged under 18 do not fall under the Failure to Disclose offence. However, this must still be reported to Police.

3.5 Reportable conduct

The *Child Wellbeing and Safety Act* (2005) (CWS Act) requires the head of an organisation to report to the Commission for Children and Young People (CCYP) any allegation that a staff member of that organisation has committed reportable conduct or misconduct that may involve reportable conduct (a reportable allegation). This report must be made within three business days of becoming aware of the reportable allegation.

For the purposes of the Reportable Conduct Scheme, the head of AMEB Victoria is the General Manager.

If the allegations are against the General Manager, then the Client Relations Manager will take on the role of the head of AMEB. Reportable conduct includes:

- a sexual offence or sexual misconduct by a staff member 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
- 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.

To enable AMEB Victoria to fulfil its reporting obligations, it is our policy that if a staff member forms a reasonable belief that another staff member at AMEB Victoria has engaged in reportable conduct or misconduct that may involve reportable conduct, they must immediately report their concerns to the General Manager (or Client Relations Manager should the allegation involve the General Manager).

They must also consider whether they are required to take any other action or make any other external reports.

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

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

Any person who believes that AMEB Victoria has inappropriately handled or inappropriately responded to an allegation of reportable conduct can notify the CCYP.

Email: contact@ccyp.vic.gov.au or Call: 1300 78 29 78

4. Child Safety incidents

4.1 Breaches of the Child Safety Code of Conduct

AMEB Victoria requires all staff members, parents/carers, visitors and other adults to comply with AMEB Victoria's Child Safety Code of Conduct.

Any breach of the Child Safety Code of Conduct is considered a child safety incident.

4.2 Other child safety 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 AMEB Victoria, child safety related staff misconduct can include:

- breaches of child safe policies / procedures
- physically, verbally or emotionally abusive behaviour with or in the presence of candidates
- other behaviour or conduct that risks the safety or wellbeing of candidates or others at AMEB Victoria.

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

4.3 Child safety related complaints

Reports made to AMEB Victoria about child safety incidents or concerns at or involving AMEB Victoria or its staff members are considered child safety related complaints.

5. Investigating and managing child safety related incidents and complaints

5.1 Immediate actions

After receiving a child safety related complaint, AMEB Victoria will:

- determine whether the conduct in question amounts to reportable conduct and / or child safety related staff misconduct, as defined in this document.
- 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.

AMEB Victoria will conduct an initial risk assessment (in consultation with the Police and / or Child Protection if appropriate), to identify and mitigate any ongoing risks to candidate safety and wellbeing.

AMEB Victoria will also offer support to any candidates, staff members and family members impacted by the incident, concern or complaint.

5.2 Investigating and managing reportable conduct

If a child safety related incident, concern or complaint alleges conduct that amounts to reportable conduct, AMEB Victoria is required by law to notify the CCYP and to conduct an internal investigation. However, if Child Protection or the Police are investigating the alleged conduct, that investigation takes precedence and AMEB Victoria's investigation can only proceed with their permission.

When conducting these internal investigations, AMEB Victoria 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.

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

5.3 Internal investigation only

If a child safety related incident, concern or complaint alleges conduct that does not amount to reportable conduct, AMEB Victoria will conduct an internal investigation, led by the Child Safety Champion or an external investigator.

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

5.4 Investigating and managing behaviour by non-staff members

Where the child safety incident or complaint involves behaviour by a person who is neither a current or former AMEB Victoria candidate nor a current or former staff member, then AMEB Victoria's investigation is generally limited.

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

5.5 Investigating and managing child safety related staff misconduct and breaches of the Child Safety Code of Conduct that do not amount to Reportable Conduct

Child safety related staff misconduct that does not amount to reportable conduct and involves minor breaches of the Child Safety Code of Conduct by staff members, is managed through our Human Resources policies and procedures relating to discipline and termination.

If a child safety related complaint has been made about this conduct, and it is determined through AMEB Victoria's investigation that child safety related staff misconduct or a minor breach of the Child Safety Code of Conduct has occurred, AMEB Victoria will notify the complainant of the finding(s) and of the corrective actions that will be taken.

5.6 Supporting a person making an allegation

If a child safety related complaint has been made, AMEB Victoria will offer support to the person making that allegation. See Appendix 1.

5.7 Conflict of interest

Objectivity and impartiality are particularly important when dealing with a reported child safety concern. AMEB Victoria will assess and manage any actual or perceived conflicts of interest. These conflicts may include:

- financial interests or costs associated with the raising of the concern
- non-financial (e.g. personal or reputational) interests
- the individual interests of a staff member, their immediate family, business partners, associates or friends
- relationships with a history of enmity or negativity

If any conflict of interest, actual or perceived is identified, it will be disclosed to all parties, with proposed steps to manage the conflict, which may include:

- allocating the investigation and decision-making to a different person within AMEB Victoria
- bringing in a third party to oversee or cross-check the investigation and / or decision
- engaging an external investigator or expert to undertake the investigation

5.8 Record keeping about investigations

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

- records received or created during investigations (e.g. interview notes and documents received)
- records of findings
- records of actions proposed and taken.

These are kept in a safe and secure location.

5.9 Reviews of investigation procedures and outcomes

If the complainant and / or other people who are involved in the child safety related complaint (such as a staff member, candidate who is the alleged victim and their parent / carer) are not satisfied with the management or outcome of the complaint they 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 General Manager.

6. Disclosing information to the AMEB community

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

6.1 Sharing information with parents / carers and candidates

The parent / carer of a candidate who is an alleged victim of a child safety related complaint, incident or concern involving AMEB Victoria, 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 candidate 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.

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.

6.2 Sharing information with the wider AMEB community

AMEB Victoria will 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 AMEB Victoria 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 without the consent of the victim and / or their parent / carer. 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 AMEB Victoria community.

7. Roles, responsibilities, delegations

The General Manager (or their delegate), as the Child Safety Champion is responsible for ensuring these procedures are followed. If the Child Safety Incident involves the Child Safety Champion, then the Client Relations Manager (or their delegate), as the Child Safety Officer assumes responsibility for ensuring these procedures are followed.

8. Related and / or supporting documents

- Victorian Crimes Act (1958)
- Victorian Child Wellbeing and Safety Act (2005)
- AMEB Victoria Child Safety Policy
- AMEB Child Safety Code of Conduct
- Victorian Child Safe Standards
- Victorian Working with Children Act (2005)

9. Information

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