Code of Conduct – Child Safety

OFFICIAL

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RESPONSIBLE MANAGER: Executive

CATEGORY: RTO Governance

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RELATED DOCUMENTS:

Legislation: Ministerial Order 1359 – Child Safe Standards, Managing the Risk of Child Abuse in Schools
Children, Youth and Families Act 2005 (Vic.)
Child Wellbeing and Safety Act 2005 (Vic.)
Child Safe Standards (Vic 2022.)
Crimes Act 1958 (Vic)

Documents: PPP083 Staff Code of Conduct
PPP036 Child Safety & Wellbeing Policy
PPP012 Child Safety & Wellbeing Guidelines
PPP052 Duty of Care Guidelines
PPP087 Supervision of Minors
PPP095 Disciplinary Management Guidelines
PPP163 Complaints and Appeals Policy
PPP013 Inclusion and Diversity Policy
PPP170 SWDS Responding to Abuse and Neglect Guidelines
PPP106 Police and Working with Children Check
PPP105 Recruitment and Selection Guidelines
PPP114 Transport and Motor Vehicle Usage
PPP147 Student Excursion Guidelines
PPP202 Professional Boundaries
PPP284 Reportable Conduct Scheme Guidelines
PPP292 Child Safety Incidents – Responding and Reporting Procedure
SWTAFE Induction Program and Annual Corporate Refresher
Child Safe Standards – VRQA guidelines and resources
Department of Education and Training – 'Child Protect' resources
'Commission for Children and Young People' Resources
Child Safe Standards – Information for Young People
Child Safe Standards Translated Resources
Reportable Conduct Scheme

Board Directors only: Corporate Governance Principles and Recommendations

1. Introduction

The Staff Code of Conduct (PPP083) sets standards for the way we work at South West TAFE (SWTAFE or the 'Organisation'). It provides a practical set of guiding principles to help employees to make decisions in their day to day work.

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This addendum – *Code of Conduct – Child Safety* - has a specific focus on the responsibilities of SWTAFE staff in regards to safeguarding children at SWTAFE against sexual, physical, psychological and emotional abuse or neglect. It also addresses the individual's reporting obligations under the *Children, Youth and Families Act 2005*, the *Child Wellbeing and Safety Act 2005* (including the Child Safe Standards Vic 2022) and the *Crimes Act 1958*.

This document is intended to complement PPP083 Staff Code of Conduct and other professional and/or occupational codes.

2. Scope

2.1 This *Code of Conduct - Child Safety* applies to all employees, volunteers, contractors and Board Directors of SWTAFE.

2.2 The *Code of Conduct - Child Safety* applies to employees, volunteers and Board Directors whenever they are identified as a representative of SWTAFE. In some circumstances, this will include times when you are outside your immediate workplace or working hours, for example, at work functions, out of hours work activities or when you are out in the community on behalf of SWTAFE.

2.3 The *Code of Conduct - Child Safety (PPP083a)* applies to contractors whenever they are on a SWTAFE site or whenever they are identified as a representative of SWTAFE.

3. Breaches of SWTAFE's Code of Conduct – Child Safety

3.1 Failure to comply with the principles, policies or the intent of the *Code of Conduct – Child Safety* (PPP08a3) will be considered a serious breach of SWTAFE policy. Breaches of the *Code of Conduct – Child Safety (PPP083a)* will be dealt with in accordance with SWTAFE policies and procedures and will result in an appropriate consequence being applied. This may range from a verbal warning through to termination of employment for serious breaches.

3.2 In addition to complying with SWTAFE's behaviour expectations, members of the SWTAFE community (including employees, volunteers, external providers, Board members and students) also have legal obligations to the safeguarding of children. Failure to fulfil these obligations may result in sanctions, including criminal prosecution.

4. Definitions

Child	For the purposes of implementing a child safe culture and environment, a child is inclusive of anyone under the age of 18 years of age.
CCYP	The Commission for Children and Young People
SSR	The Social Services Regulator

5. Principles

SWTAFE's commitment to child safety is based on the following overarching principles that guide the development and regular review of our work systems, practices, policies and procedures to protect children from abuse.

- All children have the right to be safe and their safety is dependent upon the existence of a child safe culture.
- Child safety and protection is everyone's responsibility.
- The welfare and best interests of the child are paramount and their views and privacy must be respected.
- Child safety awareness is promoted and openly discussed within our organisation's community.
- Clear expectations for appropriate behaviour with children are established in our PPP083 *Staff Code of Conduct*, *PPP202 Professional Boundaries and PPP052 Duty of Care*

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- Procedures are in place to screen all staff, volunteers, third party contractors and external education providers who have direct contact with children.
- Child safety training is mandatory for all SWTAFE Board members, staff and volunteers.
- Procedures for responding to alleged or suspected incidents of child abuse are simple and accessible for all members of the organisation's community.
- Children from culturally or linguistically diverse backgrounds have the right to special care and support including those who identify as Aboriginal or Torres Strait Islander.
- Children will be supported to express their culture and enjoy their cultural rights.
- Children identifying as part of the LGBTQIA+ community have the right to special care & support.
- Children who have any kind of disability have the right to special care and support.
- SWTAFE has zero tolerance for racism, racial discrimination, racial harassment, racial vilification and culturally unsafe behaviour. All staff, volunteers, contractors and Board members are expected to actively identify, challenge, report and respond to incidents of racism. Reports of racism will be taken seriously, investigated in accordance with SWTAFE policies and procedures

6. Child Safety Officer

SWTAFE has nominated the Manager Student Engagement & Support as the identified primary Child Safety Officer. The Child Safety Officer is the primary organisational contact acting as a source of support, advice and expertise to staff on matters of child safety. The Manager Audit, Risk & Compliance is the nominated primary contact for external agencies such as Victoria Police, the Social Services Regulator and the Human Services Regulator (within the Department of Families, Fairness and Housing).

7. Behavioural Expectations

At SWTAFE we have zero tolerance towards child abuse and/or neglect. We demonstrate this by observing child safe principles and expectations for appropriate behaviour towards and in the company of children:

7.1 Acceptable Behaviours

All staff, volunteers, external providers and contractors, and Board members are responsible for supporting the safety of children by:

- adhering to our *PPP012 Child Safety & Wellbeing Guidelines* and upholding the organisation's Statement of Commitment to child safety at all times
- taking all reasonable steps to protect children from abuse
- treating everyone in the organisation's community with respect
- listening and responding to the views and concerns of children, particularly if they are telling you that they or another child have been abused or that they are worried about their safety/the safety of another child
- promoting cultural safety, participation and empowerment of Aboriginal and Torres Strait Islander children
- promoting cultural safety, participation and empowerment of children with culturally and/or linguistically diverse backgrounds
- actively promoting cultural safety, inclusion and respect for diversity
- intervening safely where racism, discrimination or culturally unsafe behaviour is observed
- reporting incidents, concerns or allegations of racism through appropriate SWTAFE reporting processes
- promoting the safety, participation and empowerment of children with a disability
- ensuring as far as practicable and appropriate that adults are not alone with a child
- reporting any child safety concerns or allegations of child abuse to SWTAFE's nominated Child Safety Officer, the Manager of Student Engagement & Support (or any the Child Safety Contact Officer)

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- if an allegation of child abuse is made, ensuring as quickly as possible that the child(ren) are safe
- understand and comply with all reporting obligations as they relate to mandatory reporting and reporting under the *Crimes Act 1958*
- reporting to the Victorian Institute of Teaching (VIT) any charges, committals for trial or convictions concerning a sexual offence by a registered teacher, or certain allegations or concerns about a registered teacher

7.2 Unacceptable Behaviours

All staff, volunteers, external providers and contractors, and Board members must not:

- initiate, cultivate or encourage relationships or engage in sexual activity with a child
- ignore or disregard any suspected or disclosed child abuse
- develop any 'inappropriate relationships with children that could be seen as favouritism (for example, the offering of gifts or special treatment for specific children)
- exhibit behaviours with children which may be construed as unnecessarily physical
- put children at risk of abuse
- initiate unnecessary physical contact with children or do things of a personal nature that a child can do for themselves, such as toileting or changing clothes
- engage in open discussions of a mature or adult nature in the presence of children
- use inappropriate language in the presence of children
- express personal views on cultures, race or sexuality in the presence of children
- discriminate against any child, because of age, gender, race, culture, vulnerability, sexuality, ethnicity or disability
- without a valid context, have contact with a child or their family outside of class activities or SWTAFE events without informing and gaining the consent of the primary Child Safety Officer, Manager of Student Engagement & Support. For example, tutoring a student in a private setting. Accidental contact, such as seeing people in the street, is acceptable.
- without a valid context, have any online contact with a child (including by social media, email, instant messaging etc) or their family (unless necessary for example; by providing families with e-newsletters, other approved communication application information and requests or as their nominated preferred method of contact). Use any personal communication channels/device such as a personal email account without a valid context, exchange personal contact details such as phone number, social networking sites or email addresses
- use any smart technology or digital device photograph or video a child or vulnerable person without the consent of the parent or guardians
- work with children while under the influence of alcohol or illegal drugs
- engaging in, encouraging, ignoring or failing to respond appropriately to racism, racial discrimination, racial harassment, racial vilification or culturally unsafe behaviour towards a child or young person
- allowing students under the age of 18 to travel in a SWTAFE owned, leased or hired vehicle or a staff member's private vehicle without the expressed consent of their parent/guardian

8. Obligation to Report

8.1 **'Failure to disclose'** an offence applies to any person who has information to form a reasonable belief that a sexual offence has been committed in Victoria against a child under the age of 16 years by another person over the age of 18 years. Reporting must be directly to the police, and the nominated Primary Child Safety Officer Manager of Student Engagement & Support or the CEO, as soon as it is practicable to do so.

8.2 The police may be contacted by phoning 000, or by calling or visiting your nearest station.

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8.3 Failure to report the information to the police is a criminal offence, 'Failure to Disclose', with a maximum penalty of 3 years imprisonment.

8.4 Examples of *sexual offences* against a child may include:

- Sexually abusing or exploiting a child;
- Talking to a child in a sexually explicit way;
- Forcing a child to watch pornography;
- Engaging in sexual activity with a child under 16;
- Grooming a child for future sexual activity
    - Note that grooming occurs when 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.

8.5 A *Reasonable Belief* is a belief based on information that would lead a reasonable person to think that the offence may have occurred. It does not require facts or certainty, although is more than a 'suspicion'. Examples of information that may lead a person to form a *reasonable belief* include:

- a child states that they have been physically or sexually abused
- a child states that they know someone who has been sexually abused (sometimes the child may be talking about themselves)
- someone who knows a child states that the child has been physically or sexually abused
- Other circumstances lead you to suspect that a child has been abused.

8.6 A *reasonable excuse not to report* to Victoria Police includes:

- a fear for the safety of the victim or another person (except the alleged perpetrator) as a result of the disclosure; or
- a reasonable belief that the information has already been disclosed to the police (e.g. through a report to Child Protection by a Mandatory Reporting professional).

8.7 *Exemptions* from reporting to Victoria Police are as follows:

- if the victim is 16 years or older at the time of providing the information and has requested confidentiality (except where the victim has an intellectual disability);
- if the person comes into possession of the information when they were a child;
- if the information is privileged (e.g. client legal privilege, journalist privilege);
- if the information is a 'confidential communication' (written or oral communication of sexual abuse made by a child to a doctor or counsellor during treatment and assistance);
- if the information is in the public domain;
- if the person is a police officer acting in the course of his/her duty in respect of the victim of the alleged sexual offence; or
- if the victim of the alleged sexual offence turned 16 years before 27 October 2014

9. Obligation for those in authority to protect

9.1 All persons of authority at SWTAFE have a legal obligation to take reasonable steps to reduce or remove a known, substantial risk that an adult associated with the organisation will commit a sexual offence against a child under the age of 16 who is under the care, supervision or authority of the SWTAFE.

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Related Laws

- **Failure to disclose child sexual abuse** is a criminal offence. The offence requires that any adult who holds a reasonable belief that a sexual offence has been committed in Victoria by an adult against a child (aged under 16) disclose that information to police. The offence applies to all adults in Victoria, not just professionals who work with children, unless they have a reasonable excuse.
- **Failing to protect a child under the age of 16 from the risk of sexual abuse** is a criminal offence. The offence requires a person in a position of authority to reduce or remove the risk of sexual abuse of a child by an adult associated with their organisation. A person in a position of authority in the organisation will commit the offence if they know of the risk of abuse and have the power or responsibility to reduce or remove the risk, but negligently failed to do so.
- **Grooming** 'The Crimes Amendment (Grooming) Act' 2014, introduced the offence of Grooming for sexual conduct with a child under the age of 16 years. This offence targets predatory conduct designed to facilitate later sexual activity with a child.
- **Reportable Conduct Scheme**
  The head of an organisation must report allegations of abuse by an employee or volunteer to the Social Services Regulator (SSR).
  The organisation must investigate the allegation (unless the allegation involves criminal conduct, in which case it is deferred to the police) and update the SSR.

9.2 A *person of authority* refers to someone whose position means that they have the power or responsibility to reduce or remove a substantial risk posed by an adult associated with the organisation. Examples of positions but not limited to are a teacher, support worker, Head of Division (teaching), Teaching Education Manager, Department Manager

9.3 Reports where a "substantial risk" is identified are to be made to the nominated SWTAFE Child Safety Contact Officer, the Manager Student Engagement & Support who will notify the CEO.

9.4 The adult of concern will be removed from contact with all children immediately and the matter will be reported to the appropriate authority and investigated.

9.5 Under Section 49O of the Crimes Act 1958 Failure by a person in authority to protect a child from a sexual offence, a person in authority that negligently fails to reduce or remove that risk may be found to have committed a criminal offence, 'Failure to Protect', which carries a maximum penalty of 5 years imprisonment.

10. Mandatory Reporting

10.1 **Mandatory reporting** refers to the legal requirement for certain professional groups/occupations to report a reasonable belief of child's physical or sexual abuse to Child Protection. This will apply to some members of the SWTAFE community if they belong to one of professional groups, regardless of whether they are employed by SWTAFE in such a capacity.

10.2 Mandatory Reporting obligations must be upheld by:

- Registered medical practitioners
- Nurses
- Midwives
- Registered teachers
- Early childhood teachers
- Early childhood workers
- School principals
- School counsellors
- Police officers
- Youth justice workers

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- Registered psychologists
- People in religious ministry
- Out of home care workers (excluding voluntary foster and kinship carers)

10.3 **Under section 184 of the *Children Youth and Families Act 2005***, mandated reporters must make a report to Child Protection or the South West TAFE Primary Child Safe Officer, if in the course of practicing their profession or carrying out duties of their office, position or employment, they form a reasonable belief that a child has suffered or is likely to suffer significant harm, as a result of physical or sexual abuse, and the child's parents have not protected or are unlikely to protect the child from harm of that type. SWTAFE will report to Child Protection on behalf of the mandated reporter.

10.4 A report must be made:

- As soon as it is practicable to do so
- Each time you form a reasonable belief or suspicion
- When you notice indicators (physical and behavioural) of abuse
- When you receive a disclosure from the young person themselves that abuse or neglect has occurred
- When you witness abuse towards a young person
- Even when more senior staff does not share your belief

10.5 A mandated reporter must ensure that a report has been made even in instances where another mandated reporter has undertaken to make a report.

10.6 If a mandated reporter is worried about a child's wellbeing but does not believe they are in need of protection, they may choose to make a referral to Child FIRST or The Orange Door instead.

11. Reportable Conduct Scheme Victoria Obligations

As an organisation registered to deliver Senior Secondary Programs, SWTAFE is bound by the Victorian Reportable Conduct Scheme. This seeks to improve organisations' responses to allegations of child abuse and neglect by their workers and volunteers. The scheme is established by the *Child Wellbeing and Safety Act 2005* (the Act). The Reportable Conduct Scheme focuses on worker and volunteer conduct, and how organisations investigate and respond to allegations of child abuse. From 1 July 2024, organisations will also need to notify the Commission about reportable allegations for labour hire workers, secondees, directors of companies and individual business owners and investigate under the Scheme. Refer to PPP284 Reportable Conduct Scheme for detailed information.

For more information see: Reportable Conduct Scheme

A finding that a person has engaged in reportable conduct can trigger an assessment of whether that person is suitable to continue to work or volunteer with children. In turn, this may lead the Working with Children Check Unit to revoke a person's Working with Children Check card.

The Reportable Conduct Scheme does not replace the need to report allegations of child abuse, including criminal conduct and family violence, to Victoria Police.

12. Further guidance

If you are unsure if a particular behaviour would be considered acceptable or unacceptable, speak with the Manager of Student Engagement & Support or a nominated Child Safety Contact Officer.

13. Reporting & Record Keeping

Data on complaints, investigations or incidents relating to Child Safety is collected in a Central Register and managed in-line with legislative and privacy requirements. Actions taken to investigate and resolve the issue are recorded. Any reporting to third parties will only use de-identified data. Where data indicates systemic issues and causes items will be added to the Continuous Improvement Register for further action

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14. Diversity, Equity and Inclusion

SWTAFE is committed to making diversity, equity and inclusion part of everything we do, including in the implementation of this policy/procedure/guideline. For more information, please visit the 'Our Values' page on our website [external] or the Diversity, Equity & Inclusion Homepage on ECHO [internal]. Diversity, Equity & Inclusion (DEI)

15. Statement of Commitment to Child Safety

South West TAFE is committed to the protection of all children from all forms of child abuse and demonstrates this commitment through the implementation of a Child Safe Program designed to keep children safe within our organisation. For Child Safe key documents, resources, contact officer details please go to: Child Safe Commitment

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