

## Reportable Conduct Policy

### Purpose

The purpose of this policy is to support compliance with ECMS’s legal obligations under the Victorian Reportable Conduct Scheme as stipulated in the *Child Wellbeing and Safety Act 2005* (Vic) Part 5A and Child Safe Standards.

It is also the purpose of this policy to confirm ECMS’s commitment to protect and preserve the safety and wellbeing of all children in ECMS’ services and to provide a process that promotes child safety and prevention of abuse.

### Scope

This policy applies to all ECMS staff including all employees, contractors, volunteers, students on placement, Executives, CEO, and members of the ECMS Board of Governors. In addition, parents/guardians, community members, and children are also covered under this policy.

### Abbreviations

Commission	Commission for Children and Young People (CCYP)
Head of an Organisation	The CEO of ECMS. However, in circumstances in which a reportable allegation has been made against the CEO, the <i>Head of an organisation</i> refers to the Chair of the ECMS Board.
Regulator	The <i>regulator</i> may refer to: (i) Department of Education and Training Victoria, (ii) Any Victorian Government Department that provides ECMS with funding, (iii) Victorian Registration and Qualifications Authority, (iv) Victorian Institute of Teaching, or (v) Australian Children’s Education & Care Quality Authority (ACECQA).

### Principles

ECMS is committed to:

- Implement an organisational preventative approach to keeping children safe
- Taking every reasonable precaution to protect children from harm or any hazard likely to cause injury

- Meeting its legal requirements under the following Victorian Legislation:
  - [Wrongs Act 1958](#)
  - [Crimes Act 1958](#)
  - [Working with Children Act 2005](#)
  - [Child Wellbeing and Safety Act 2005 \(Vic\)](#)
  - [Children Youth and Families Act 2005 \(Vic\)](#)
  - [Education and Care Services National Law Act 2010](#)
  - [Child Information Sharing Scheme and Family Violence Information Sharing Scheme 2021 \(Vic\)](#)
- Have procedures and processes in place that enable reporting a concern or allegation of reportable conduct
- Ensure that ECMS provides the Commission with the required information to meet reporting requirements in line with the Commissions' Reportable Conduct Scheme timelines.

## Definitions

### Reasonable Belief

A belief based on information that would lead a reasonable person to think that reportable conduct may have occurred. The belief must be based on some objective evidence. However, having a reasonable belief does not require the person to be certain.

For instance, a person may form a reasonable belief if they have:

- Observed the alleged conduct themselves
- Heard from a child that the alleged conduct occurred
- Been informed by a source that the alleged conduct occurred (e.g. a witness to the conduct).

### Reportable Allegation

A reportable allegation is any information that leads a person to form a reasonable belief that an ECMS employee (including volunteers) has committed:

- (i) reportable conduct; or
- (ii) misconduct that may involve reportable conduct

Allegations of reportable conduct against an ECMS employee include conduct that may have occurred **within or outside** the course of employment.

### Reportable Conduct

There are five types of 'reportable conduct' listed in the Child Wellbeing and Safety Act 2005 that would require investigation and a report under the Victorian Reportable Conduct Scheme:

- sexual offences (against, with or in the presence of, a child)
- sexual misconduct (against, with or in the presence of, a child)
- physical violence (against, with or in the presence of, a child)

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- behaviour that causes significant emotional or psychological harm
- significant neglect.

Further detailed descriptions of the types of reportable conduct can be found at the Commission for Children and Young People Information sheet 2 [What is reportable conduct?](#)

## Misconduct that may involve reportable conduct

This refers to behaviour that breaches a professional code of conduct or workplace expectation, (such as departure from acceptable standards that was deliberate or seriously negligent and where an employee was indifferent to the welfare of those affected), and also involves one or more of the five types of reportable conduct (described above).

The following situations would require investigation and a report under the Victorian Reportable Conduct Scheme:

1. **Serious Incident** – if the serious incident occurred due to supervisory neglect or physical abuse from ECMS staff then it would be a reportable conduct issue that would need to be reported to the Victorian Reportable Conduct Scheme.
2. **Abuse or allegation of abuse of a child** – any incident or allegation that physical or sexual abuse or the threat of physical or sexual abuse has been committed by an ECMS employee against a child or in the presence of a child, without lawful reason, irrespective of whether the conduct occurred while the employee was in or outside the workplace.
3. **Significant emotional or psychological harm** – including neglect, irrespective of whether the conduct occurred while the employee was in or outside the workplace.

## Employees under 18 Years of Age

The Victorian Reportable Conduct Scheme applies to employees aged 18 years or older.

ECMS employees (including students and volunteers) under 18 years of age are subject to the obligations laid out in the ECMS Child Safety Policy. Any misconduct committed by ECMS employees under 18 years of age whilst in the discharge of their duties is subject to ECMS' Disciplinary Policy and Procedure.

## Roles and Responsibilities

<b>CEO</b>	Responsible for: <ul style="list-style-type: none"> <li>• Take a preventative approach to keeping children safe</li> <li>• Have systems in place to enable anyone to notify their concern or allegation that behaviour in line with reportable conduct may have occurred</li> <li>• Have systems in place to allow other people to report to the Commission if the reportable conduct allegation is concerning the Head of the Organisation</li> </ul>
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	<ul style="list-style-type: none"> <li>• Ensures that the ECMS Reportable Conduct policy is followed</li> <li>• Receive recommendations from Director People &amp; Capability (P&amp;C) relating to employee stand down or summary dismissal and provide authority for such (if applicable)</li> <li>• If a reportable allegation is made against a member of the ECMS Board other than the Chair: <ul style="list-style-type: none"> <li>◦ The CEO continues to act as the Head of the Organisation &amp;</li> <li>◦ Immediately informs the Chair of the ECMS Board</li> </ul> </li> <li>• If a reportable allegation is made against the Chair of the ECMS Board: <ul style="list-style-type: none"> <li>◦ The CEO continues to act as the Head of the Entity &amp;</li> <li>◦ Immediately informs the Deputy Chair of the ECMS Board</li> </ul> </li> </ul>
Board Chair	<p>If a reportable allegation is made against the CEO, then the Chair of the ECMS Board:</p> <ul style="list-style-type: none"> <li>• Acts as the Head of the Organisation, assuming all the legal responsibilities of the Head of the Organisation</li> <li>• Immediately informs the ECMS Board that an allegation has been made (maintaining confidentiality of the allegation)</li> <li>• Ensures that the ECMS Board – Child Safe Policy is implemented</li> <li>• Ensures that the ECMS Board follows the ECMS Reportable Conduct Procedure</li> </ul>
Director of Early Childhood Education, (Director ECE)	<p>Responsible for:</p> <ul style="list-style-type: none"> <li>• With support from the Child Safety and Early Childhood Compliance team, ensure that any reportable allegations that may involve a criminal offence are reported to Victoria Police and ensure the Director P&amp;C is made aware of this</li> <li>• Work with the Area Manager to ensure that parents and carers are informed about the progress of the investigation and findings</li> <li>• Develop strategies and an action plan to address service-based issues where reportable conduct may have occurred and report back to the Director P&amp;C and Child Safety and Early Childhood Compliance team on operational actions (e.g. support plans) taken in response to the investigation process</li> </ul>
Director, People and Capability	<p>Responsible for:</p> <ul style="list-style-type: none"> <li>• Receiving notification from the Child Safety and Early Childhood Compliance team that a reportable conduct allegation has been made</li> </ul>

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	<ul style="list-style-type: none"> <li>• Convene a meeting with relevant parties to determine next steps, including Director ECE, Senior Business Partner, relevant Area Managers (as appropriate), Child Safety and Early Childhood Compliance team, and others as relevant</li> <li>• In line with the Commission’s definition, determine whether an alleged report constitutes reportable conduct</li> <li>• Inform the CEO of the action plan</li> <li>• Where appropriate provide recommendations to the CEO for employee stand down or summary dismissal (if applicable)</li> <li>• If a reportable allegation is made against the CEO, inform the Chair of the ECMS Board</li> <li>• Ensure the Reportable Conduct Notification is lodged with the Commission in line with the prescribed process</li> <li>• Cooperate with any investigation by the Commission or the Regulator</li> <li>• Coordinate the investigation process of the reportable alleged conduct, following clearance by Victoria Police including nominating the investigator</li> <li>• Where an external investigator is nominated, the Director P&amp;C is responsible for providing the Terms of Reference and for communicating the results of the investigation to the CEO.</li> </ul>
Senior HR Business Partner	<p>Responsible for:</p> <ul style="list-style-type: none"> <li>• Actioning any stand down or immediate action required relating to the subject of allegation</li> <li>• Internal investigations of Reportable Conduct matter in line with P&amp;C procedures</li> <li>• Liaising with external investigators commissioned by the Director P&amp;C to ensure appropriate information is available for the investigation</li> <li>• Ensure sufficient information is provided to the Director ECE and/or Area Manager to inform parents and carers of the progress of the investigation and findings</li> <li>• Liaise with Area Manager in relation to the Reportable Conduct investigation</li> <li>• Where appropriate provide recommendations to the Area Manager about employee temporary redeployment and/or temporary role reassignment</li> <li>• Provide updates and recommendations and/or action plans to the Director of P&amp;C and the Area Manager</li> <li>• Report findings to the Director P&amp;C</li> <li>• Where appropriate, ensure that the ECMS Disciplinary Procedure is implemented</li> <li>• Submit findings report to CCYP following approval of the CEO</li> <li>• Liaise and update Child Safety and Early Childhood Compliance team of the outcomes</li> </ul>

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	<ul style="list-style-type: none"> <li>• Liaison with People Services team (dependant on investigation outcome) to ensure notification to the Victorian Institute for Teaching (VIT) if there if ECMS becomes aware of a criminal offense or any action taken against a registered teacher in response to an allegation(s) of: <ul style="list-style-type: none"> <li>○ Serious incompetence</li> <li>○ Serious misconduct</li> <li>○ Lack of fitness to teach</li> </ul> </li> <li>• A physical and mental impairment that adversely affects the teacher's ability to teach</li> </ul>
P&C – People Services Team	<p>Responsible for:</p> <ul style="list-style-type: none"> <li>• Notification to VIT of any criminal offense or any action taken against a registered teacher in response to an allegation</li> </ul>
Child Safety and Early Childhood Compliance	<p>Responsible for:</p> <ul style="list-style-type: none"> <li>• In line with the Commission's definition, have an awareness of whether an alleged report constitutes reportable conduct</li> <li>• Ensure that the procedure detailed in the ECMS Child Safety and Early Childhood Compliance: Reportable Matters Handbook is implemented</li> <li>• Ensure that any reportable allegation that may involve a criminal offence is reported to Victoria Police</li> <li>• Notify the Person's with Management and Control and Director of P&amp;C of any reportable allegations immediately</li> <li>• Lodging relevant information to DET and be a conduit between DET and ECMS concerning the reportable conduct matter</li> <li>• Follow Reportable Conduct Procedure</li> </ul>
Area Managers	<p>Responsible to:</p> <ul style="list-style-type: none"> <li>• Support staff within the region to complete required paperwork for the Child Safety and Early Childhood Compliance team, and adhere to the Reportable Matters Procedure and the Reportable Matters Handbook, within 2 hours of the notification/event</li> <li>• Support and liaise with both the Child safety and Early Childhood Compliance team, the Senior Business Partner, and the Director ECE concerning further information required for DET or investigative purposes</li> <li>• Coordinate with Police/SOCIT as required and liaise with the investigator if necessary</li> <li>• With support from the Senior Business Partner, facilitate employee temporary redeployment and/or temporary role reassignment (if applicable)</li> <li>• With support from the Senior Business Partner and the Director ECE, ensure that parents and carers are kept</li> </ul>

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	<p>informed about the progress of the investigation and findings</p> <ul style="list-style-type: none"> <li>Ensuring any relevant action plans or recommendations are actioned to address individual or service-based issues</li> </ul>
All ECMS Employees	<p>Responsible for:</p> <ul style="list-style-type: none"> <li>Inform Area Manager (or relevant manager) of situation</li> <li>Awareness of what constitutes reportable conduct (under the definitions above) and the <a href="#">ECMS Child Safety and Early Childhood Compliance: Reportable Matters Handbook</a> and in line with mandatory reporting responsibilities from DET and Victorian Institute of Teaching (VIT)</li> <li>Contact Child Safety and Early Childhood Compliance on 1300 61 51 91 <b>within two hours of the event</b></li> <li>In consultation with the Child Safety and Early Childhood Compliance, contact Victoria Police if there is any reportable allegation that may involve a criminal offence</li> <li>Complete relevant reportable matters template</li> <li>Submit the template to <a href="mailto:compliance@ecms.org.au">compliance@ecms.org.au</a></li> </ul>
Parents/Guardians, Community Members, and Children	<p>Responsible for:</p> <ul style="list-style-type: none"> <li>Communicating any concerns or allegations of reportable conduct to the Centre Director/Nominated Supervisor or the Area Manager</li> </ul>

## Confidentiality

All disciplinary matters, reportable allegations, and any subsequent reportable conduct investigations will be managed both sensitively and confidentially. Any employee involved in a reportable allegation or reportable conduct investigation must maintain strict confidentiality concerning the matter. Failure to maintain confidentiality may result in disciplinary action.

In addition to the above, any reportable conduct investigation is to be kept strictly confidential from persons and organisations external to ECMS, except where the disclosure of such information is:

- Required by law (e.g., notifying and reporting to the Commission or the Regulator, complying with mandatory reporting obligations, cooperating with a Victoria Police investigation, complying with a court order, compulsory information sharing, etc.; or
- Permitted by law and there is a good reason to disclose the information (e.g., informing the parents or carers of a child concerning an ECMS employee who is alleged to have committed reportable conduct).

Particular care must be taken to prevent the publication of any information which would allow the identification of:

- A person making a reportable allegation; or

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- A child concerning a reportable allegation or a reportable conduct finding which has been made.

## Sources

Relevant Legislation	<a href="#">Wrongs Act 1958</a> <a href="#">Crimes Act 1958</a> <a href="#">Working with Children Act 2005</a> <a href="#">Child Wellbeing and Safety Act 2005 (Vic)</a> <a href="#">Children Youth and Families Act 2005 (Vic)</a> <a href="#">Education and Care Services National Law Act 2010</a> <a href="#">Information Sharing Scheme and Family Violence Sharing Scheme 2021</a>
Relevant ECMS policy and procedure	<p>Child Safe Culture Policy</p> <p>Child Safe Policy and Procedure</p> <p>Child Safety and Compliance: Reportable Matters Handbook</p> <p>Code of Conduct</p> <p>Complaints and Feedback Policy and Procedure</p> <p>Confidential Information Policy (P&amp;C)</p> <p>Disciplinary Policy and Procedure (P&amp;C)</p> <p>ECMS Board – Child Safe Policy</p> <p>Governance and Management of ECMS Policy</p> <p>Grievance Handling Policy (P&amp;C)</p> <p>Incident Reporting Policy and Procedure</p> <p>Information Sharing Policy and Procedure</p> <p>Privacy Policy (P&amp;C)</p>

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