

1040 Whitehorse Road, Box Hill, 3128
(PH) 9896 4333 (Fax) 9896 4348
www.wml.vic.gov.au

Reportable Conduct Policy

Document Number	POL/18/73[v3]
Date Adopted	12 December 2018
Last Reviewed	11 November 2022
Review Date	As required
Responsible Officer	Chief Executive Officer

1. Introduction

WML is committed to the protection, safety and wellbeing of children, the safety of which is supported by the Victorian Child Safe Standards and Reportable Conduct Scheme introduced under the Child Wellbeing and Safety Act 2005

This Policy supports WML systems designed to prevent and respond to child abuse, and should be read in conjunction with WML's Child Safe Policy.

The protection of children and young persons is the responsibility of everyone who works at WML including its staff, contractors, volunteers and office bearers. We all share responsibility for promoting the wellbeing and safety of children.

The Reportable Conduct Scheme is administered by the Commission for Children and Young People. The Scheme provides for the reporting to the Commission of allegations of reportable conduct, or misconduct that may involve reportable conduct, committed by employees (including volunteers, contractors and office holders) within or connected to WML.

2. Purpose

The purpose of this policy is to ensure that WML complies with its obligations under the Reportable Conduct Scheme.

The Chief Executive Officer (CEO) is responsible for ensuring compliance by WML with its obligations under the Reportable Conduct Scheme. In particular, the CEO will ensure that WML has in place:

- a system for preventing the commission of reportable conduct by an employee of WML within the course of their employment;
- a system for enabling any person, including employees of WML, to notify the CEO of a reportable allegation of which the person becomes aware, or to notify the Chair of the Library Board of an allegation involving the CEO; and
- a system for investigating and responding to a reportable allegation against an employee of WML.

Everyone involved in WML has a role to play, and may disclose an allegation of reportable conduct involving an employee to the Commission or to the CEO.

3. Scope

This policy applies to all persons over the age of 18, who are employed or otherwise engaged by WML, including but not limited to:

- Employees (full time, part time and casual);
- Contractors; Volunteers;
- Board members; and/or
- Work Experience and Industry placement students.

Irrespective of whether or not:

- a. that person's work, activities or services relates to or otherwise involves children (being persons under the age of 18); and/or
- b. the reportable conduct or misconduct occurs within or outside of WML

4. What types of conduct are reportable?

There are five types of 'reportable conduct' listed in the *Child Wellbeing and Safety Act 2005*:

- 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)

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

A child is anyone who is under 18 years of age.

Definitions and a short description of the types of reportable conduct are provided at Appendix A: Reportable Conduct Policy - Definitions and Interpretative Notes

5. Reporting – Reportable Allegations

All employees, and other individuals engaged by WML are required to notify the CEO immediately, or as soon as reasonably practicable, after forming a reasonable belief that a person employed or otherwise engaged by WML; has committed;

- Reportable Conduct; or
- Misconduct that may involve Reportable Conduct.

A report may be made even if:

- that person does not have direct contact with children; and/or
- the conduct occurred outside of their work or other form of engagement with WML.

Reportable Allegations may also be made by persons external to WML.

If a child is at immediate risk of abuse or danger the Police should be contacted without delay on 000; with subsequent notification to the CEO.

Notification can be made:

- In writing in a sealed envelope marked Private and Confidential and addressed :
Chief Executive Officer
Whitehorse Manningham Regional Library Corporation
PO Box 3083, NUNAWADING VIC 3131
- In writing in a sealed envelope marked Private and Confidential, addressed to the Chief Executive Officer and delivered to:
Administration
Whitehorse Manningham Regional Library Corporation
1040 Whitehorse Road, BOX HILL 3128
- By email marked - Reportable Conduct – sent to ceo@wml.vic.gov.au

(d) By telephone or fax advising that the person wishes to report an allegation of reportable conduct to the CEO: Telephone: (03) 9896 4333 Facsimile: (03) 9896 4318

A report can also be made directly to the Commission for Children and Young People at:

Commission for Children and Young People
Level 18 570 Bourke Street Melbourne Victoria 3000
Telephone: (03) 8601 5281
email: contact@ccyp.vic.gov.au
website: <https://ccyp.vic.gov.au/report-an-allegation/>

If the person has information of a reportable allegation involving the Chief Executive Officer or the Chair of the Library Board a report should be made directly to the Commission for Children and Young People at:

Commission for Children and Young People
Level 18 570 Bourke Street Melbourne Victoria 3000
Telephone: (03) 8601 5281
email: contact@ccyp.vic.gov.au
website: <https://ccyp.vic.gov.au/report-an-allegation/>

6. Preventing Reportable Conduct from occurring

WML has policies and practices that take a preventative approach to keeping children safe. Such policies and practices include but are not limited to:

- Child Safe Policy
- Unattended Children Policy
- Child at Risk Procedures
- Codes of Conduct
- Recruitment Policy, screening and compliance checks
- Employee Performance Management Policy and procedure
- Volunteer Policy and procedures
- Work Experience Policy and procedures
- Local Law and conditions of use policies

7. Procedures for responding to and reporting suspected child abuse

WML has policies and procedures for responding to and reporting suspected abuse of a child. WML also has practises and programs that support, encourage and enable employees (and others engaged by WML) and library patrons to understand, identify and report child safety matters. Such policies and practices include but are not limited to:

- Child at Risk procedures
- Escalation of Inappropriate Behaviours procedures
- Incident reporting procedures
- Complaints Handling Policy and procedures
- Customer Service Manual
- Induction, training and awareness programs
- Access to relevant WML policies at www.wml.vic.gov.au

8. Responding to a Reportable Allegation

8.1 Responsibilities of the Chief Executive Officer

The Chief Executive Officer (CEO) as the head of the organisation is responsible for ensuring WML complies with the Reportable Conduct Scheme. This includes ensuring the Commission is notified of any reportable allegation they become aware of. The CEO will inform the member council(s) of any reportable incidents.

Following receipt of a Reportable Allegation, the CEO (or their appointed delegate) must:

Manage Immediate Risks

Manage any immediate risks to children, which for allegations of suspected criminal misconduct, will involve reporting to Victoria Police.

Notify

Ensure the Commission for Children and Young People (the Commission) is notified within 3 business days of becoming aware of the Reportable Allegation.

Notify the member council(s) of any reportable incidents.

Investigate

Engage an independent investigator (as appropriate) and initiate an investigation into the Reportable Allegation (subject to police clearance on criminal matters); and inform the Commission the details of the person undertaking the investigation;

Update

Provide the Commission (within the prescribed period of 30 calendar days) detailed information about the Reportable Allegation and any action taken or proposed by WML;

Outcomes

Notify the Commission of the investigation findings and any disciplinary action WML has taken (or the reasons no action was taken).

It is an offence to fail to notify and update the Commission about reportable allegations.

8.2 Reportable Allegation Investigation

Allegations of suspected criminal misconduct will be reported to Victoria Police as the first priority, who will take leadership of the investigation. WML will work with Victoria Police and the Commission to ensure:

- a. allegations of criminal conduct are dealt with appropriately; and
- b. any internal workplace investigation, aimed at gathering and examining information to establish and make findings in relation to allegations of child abuse against an employee or other person engaged by WML, does not interfere with police investigations.

As soon as practicable after becoming aware of a reportable allegation against an employee, the CEO will commence an investigation, which may include appointing an independent investigator.

If an allegation involves a possible criminal offence, the CEO will first obtain clearance from Victoria Police before beginning an investigation.

Generally, the person appointed to conduct the investigation will decide on the appropriate process for the investigation, taking into account the principles of natural justice, and will advise the parties of such matters. The investigator will, as soon as practicable:

- conduct an investigation into the allegation;
- conduct interviews of relevant persons and seek any further information he/she deems necessary;
- provide to the CEO a confidential report of his/her findings in relation to the allegation against the employee; and
- if requested, make recommendations about what disciplinary or other action should be taken (if any).

The CEO will consider the findings, and recommendations, and determine what further action, if any, to take in relation to the allegations.

9. Communication

WML employees (and others engaged by WML) and library users will be informed about this policy. It will be publicly available. It will be available on the WML website and communicated in newsletters, induction programs for employees and other engaged by WML.

All Library Board members, employees, contractors and volunteers will be made aware of this policy and WML's commitment to child safety.

10. Support Services

WML recognises Reportable Conduct investigations can be stressful and demanding on all involved, and is committed to the welfare and support of staff and volunteers, with particular focus on any children who may be victim of alleged Reportable Conduct. Access to the WML's Employment Assistance Service or other counselling services will be made available, as required, in support of persons making a Reportable Conduct report.

11. Relevant Legislation

- Children Legislation Amendment (Reportable Conduct) Act 2017
- Child Wellbeing and Safety Act 2005
- Commission for Children and Young People Act 2012

12. Historical allegations

The Reportable Conduct Scheme (scheme) requires certain allegations of past or historical reportable conduct to be reported to the Commission.

Under the scheme, an allegation made about the conduct of a worker or volunteer who has been employed or engaged by WML may need to be reported and investigated regardless of when the alleged conduct occurred. This includes conduct that allegedly occurred before the scheme covered the organisation.

A reportable allegation can be made about certain workers or volunteers over 18 years of age who are or were:

- an employee of an organisation covered by the scheme
- a volunteer, contractor, office holder, officer or other position directly engaged by an organisation covered by the scheme to provide services.

The head of the organisation could be required to report to the Commission an allegation that one of their workers or volunteers committed reportable conduct, regardless of whether that conduct is said to have occurred before or after the scheme covered that organisation.

It is possible that a reportable allegation may be about alleged conduct from many years before the scheme commenced. In these cases, it can be more difficult to conduct an investigation. In these cases, WML will contact the Commission to seek advice.

Appendix A: Reportable Conduct – Definitions and Interpretive Notes

Term	Description
Child	A person who is under the age of 18 years.
The Commission	Commission for Children and Young People (CCYP)
Head of the organisation	The head of an organisation is the person who is primarily responsible for an organisation's compliance with the Reportable Conduct Scheme. The head of WML is the Chief Executive Officer (CEO).
Misconduct	Conduct can be misconduct if it involves a departure from the accepted standards of the role performed by an employee or someone engaged by WML and the misconduct is intentional or seriously negligent.
Accepted Standards	The accepted standards of a role are informed by applicable laws, policies, procedures, rules, codes of conduct, standards and other guidelines.
Intentionally	'Intentionally' means to perform the conduct in a deliberate and voluntary way.
Seriously negligent	'Seriously negligent', in this context, means that: <ul style="list-style-type: none"> • the conduct falls short of the standard of care exercised by a reasonable person with the characteristics of the worker or volunteer in all the circumstances; and • the worker or volunteer was indifferent as to the wellbeing of those affected by their conduct.
Reportable Allegation	A Reportable Allegation means any information that leads a person forming a Reasonable Belief that an employee or someone engaged by WML has committed: <ul style="list-style-type: none"> • Reportable Conduct; or • Misconduct that may involve Reportable Conduct. Whether or not the conduct or misconduct is alleged to have occurred within the course of the person's employment/engagement, or within or outside WML
Reportable Conduct or misconduct	Reportable Conduct includes: <ul style="list-style-type: none"> • a sexual offence (committed against, with, or in the presence of a child); • sexual misconduct (committed against, with, or in the presence of a child); <ul style="list-style-type: none"> • physical violence (committed against, with, or in the presence of a child); or • any behaviour that causes (or is likely to cause) significant emotional or psychological harm to a child; or • significant neglect of a child.
Sexual Offences	In Victoria, it is an offence to engage in certain sexual behaviours against, with or in front of, a child. Many of these behaviours are reportable conduct under the Reportable Conduct Scheme. This includes: <ul style="list-style-type: none"> • sexual assault • indecent acts • possession of child abuse material • 'grooming' a child in order to commit a sexual offence.

	<p>A full list of the relevant sexual offences is set out in clause 1 of Schedule 1 to the Sentencing Act 1991 (Vic).</p> <p>A person does not need to be charged with, or found guilty of, a sexual offence for their behaviour to be Reportable Conduct.</p>
Sexual Misconduct	<p>‘Sexual misconduct’ captures a broader range of inappropriate behaviours of a sexual nature that are not necessarily criminal.</p> <p>Sexual misconduct refers to conduct that:</p> <ul style="list-style-type: none"> • amounts to misconduct • is of a sexual nature, and • occurred against, with, or in the presence of, a child. <p>Refer to the Commission’s Information Sheet 9– Sexual misconduct for further guidance.</p>
Physical Violence	<p>Physical violence committed against, with or in the presence of a child can fall into two categories. Physical violence can be either:</p> <ul style="list-style-type: none"> • actual physical violence - a worker or volunteer intentionally or recklessly uses physical force against, with, or in the presence of a child without a lawful reason, which has the ability to cause injury or harm to the child. Actual physical violence can include hitting, punching, kicking, pushing or throwing something that strikes a child or another person. • apprehended physical violence - a worker or volunteer intentionally or recklessly engages in conduct or behaviour against, with, or in the presence of a child that is capable of causing a child to think that physical force is about to be used against them or another person. This could include words, gestures or actions that cause a child to believe physical force is about to be used against them, regardless of whether or not the worker or volunteer actually intended that any physical force would be applied. <p>Refer to the Commissions information Sheet 10– Physical Violence for further guidance</p>
Behaviour that causes emotional or psychological harm to a child.	<p>To be reportable under this category:</p> <ul style="list-style-type: none"> • the allegation must concern the worker’s or volunteer’s behaviour • there must be a clear link between the worker’s or volunteer’s alleged behaviour and the harm suffered by the child • the harm must be significant <p>Assistance should be sought from the CCYP to determine if the allegation involves significant emotional or psychological harm.</p> <p>An allegation will not be reportable if:</p> <ul style="list-style-type: none"> • the worker or volunteer has taken reasonable steps to protect a child from immediate harm • the worker or volunteer is an appropriately qualified worker or volunteer who has given medical treatment in good faith, such as a senior first aid officer administering first aid.
Significant Neglect	<p>Significant neglect occurs when there is a significant, deliberate or reckless failure to meet the basic needs of a child in circumstances</p>

	<p>where the adult understood the needs of the child, or could have understood those needs if they had turned their mind to the question, and had the opportunity to meet those needs but failed to do so.</p> <p>Examples of different types of neglect could include:</p> <ul style="list-style-type: none"> • Supervisory neglect: This may occur when a person responsible for the care of a child is unable or unwilling to exercise adequate supervision or control of the child or young person, or fails to seek or comply with appropriate medical treatment. • Physical neglect: This may occur where there is the failure to meet a child's physical needs including the provision of adequate and appropriate food, clothing, shelter or physical hygiene needs. • Educational neglect: This may occur when there is a failure to ensure that a child's formal education needs are being met. • Emotional neglect: This may occur where there is a failure to provide adequate nurturing, affection encouragement and support to a child.
Reasonable Belief	<p>A reportable allegation is made where a person makes an allegation, based on a reasonable belief, that a worker or volunteer has committed reportable conduct or misconduct that <i>may</i> involve reportable conduct. This includes where a reportable allegation is made against the head of the organisation.</p> <p>A reasonable belief is more than suspicion. There must be some objective basis for the belief. However, it is not the same as having proof and does not require certainty.</p> <p>For example, a person is likely to have a reasonable belief if they:</p> <ul style="list-style-type: none"> • observed the conduct themselves • heard directly from a child that the conduct occurred • received information from another credible source (including another witness). <p>Heads of an entity do not need to agree with or share the belief that the alleged conduct has occurred. However, they do not need to notify the Commission about the allegation if it is plainly wrong or has no basis at all in reality.</p>

For further information and guidance on the Reportable Conduct Scheme contact the Commission for Children and Young People:

- Telephone: 8601 5281
 - Email: contact@ccyp.vic.gov.au
- www.ccyp.vic.gov.au